

D. Right to Still Refuse Acceptance of Trusteeship

Acts performed by the proposed or designated Trustee under this provision shall not constitute acceptance of my Trust.

E. Right to Accept Trusteeship Over Other Assets Only

If an asset of my Trust is discovered, upon environmental audit by the acting Trustee or any proposed or designated Trustee, to be contaminated with hazardous waste or otherwise not in compliance with environmental law or regulation, my Trustee may decline to act as Trustee solely as to such asset, and accept the Trusteeship as to all other assets of my trust. My Trustee, in his or her discretion, may petition a court to appoint a receiver or Special Trustee to hold and manage the rejected asset, pending its final disposition.

F. Right to Reject Asset

Any currently acting Trustee shall have the right to reject any asset proposed to be transferred to such Trustee.

b. Termination, Bifurcation or Modification of Trust Due to Environmental Liability

1. Trustee's Powers over Hazardous Waste Property

If my Trust Estate holds one or more assets, the nature, condition, or operation of which is likely to give rise to liability under, or is an actual or threatened violation of, any federal, state, or local environmental law or regulation, my Trustee may take one or more of the following actions, if my Trustee, in my Trustee's discretion, determines that such action is in the best interest of my Trust and its beneficiaries:

A. Modify Trust

Modification of trust provisions, upon court approval, granting my Trustee such additional powers as are required to protect my Trust and its

beneficiaries from liability or damage relating to the actual or threatened violation of any federal, state, or local environmental law or regulations, with it being my desire that my Trustee keep in mind my dispositive wishes expressed elsewhere in my Trust and that my Trustee consider and weigh any potentially negative federal and state income, gift, estate, or inheritance tax consequences to my Trustee, my Trust and its beneficiaries;

B. Bifurcate Trust

Bifurcation of my Trust to separate said asset from other assets of my Trust Estate;

C. Appoint a Special Trustee

Appointment of a Special Trustee to administer said asset; and/or

D. Abandon Property

Abandonment of such asset.

2. Termination of Trust or Distribution of Other Assets

With court approval, my Trustee may terminate my Trust or partially or totally distribute my Trust Estate to my beneficiaries.

3. Broad Discretion

It is my intent that my Trustee shall have the widest discretion in the identification of, and response to, administration problems connected with potential environmental law liability to my Trust Estate and my Trustee, in order to protect the interests of my Trust, my Trustee and the beneficiaries of my Trust.

4. Trustee's Powers Relating to Environmental Laws

My Trustee shall have the power to take, on behalf of my Trust, any action necessary to prevent, abate, avoid, or otherwise remedy any actual or threatened violation of any federal, state, or local environmental law or regulation, or any condition which may reasonably give rise to liability under any federal, state, or local environmental law or regulation, including, but not limited to, investigations, audits, and actions falling within the definition of

"response" as defined in 42 U.S.C. § 9601(25), or any successor statute, relating to any asset that is or has been held by my Trustee as part of my Trust Estate.

c. Indemnification of Trustee from Trust Assets for Environmental Expenses

1. Indemnification and Reimbursement for Good Faith Actions

My Trustee shall be indemnified and reimbursed from my Trust Estate for any liabilities, losses, damages, penalties, costs, or expenses arising out of, or relating to, federal, state, or local environmental laws or regulations (hereinafter "environmental expenses"), except those resulting from my Trustee's intentional wrongdoing, bad faith, or reckless disregard of his or her fiduciary obligation.

A. Environmental Expenses Defined

Environmental expenses shall include, but are not limited to: (i) Costs of investigation, removal, remediation, response, or other clean-up costs of contamination by hazardous substances, as defined under any environmental law or regulation; (ii) Legal fees and costs arising from any judicial, investigative, or administrative proceeding relating to any environmental law or regulation; (iii) Civil or criminal fees, fines, or penalties incurred under any environmental law or regulation; and (iv) Fees and costs payable to environmental consultants, engineers, or other experts, including legal counsel, relating to any environmental law or regulation.

2. Properties and Businesses Covered

This right to indemnification or reimbursement shall extend to environmental expenses relating to: (i) Any real property or business enterprise, that is or has been at any time owned or operated by my Trustee as part of my Trust Estate; and (ii) Any real property or any business enterprise that is or has been at any time owned or operated by a corporation, limited liability company, or partnership, in which my Trustee holds or has held, at any time, an ownership or management interest as part of my Trust Estate.

3. Right to Pay Expenses Directly from Trust

My Trustee shall have the right to reimbursement for incurred environmental expenses without the prior requirement of expenditure of my Trustee's own funds in payment of such environmental expenses, and the right to pay environmental expenses directly from Trust assets.

4. Right to Lien Trust Assets

My Trustee shall have a primary lien against assets of my Trust for the reimbursement of environmental expenses, which are not paid directly from Trust assets.

5. Exoneration of Trustee for Good Faith Acts Relating to Environmental Law

My Trustee shall not be liable to any beneficiary of my Trust or to any other party for any good faith action or inaction relating to any environmental law or regulation, or for the payment of any environmental expense (as defined above); provided, however, that my Trustee shall be liable for any such action, inaction, or payment which is a breach of trust and is committed in bad faith or with reckless or intentional disregard of his or her fiduciary obligations.

6. Allocation of Environmental Expenses and Receipts Between Principal and Income

My Trustee may, in my Trustee's discretion, allocate between the income and principal of my Trust Estate environmental expenses (as defined above) and reimbursements or other funds received from third parties relating to environmental expenses. In making such allocation, my Trustee shall consider the effect of such allocation upon income available for distribution, the value of Trust principal, and the income tax treatment of such expenses and receipts. My Trustee may, in my Trustee's discretion, create a reserve for the payment of anticipated environmental expenses.

Article Eleven - Other Trust Provisions

Section 1. Provisions Respecting Retirement Assets

a. Explanation of Section

It is my intent, and the sole purpose of the following provisions, to insure that the beneficiaries of my Trust who are subject to the Minimum Required Distribution Rules be identifiable individuals and that they be treated as Designated Beneficiaries under such rules, so that the life expectancies of such beneficiaries may be used to calculate the Minimum Required Distributions mandated by the Code. This Section shall be interpreted with this intent and purpose being paramount to any other direction in it.

b. Definitions

As used in my Trust Agreement, the following terms, whether or not capitalized, have the following meanings, unless the context very clearly indicates otherwise.

1. Retirement Plan and Retirement Plan Proceeds

The term "Retirement Plan" means an annuity, employee pension plan, a qualified or non-qualified plan of deferred compensation, an individual retirement account or individual retirement annuity ("IRA"), or similar arrangement. The term includes any plan or arrangement described in Sections 401(a), 403, or 408(a), (b) or (k) of the Code. The term "Retirement Plan Proceeds" means proceeds receivable by any beneficiary (including a fiduciary) under a Retirement Plan upon or following the death of the participant.

2. Eligible Retirement Plan

The term "Eligible Retirement Plan" has the meaning given under Section 402(c)(8)(B) of the Code and generally means any Retirement Plan that is eligible to receive a tax-free rollover.

3. Participant, Employee and Employee's Benefit

The term "Participant," as used in this Section, includes any individual who has contributed to, directly or indirectly (through contribution by an employer on the employee's behalf), any Retirement Plan as defined above, including the owner of an IRA or Roth IRA. The term "Employee" shall have the same meaning as the term "Participant" and the term "Employee's Benefit" shall

include benefits under any Retirement Plan, including an IRA or Roth IRA.

4. Required Beginning Date

The term "Required Beginning Date" ("RBD") will have the meaning given by Section 401(a)(9) of the Code and the Treasury Regulations hereunder. The RBD generally refers to April 1st following the calendar year in which the Participant attains age 70½, except that with regard to a qualified plan, if the participant is not a five percent (5%) owner (as defined in Section 416 of the Code) the RBD may be April 1st following the calendar year in which the Participant retires, if later.

5. Applicable Date

The term "Applicable Date," as used in this Section, means September 30th of the year after the Participant's death.

6. Minimum Required Distribution Rules

The "Minimum Required Distribution Rules" ("MRD Rules") are the rules described in Section 401(a)(9) and Sections 408(a)(6) or (b)(3) of the Code (or anywhere else Section 401(a)(9) of the Code is made applicable by cross-reference, as the case may be).

7. Designated Beneficiary

A "Designated Beneficiary" means an identifiable individual who is entitled to any portion of Retirement Plan Proceeds, contingent on the Participant's death or another specified event, but in any case is to be given the meaning used in the Treasury Regulations under Section 401(a)(9) of the Code, as then in effect. To the extent members of a class of beneficiaries capable of expansion or contraction can be treated as being identifiable under the Proposed Treasury Regulations because of the possibility at the Applicable Date of identifying the class member with the shortest life expectancy, such class of beneficiaries shall be treated as a Designated Beneficiary, even though members of the class may be unborn at that time.

8. Contingent Beneficiary

A "Contingent Beneficiary," for purposes of this Section only, is a Designated Beneficiary who is entitled to any portion of

Retirement Plan Proceeds, contingent on a specified event, other than the Participant's death (e.g., death of another beneficiary).

9. Retirement Account Trustee

The term "Retirement Account Trustee," as used in a beneficiary designation form or other document designating the beneficiary of Retirement Plan Proceeds, shall be interpreted to mean the then acting Trustee of my Trust Agreement.

c. Trustee May Be Named As Death Beneficiary of Retirement Plan

My Trustee may be named as a Designated Beneficiary of Retirement Plan Proceeds. If so, my Trustee will be treated as owning the right to receive distributions from the Retirement Plan as fully as any other person or individual who was named as a Designated Beneficiary, except that such ownership shall be in a fiduciary capacity. Such interest (i.e., the right to receive distributions from the Retirement Plan) will be treated as an asset of my Trust and will be subject, generally, to the same provisions applicable to other trust assets. The death of a beneficiary of my Trust will not terminate the interest that my Trust has in a Retirement Plan.

d. Agreement to Provide Copies of All Amendments to Trust

In the case where, prior to my death, I, as the Participant, am required under the Treasury Regulations for Section 401(a)(9) of the Code to provide a copy of my Trust Agreement to the plan administrator, plan trustee, or IRA sponsor, trustee, or custodian, as the case may be, I agree that if my Trust Agreement is amended at any time in the future (but before my death), I will, within a reasonable time, provide to such plan trustee, plan administrator, or IRA sponsor, custodian, or trustee, as the case may be, a copy of each such amendment.

e. Method of Distribution under Retirement Plans

To the extent my Trustee has an interest in a Retirement Plan, my Trustee shall have the power to determine the form and manner of distribution from such Retirement Plan.

f. Rollovers and Transfers

My Trustee will have the unrestricted power to transfer or rollover any interest in a Retirement Plan to any other Eligible Retirement Plan or Plans, in order to effectuate the requirements of this Section, or as my Trustee may otherwise determine to be in the best interest of the beneficiaries, provided that in such case my Trustee shall continue as the holder of the interest, to the same extent as before.

g. Coordination with Minimum Required Distribution Rules

If my Trustee is named as the beneficiary of Retirement Plan Proceeds that are subject to the MRD Rules, and if, under the circumstances existing on the Applicable Date, the Retirement Plan Proceeds or the right to receive the Retirement Plan Proceeds are or may be payable to my Trustee, then the beneficiaries of my Trust are intended to be Designated Beneficiaries under the MRD Rules, and the following provisions shall apply:

1. Use of Retirement Plan Proceeds

Except as otherwise specifically provided to the contrary in the paragraph immediately below, but notwithstanding anything else herein to the contrary, Retirement Plan Proceeds shall be used entirely and exclusively for the benefit of the Designated Beneficiaries who are living at the Applicable Date.

2. Unborn Beneficiaries

Notwithstanding the immediately preceding paragraph, in the event that all of the primary Designated Beneficiaries of a particular trust who were living at the Applicable Date have died, my Trustee shall make distributions to those beneficiaries who would otherwise benefit under such trust, but only in the manner and to the extent consistent with my intent and the purpose for this Section as set forth in Paragraph a. of this Section.

3. Trustee Required to Distribute During Life Expectancy of Beneficiary

Unless the law applicable to MRDs from qualified plans and IRAs, interpreted in accordance with my intent and the purpose for this Section as set forth in Subsection a. above, clearly allows for a less rapid distribution from my Trust, all Retirement Plan Proceeds received by my Trust must be distributed to one or more Designated Beneficiaries of my Trust before the expiration of the life expectancy of the youngest Designated Beneficiary of my Trust to which this rule is applied, unless such beneficiary dies prior to the expiration of such life expectancy, taking into account only those beneficiaries alive as of the Applicable Date.

h. Use of Retirement Plan Proceeds to Pay Debts or Expenses

Use of Retirement Plan Proceeds for the payment of debts and expenses directly attributable and proportionate to the estate tax value of such Retirement Plan Proceeds is limited to those payments that can actually be made prior to the

Applicable Date or would otherwise not cause my Trust to fail to be a qualified beneficiary. Notwithstanding the rules otherwise applicable to apportionment, abatement and the payment of debts and expenses, Retirement Plan Proceeds shall not be used to pay any of my debts or expenses still outstanding as of the Applicable Date and thereafter, or would otherwise cause my Trust not to be a qualified beneficiary.

i. Use of Retirement Plan Proceeds to Pay Death Taxes

Use of Retirement Plan Proceeds for the payment of Death Taxes directly attributable and proportionate to the estate tax value of such Retirement Plan Proceeds is limited to those payments that can actually be made prior to the Applicable Date, or would otherwise not cause my Trust to fail to be a qualified beneficiary. Notwithstanding the rules otherwise applicable to apportionment, abatement and the payment of Death Taxes, Retirement Plan Proceeds shall not be used to pay any Death Taxes still outstanding as of the Applicable Date and thereafter. However, in that case, the Death Taxes attributable and proportionate to such Retirement Plan Proceeds, to the extent otherwise apportionable under this instrument, shall, in my Trustee's discretion, be paid from funds provided by such beneficiary or charged against other property or trust distribution receivable by the beneficiary as a result of my death.

j. No Power of Appointment Over Retirement Plan Proceeds

Except as provided below in this Section, but notwithstanding anything else to the contrary, no one (other than me) will have any power of appointment over any Retirement Plan Proceeds held in trust. Any power of appointment that would otherwise have been applicable but for this paragraph will be treated as if it existed but was unexercised.

k. Separate Account and Special Distribution Requirements

My Trustee will separately account for all Retirement Plan Proceeds, using sub-trusts if necessary, and will see to it that those benefits are only distributed to Designated Beneficiaries (as defined above) who are identifiable on the Applicable Date, as long as any Designated Beneficiary of such trust (or sub-trust, as the case may be) is alive. Further, my Trustee will actually distribute those benefits to those beneficiaries within such time as is required under applicable tax law, or under Treasury Regulations (whether proposed, temporary, or final) in order to carry out the purpose of this Section as provided under Subsection a. above.

l. Application of Rules to Sub-trusts

I realize that a sub-trust may be the beneficiary of Retirement Plan Proceeds. In that case, the rules of this Section are to be applied within the particular sub-trust

involved, and are not meant to give the beneficiaries of other sub-trusts an interest they would not otherwise have had.

m. Incorporation by Reference of Terms of Beneficiary Designation

If the terms of any beneficiary designation signed by me would otherwise fail because such terms are not a part of my will and/or Trust), I incorporate such terms by reference, as a part of my Trust as if fully set out in this document.

n. Principal and Income Allocations of Payments from Retirement Plans

My Trustee shall allocate to income that portion of each "Payment" (up to the whole thereof) that equals (i) the amount of "Inside Income" that my Trustee reasonably determines has occurred since the right to receive Payments became subject to trust; reduced by (ii) the amount of prior Payments from the same contractual, custodial, or trust arrangement that was allocated to trust income. My Trustee shall allocate the balance of the Payment, if any, to principal.

The term "Payment" refers to an amount that is received or withdrawn pursuant to a contractual, custodial, or trust arrangement under a Retirement Plan.

The term "Inside Income" with respect to each contractual, custodial, or trust arrangement, refers to that portion of Payments that are characterized by the payor as interest, dividends, or a dividend equivalent. To the extent any portion of a Payment is not so characterized by the payor, Inside Income shall consist of any amounts that would be allocable to income under applicable state law governing the allocation of principal and income for trusts, if said statutes were applied to a trust holding the assets that fund all Payments to which my Trust is entitled under such arrangements. If my Trustee cannot identify the character, amount, or nature of said assets, the Trustee may reasonably estimate the character, amount and nature of such assets.

Section 2. Special Needs Provisions

a. Definition of "Special Needs Beneficiary"

For purposes of my Trust Agreement, the term "Special Needs Beneficiary" refers to a beneficiary who is entitled to receive any form of need-based government or private support or benefit, including, but not limited to, such programs as Medicaid, Supplemental Security Income ("SSI"), In-Home Supportive Services, Medicare, and Aid for Dependent Children.

b. Definition of "Special Needs"

For purposes of my Trust Agreement, the term "Special Needs" refers to supplemental, non-support expenditures from my Trust assets that, pursuant to the

other provisions of this Section, my Trustee is authorized to disburse, in my Trustee's sole and absolute discretion. Special Needs, subject to the general supplemental, non-support limitation, include, but are not limited to, medical, dental, diagnostic or therapeutic treatment, or nursing or home care services for which the Special Needs Beneficiary is not receiving government or private benefits, and is not eligible to receive such benefits. Special Needs also includes the differential between any treatment, service or care that the Special Needs Beneficiary is receiving from any government or private source and the level of treatment, service or care my Trustee deems appropriate for the beneficiary. Disbursements for education, travel (including travel by those my Trustee believes the companionship of which will benefit the Special Needs Beneficiary), entertainment devices or events and electronic devices are also to be considered Special Needs.

c. Overall Limitation on Distribution

It is my intention that distributions from my Trust Estate supplement, but not supplant, impair or diminish, any forms of government or private support or benefit which a beneficiary of my Trust is then receiving or becomes eligible to receive. For purposes of this Section, the term "support" refers to food, clothing or shelter. The terms of my Trust Agreement shall be read and interpreted to prevent any action by my Trustee which would supplant, impair, diminish or otherwise interfere with, limit or reduce the Special Needs Beneficiary's receipt of, or eligibility for, any form of government or private benefits. Any power of distribution (whether or not exercised), granted to my Trustee pursuant to the terms of my Trust Agreement that would result in the loss, diminishment or ineligibility for government or private benefits is hereby revoked; and, only such powers as will not result in ineligibility for such benefits, or loss, diminishment or impairment, thereof, shall remain exercisable by my Trustee.

d. Discretionary Distribution of Accumulated Income and Principal

My Trustee may pay for the benefit of a Special Needs Beneficiary such accumulated income and principal of such beneficiary's share, up to the whole thereof, as my Trustee, in his or her discretion, shall determine from time to time, for the Special Needs of the Special Needs Beneficiary. My Trustee, in exercising discretion under this paragraph, shall consider all income or resources available to the Special Needs Beneficiary. The Special Needs Beneficiary has no rights to any distributions under my Trust.

e. Treatment of Any Residence Held by Trust

Notwithstanding the provisions of Section 1. k. of Article Ten, my Trustee may charge the Special Needs Beneficiary rent on any residence owned, in whole or in part, by the Special Needs Beneficiary's share. My Trustee must charge rent if the failure to do so would cause ineligibility for any government or private benefits.

f. Rights of Creditors and Others

My Trust assets are not intended to be used for the support of the Special Needs Beneficiary, but are only intended to supplement resources, income or government or private assistance available to the Special Needs Beneficiary. No part of my Trust Estate, neither principal nor income, shall be subject to anticipation or assignment by the Special Needs Beneficiary, nor be subject to attachment by any creditor of the Special Needs Beneficiary, governmental agencies or any other individual or entity; including any who may have provided goods or services to the Special Needs Beneficiary.

g. Power to Terminate Beneficiary's Share of Trust

If my Trustee determines that the existence of my Trust renders the Special Needs Beneficiary ineligible for governmental or private benefits that, in the discretion of my Trustee, substantially outweigh the benefits my Trust can bestow upon such beneficiary, or my Trustee determines that, notwithstanding the spendthrift provisions of my Trust, a substantial portion or all of the principal and accumulated income of the Special Needs Beneficiary's share is subject to invasion, garnishment, attachment, execution or other similar action by a creditor or a government agency, my Trustee may terminate such share and distribute the principal and accrued income in accordance with the paragraph that follows. Furthermore, in the event a court of competent jurisdiction determines the provisions of this Section are contrary to law or public policy, then subject to any right of appeal, the Special Needs Beneficiary's share of my Trust shall be deemed unavailable for purposes of qualifying for or maintaining any public or private support benefits or services, regardless of whether the beneficiary is actually entitled to such benefits or services, and if this is not sufficient to cure any deficiency then the Special Needs Beneficiary's share shall be deemed to have failed and my Trustee shall distribute the principal and accrued income of such share in accordance with the paragraph that follows.

h. Payment and Distributions on Termination of Discretionary Trust

In the event a share for a Special Needs Beneficiary is terminated subject to the paragraph immediately above, my Trustee shall distribute the remaining principal and accrued income of such share to the Special Needs Beneficiary's siblings, per stirpes. If the Special Needs Beneficiary has no then living siblings but has living descendants who are of the age of majority, my Trustee shall distribute the remaining principal and accrued income of such share to such descendants of the Special Needs Beneficiary, per stirpes. If the Special Needs Beneficiary has no living descendants who are of the age of majority, my Trustee shall distribute the remaining principal and accrued income of such beneficiary's share to my then living descendants, per stirpes. If I have no then living descendants, my Trustee shall distribute the balance of the Special Needs Beneficiary's share of my Trust

as provided in the paragraph that follows. It is my hope, wish and desire that any beneficiary under this paragraph will use any distribution received hereunder to provide for the supplemental needs, as defined above, of the Special Needs Beneficiary.

i. Payment and Distributions on Death of Beneficiary

Unless terminated under the paragraphs immediately above, or by the exhaustion of the corpus, the Special Needs Beneficiary's share of my Trust shall terminate upon such beneficiary's death. My Trustee may pay the expenses of such beneficiary's last illness and funeral, and all administrative expenses relating to such beneficiary's share, including reasonable attorney's and accountant's fees, if, in my Trustee's discretion, other satisfactory provisions have not been made for the payment of such expenses. My Trustee shall divide and distribute, free of trust, the balance of the Special Needs Beneficiary's share into as many shares of equal value as there are then surviving children of the beneficiary, if any, plus one share for each deceased child of such beneficiary leaving descendants then surviving, each of said descendant's interests to be determined per stirpes. Should there be no children or descendants of the beneficiary then surviving, my Trustee shall divide and distribute, free of trust, the balance of the beneficiary's share into as many shares of equal value as I have then surviving children, if any, plus one share for each of my deceased children leaving descendants then surviving, each of said descendant's interests to be determined per stirpes. Should I have no children or descendants then surviving, the Special Needs Beneficiary's share shall terminate and my Trustee shall distribute the balance of the beneficiary's share according to the provisions of Article Eight of my Trust.

Section 3. Life Insurance

Notwithstanding anything to the contrary contained in my Trust Agreement, with respect to any policy of life insurance owned by me or being held in my Trust, I shall retain, during my lifetime, all incidents of ownership with respect to such policies (including, but not limited to, all rights and powers to sell, transfer, assign or hypothecate such policies or any of them, to change the beneficiary of any policy, to borrow any sum from the insurer or from any other person and to assign any policy to such lender, and to receive all payments, dividends, surrender values, benefits or privileges of any kind which may accrue on account of said policies). Any other person on whose life such policies are held ("Insured") shall have no incidents of ownership with respect to such policies only by reason of being an Insured with respect to such policies and shall not act as the Trustee of such policies.

My Trustee may pay any net amount of premium, assessment or other charge, after deducting any dividend or other credit against the charge, on any life insurance policy of which my Trust is the owner, that is required to keep it a binding insurance contract, such amounts to be charged against the income or principal of my Trust Estate. In the event that my Trustee intends not to pay any premium, assessment or other charge with respect to any policy held by my Trustee, or

otherwise intends to cancel, convert or substantially modify any such policy, my Trustee shall first give the insured, or the fiduciary of the person of an insured under disability, at least fifteen (15) days advance written notice of my Trustee's intention to take such action. Such policies shall be governed as follows:

a. Trust as Beneficiary

With respect to any policy of life insurance which designates my Trust as a primary or contingent beneficiary in any manner:

1. My Trustee shall have no responsibility, with respect to any policy, for the payment of premiums, notification of premiums due, or for any action required to keep any policy in force.
2. On receipt of proof of death of any Insured and on obtaining possession of an insurance policy, my Trustee shall use reasonable efforts to collect all sums payable under policy terms. All sums received shall be principal of my Trust Estate, except for interest paid by the insurer, which shall be income. Subject to any contrary provision in the beneficiary designation of any policy, all sums payable under any policy shall be allocated to the trusts created hereunder based on the ownership of the policy immediately before the Insured's death;
3. My Trustee shall have full power to compromise, arbitrate or otherwise adjust any claim, dispute or controversy arising under any policy, and shall have authority to initiate, defend, settle and compromise any legal proceeding necessary, in my Trustee's opinion, to collect the proceeds of any policy. My Trustee shall not be obligated to engage in litigation to enforce the payment of any policy unless my Trustee is indemnified to its satisfaction against any resulting expenses and liability; and
4. My Trustee's receipt of payment for policy proceeds to any insurer shall be considered to be full discharge, and the insurer shall not be under any duty to inquire concerning the application of policy proceeds by my Trustee.

b. Simultaneous Death

Notwithstanding anything in my Trust Agreement to the contrary:

1. Where the Insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died other than simultaneously, the proceeds of the policy shall be distributed as if the Insured had survived the beneficiary; and
2. Where the owner and the Insured in a policy of life or accident insurance have died and there is no sufficient evidence that they have died other than simultaneously, the policy shall be distributed as if the Insured had survived the owner.

c. Purchase of Additional Insurance

My Trustee may apply for and receive life insurance on the life of any beneficiary under my Trust.

Section 4. "S" Corporation Stock

Notwithstanding any other provisions of my Trust Agreement, my Trustee shall not allocate any Subchapter "S" Corporation Stock (as defined by Section 1361 et. seq. of the Code) held in my Trust Estate at my death, to the extent possible, to any trust or trust share created under my Trust Agreement which would have the effect of causing the "S" Corporation status to be terminated because the trust or the trust share was not a qualified Subchapter "S" shareholder, or was not a Qualified Subchapter "S" Corporation Trust ("QSST"), as defined at Section 1361 of the Code, as amended. In furtherance of the above, it is my intention that my Trustee shall have the right, in my Trustee's sole discretion (but keeping in mind my dispositive wishes as set forth elsewhere in my Trust Agreement), to bifurcate any and all trusts created hereunder, at any time or from time to time after my death, to create trusts which hold "S" Corporation stock and shall at all times be classified as QSSTs within the meaning of Section 1361 of the Code and the corresponding provisions of state law. The above provisions may be limited as set forth in Section 8 of Article Three of my Trust Agreement.

To that end, all such QSSTs shall be subject to the following rules:

- a. During the life of the current income beneficiary there shall be only one income beneficiary of a QSST;
- b. Any principal distributed during the life of the current income beneficiary may be distributed only to such beneficiary;
- c. The income interest of the current income beneficiary in the QSST shall terminate on the earlier of such beneficiary's death or the termination of the QSST;

- d. Upon termination of the QSST during the life of the current income beneficiary, the QSST shall distribute all of its assets to such beneficiary; and
- e. All of the income (within the meaning of Section 643 (b) of the Code) shall be distributed (or shall be required to be distributed) currently to one individual who is a citizen or resident of the United States of America.

My Trustee, in his or her discretion, may, in the alternative, attempt to exchange, sell, or convey such stock to such persons or entities who would not cause the "S" Corporation election to be revoked or terminated for any reason attributable to that person's or entity's ownership of such stock and the proceeds or property received from such exchange, sale, or conveyance shall then be applied in accordance with the provisions of my Trust Agreement. It is further provided that, notwithstanding this paragraph, my Trustee shall hold, administer, and dispose of any and all of my Trust Estate such that the continuation of the "S" Corporation election shall be of secondary consideration in deference to my primary intent that the total value of my Trust Estate distributed under the terms of my Trust Agreement be maximized to the extent possible, considering all income tax, estate tax, and any other taxes or expenses that could potentially diminish the value of such Trust Estate.

Section 5. The Rule Against Perpetuities

Notwithstanding any other provision of my Trust Agreement, unless sooner terminated or vested in accordance with other provisions of my Trust Agreement, all interests in the Trust Estate not otherwise vested, including, but not limited to, all trusts and powers of appointment created hereunder, shall terminate: (i) one day prior to twenty-one years after the death of the last survivor of the group composed of: 1) those beneficiaries described herein, 2) my descendants living on the date of my death (or such other date my Trust becomes irrevocable), and 3) me, or (ii) if longer, the maximum period or term as may be authorized under the laws of the state identified in the Governing State Law Section of this Article or such other jurisdiction whose laws are applicable to my Trust. At that time, distribution of all principal and all accrued, accumulated, and undistributed income shall be made to the persons (or their representatives as authorized herein) then entitled to distributions of income or principal and in the manner and proportions herein stated, irrespective of their then attained ages.

Section 6. Spendthrift Protection

To the fullest extent permissible by law, no interest in the principal or income of any trust created hereunder shall be anticipated, assigned, encumbered or subject to any creditor's claim or to legal process prior to its actual receipt by the beneficiary. Notwithstanding any provision herein to the contrary, this Section shall not apply to Qualified Disclaimers (as defined in Section 2518 of the Code) made by any beneficiary as to his or her interest in my Trust. Except as herein otherwise expressly provided, all income or principal to be paid to any beneficiary shall be paid by my Trustee directly and only to such beneficiary, to the Legal Representative of such beneficiary, or, where authorized, applied for the benefit of such beneficiary. If any creditor or

other claimant attempts, by any means, to subject to the satisfaction of the claim of such creditor or claimant the interest of any beneficiary to receive income or periodic payments from principal or income, or both, then notwithstanding any other provisions herein, and in the absolute discretion of my Trustee, my Trustee may suspend such beneficiary's payments from my Trust.

Section 7. Incapacity and Competency

A person shall be considered incapacitated in the event such person has been determined to be so by a court of competent jurisdiction; has been certified by two licensed physicians to be unable to properly handle his or her own affairs by reason of physical illness or mental illness; is unavailable for a period of not less than six months when his or her whereabouts are unknown and it is not known whether he or she is dead or alive; or, in the case of a trustee, such trustee is prevented by state law from exercising a power or powers granted to such trustee under my Trust Agreement. To the extent a trustee is prevented by state law from exercising a power or powers granted to such trustee under my Trust Agreement, the Successor Trustee shall have the power to exercise such power or powers, provided such power is not a general power of appointment if held by a Successor Trustee. If a Successor Trustee is prevented from exercising a power or powers because such power or powers would constitute a general power of appointment, the Special Co-Trustee appointed under the provisions of Section 8 of Article Three shall exercise such denied power or powers. A person shall be considered to have regained capacity, as applicable, upon such a determination by a court of competent jurisdiction; upon certification by two licensed physicians that the person is able to properly handle his or her own affairs; upon his or her renewed availability; or if any state law proscription as to the exercise of a power or powers is removed. The term "incapacity" is intended to be interchangeable with the terms "disability" and "incompetency." The term "competent" in my Trust Agreement refers to a person who is not incapacitated.

Section 8. Income and Principal Payments

Unless prohibited by state law or a court of competent jurisdiction and other than as directed in the Special Needs Provisions of this Article, all payments of income or principal shall be made in such of the following ways as my Fiduciary determines appropriate:

- a. To each respective beneficiary in person upon his or her personal receipt;
- b. Deposited in any bank to the credit of such beneficiary in any account carried in his or her name or jointly with another or others;
- c. To the parent or Legal Representative of the beneficiary;
- d. To a Custodian under a Uniform Transfers to Minors Act or Uniform Gifts to Minors Act selected by my Trustee for such period of time under applicable law as my Trustee determines appropriate;
- e. To some near relative, friend or institution having primary responsibility for the care and custody of the beneficiary;

- f. By my Trustee using such payment directly for the benefit of such beneficiary; or
- g. To the Trustee of any revocable trust of which the beneficiary is me.

Section 9. Limit on Trustee's Discretion

Notwithstanding any other provision in my Trust Agreement except for the general power of appointment specifically provided under the Section entitled "General Power of Appointment Over Non-Exempt Assets" in Article Seven, no individual Trustee, other than myself, who is also a beneficiary hereunder ("Trustee-beneficiary") shall have any right, power, duty or discretion concerning my Trust Estate if such right, power, duty or discretion conferred upon such Trustee-beneficiary under my Trust Agreement would constitute a general power of appointment under Code Sections 2041 or 2514 that would cause any assets of my Trust Estate to be included in the estate of such Trustee-beneficiary. Any such right, power, duty or discretion with such effect shall be null and void with respect to such Trustee-beneficiary. No Trustee who is under a legal obligation to any beneficiary of my Trust Agreement or other person shall under any circumstances partake in any decisions relating to any discretionary distributions of income or principal of my Trust Estate that can be used to discharge any such legal obligation of such Trustee.

If, however, such powers may be possessed without violating the restrictions imposed by my Trustee acting jointly with the Special Co-Trustee appointed under the provisions of Section 8 of Article Three, then my Trustee may possess those powers and authorities without violating this Section. Such Special Co-Trustee shall act jointly with my Trustee whenever the joint possession of a power or authority would not violate the restrictions imposed by this Section. Such Special Co-Trustee shall act alone whenever only sole possession of a power or authority would not violate the restrictions imposed by this Section.

Section 10. Disclaimer by Beneficiary

Any beneficiary under my Trust Agreement shall be entitled to disclaim all or any portion of such beneficiary's interest in my Trust.

Section 11. Captions

The captions of Articles, Sections and Paragraphs used in my Trust Agreement are for convenience of reference only and shall have no significance in the construction or interpretation of my Trust Agreement.

Section 12. Severability

Should any of the provisions of my Trust Agreement be, for any reason, declared invalid, such invalidity shall not affect any of the other provisions of my Trust Agreement, and all invalid provisions shall be wholly disregarded in interpreting my Trust Agreement.

Section 13. Statutory References

Unless the context clearly requires another construction, each statutory reference in my Trust Agreement shall be construed to refer to the statutory section mentioned, related successor sections, and corresponding provisions of any subsequent law, including all amendments.

Section 14. Survivorship

a. Simultaneous Deaths

For purposes of my Trust Agreement, if any beneficiary under my Trust Agreement and I die under circumstances in which the order of deaths cannot be established, I shall be deemed to have survived the beneficiary, and my Trust Agreement shall be construed accordingly.

b. Generation-Skipping Transfer Tax Matters

A person (the "Non-Skip Person") shall not be deemed to have been alive on the date of the death of any person upon whose death a transfer is deemed to occur for generation-skipping transfer tax purposes or the date of any distribution from, or any termination of, any interest in any trust or share under my Trust Agreement for which the date of the Non-Skip Person's death is relevant (the "Transfer Date") if: (i) the Non-Skip Person is actually alive on the Transfer Date; (ii) the Non-Skip Person is not actually alive on the date ninety (90) days following the Transfer Date; and (iii) the existence of such a condition of survivorship causes another person who would otherwise be assigned to a generation below that of the Non-Skip Person to be assigned to the generation of the Non-Skip Person for generation-skipping transfer tax purposes.

Section 15. Gender and Number

In my Trust Agreement, where appropriate, except where the context otherwise requires, the singular includes the plural and vice versa, and words of any gender shall not be limited to that gender.

Section 16. Governing State Law

My Trust Agreement and the trusts created under it shall be construed, regulated and governed by and in accordance with the laws of the State of California.

Section 17. Reliance on Affidavit or Certificate of Trust

Any person may act in reliance upon a properly issued Affidavit or Certificate of Trust reflecting the relevant terms of my Trust Agreement without risk or incurring any liability to me, my Trustees or the beneficiaries of my Trust.

Section 18. Definitions

The following terms as used in my Trust Agreement are defined as indicated:

a. Beneficiary Designation

The term "Beneficiary Designation" means any document executed by me that affects the manner of payment of amounts held in a plan (of whatever type) subject to the distribution rules of Section 401(a)(9) of the Code, any commercial annuity or any similar deferred payment arrangement, or life insurance contract.

b. Business Judgment

The term "Business Judgment" means that the fiduciary acted on an informed basis, in good faith, and with the honest belief that his or her actions are in the best interest of my Trust and its beneficiaries.

c. Child, Children and Descendants

The terms "child" or "children" mean lawful blood descendants in the first degree of the parent designated; and "descendants" means the lawful blood issue, in any degree, of the ancestor designated; provided, however, that if a person has been adopted, that person shall be considered a child of such adopting parent or parents, and such adopted child and his or her issue shall be considered issue of the adopting parent or parents and of anyone who is, by blood or adoption, an ancestor of the adopting parent or either of the adopting parents. The terms "child," "children," "descendant" and "descendants" or those terms preceded by the terms "living" or "then living" shall include the lawful blood descendant, in the appropriate degree, of the ancestor designated even though such descendant is born after the death of a parent. Notwithstanding the preceding provisions of this Section, the terms of Article One may exclude certain descendants from being treated as such hereunder by restricting the availability of Trust benefits.

d. Code

The term "Code" means the Internal Revenue Code of 1986, as amended from time to time. The terms "Income in Respect of a Decedent," "Gross Estate," "Taxable Estate," "Exclusion," "Disclaimer" and any other terms that, from the context in which they are used, refer to the Code shall have the same meaning as such terms have for the purposes of applying the Code to my Trust Agreement.

e. Death Taxes

The term "Death Taxes" means all inheritance, estate, succession and other similar taxes that are payable by any person on account of that person's interest in

the estate of the decedent or by reason of the decedent's death, including penalties and interest, but excluding the following:

1. Any additional tax that may be assessed under Sections 2032A of the Code; and
2. Any federal or state tax imposed on a generation-skipping transfer, as that term is defined in the federal tax laws, unless that generation-skipping transfer tax is payable directly out of the assets of a trust created by my Trust Agreement.

f. Education

The term "education" shall be given broad interpretation and may include, but not be limited to:

1. High School

Education at public or private elementary, middle, junior high or high schools, including boarding schools;

2. College

Undergraduate and graduate study in any and all fields whatsoever, whether of a professional character in colleges or other institutions of higher learning;

3. Specialized Training

Specialized formal or informal training in music, the stage, handicrafts, the arts, or vocational or trade schools, whether by private instruction or otherwise; and

4. Other Educational Activities

Any other activity including foreign or domestic travel that shall tend to develop fully the talents and potentialities of each beneficiary regardless of age.

g. Family Access Trust

The term "Family Access Trust" shall mean a trust designed to give the beneficiary liberal access to the income and principal of the trust while preserving the separate property character of an inheritance of a beneficiary, thereby affording the beneficiary a degree of asset protection in the event the beneficiary becomes involved in a legal separation, marital dissolution or divorce proceeding.

h. Family Sentry Trust

The term "Family Sentry Trust" shall mean a third party fully discretionary spendthrift trust designed to provide maximum protection from the creditors of the trust beneficiary as well as from divorcing spouses. The trust is known as a Family Sentry Trust because of these asset protection features.

i. For Cause

The term "for cause" means and includes any material act or omission to act by a trustee or other fiduciary constituting ordinary negligence, gross negligence, self-dealing, or intentional fraud. The term "material" identifies a significant monetary damage to my Trust or to any beneficiary of my Trust as the result of the act or omission to act by a trustee or other fiduciary constituting ordinary negligence, gross negligence, self-dealing or intentional fraud. The term "material" does not include incidental or insignificant monetary damage to my Trust or a trust beneficiary; monetary damages realized by someone who is not a beneficiary of my Trust; nor an intangible loss or damage that cannot be valued under the fair market valuation standards of the tax laws of the United States of America.

j. Heirs at Law

References to "heirs at law" mean individuals who are living at the time when property is directed to be distributed to them. Those individuals' identities and the shares of the distributable property that they each receive shall be determined under the intestacy laws of the State of California which then govern the distribution of the personal property of a resident dying at such time, without creditors, and owning only the distributable assets.

k. Personal Representative

The term "Personal Representative" means executor, executrix, administrator, or administratrix. The term Legal Representative shall include Personal Representative, conservator, guardian, custodian or an agent under a power of attorney for property.

l. Per Stirpes

In every case in which a disposition of an interest is to be made to the descendants of a person "per stirpes," it is intended that such disposition shall be made in accordance with the principle of representation. This principle, in relation to my Trust Agreement, means that whenever property is to be distributed to the descendants of a person, such property shall be divided into as many shares as there are, at the time of disposition, then living descendants in the nearest degree of kinship to such person and then deceased descendants in the same degree who

left descendants who are then living; each then living descendant in the nearest degree receiving one share, and one share for each then deceased descendant in the same degree, being further subdivided among his or her descendants in the same manner.

m. Trust Estate

The term "Trust Estate" means all of the property, real and personal, intangible and tangible, which has been transferred to my Trustee, whether or not listed on any Schedules.

n. Trustee's Discretion

The term "discretion" with regard to a Trustee means such Trustee's sole but reasonable judgment. In exercising any discretionary power with respect to my Trust, my Trustee shall, at all times, act in accordance with fiduciary principles and shall act reasonably under the circumstances and not in bad faith or in disregard of the purposes of my Trust.

o. Trustor

The term "Trustor" shall be interchangeable with the terms "settlor," "grantor," "donor" or other similar terms.

p. Unused Generation-Skipping Transfer Tax Exemption Amount

The term "unused generation-skipping transfer tax exemption amount" means the generation-skipping transfer tax exemption provided in Section 2631 of the Code in effect at the time of death of a Trustor, reduced by the aggregate of (i) the amount, if any, of such exemption allocated by such Trustor or by operation of law to such Trustor's lifetime transfers and (ii) the amount, if any, such Trustor or such Trustor's Personal Representative or Trustee has specifically allocated to property, other than property to which such exemption is directed to be allocated by any applicable provision of my Trust Agreement.

For purposes of my Trust Agreement, if at the time of death of a Trustor such Trustor has made lifetime transfers of property to which an inclusion ratio of greater than zero would be applicable and for which the gift tax return due date has not expired (including extensions) and a return has not yet been filed, it shall be deemed that the generation-skipping transfer tax exemption has been allocated to such transfers to the extent necessary and possible to exempt such transfers from generation-skipping transfer tax.

Section 19. No Contest Clause

If any devisee, legatee or beneficiary under this Trust or any amendment to it, no matter how remote or contingent such beneficiary's interest appears, or any legal heir of the Trustors, or either of them, or any person claiming under any of them, does any of the following, then in that event the Trustors specifically disinherit each such person, and all such legacies, bequests, devises and interests given to that person under this Trust or any amendment to it or any other trust agreement created by the Trustors at such time shall be forfeited and shall be distributed as provided elsewhere herein as though such person had predeceased the Trustors without descendants: (a) without probable cause (as defined by California Probate Code § 21311(b)) files a direct contest (as defined by California Probate Code § 21310)) alleging the invalidity of this Trust or any one or more of its terms; (b) without probable cause files a direct contest alleging the invalidity of any other document, or any one or more of the terms of such other document, which is in existence on the date this Trust is executed, such as a Will, deed, beneficiary designation, contract, agreement or other document executed by the Trustors constituting part of an integrated estate plan or executed by another for the benefit of the Trustors; (c) files any creditor's claim or prosecutes any action against this Trust for any debt alleged to be owed by the Trustors; or (d) files any pleading (as defined by California Probate Code § 21310(d)) challenging any transfer of property on the grounds that it was not the Trustors' or other transferor's property at the time of the transfer.

Expenses to resist any above contest or other attack of any nature upon any provision of this Trust or any amendment to it shall be paid from the trusts created hereunder as expenses of administration. In the event that any provision of this Section is held to be invalid, void or illegal, the same shall be deemed severable from the remainder of the provisions in this Section and shall in no way affect, impair or invalidate any other provision in this Section. If such provision shall be deemed invalid due to its scope and breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law. The provisions of this Section shall not apply to any disclaimer by any person of any benefit under this Trust or amendment to it.

Execution

I have executed my Trust Agreement on the date set forth on the first page of my Trust Agreement.

I certify that I understand my Trust Agreement and that it correctly states the terms and conditions under which my Trust Estate is to be held, managed and disposed of by my Trustees. I approve this revocable living trust in all particulars and request my Trustees to execute it.

Trustor:

Dinny G. Frasier
DINNY G. FRASIER

Trustees:

Dinny G. Frasier Mark Dreschler
DINNY G. FRASIER MARK DRESCHLER
NEVADA CHARTER TRUST COMPANY PREMIER TRUST INC., A PRESIDENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF ORANGE

)
SS.
)

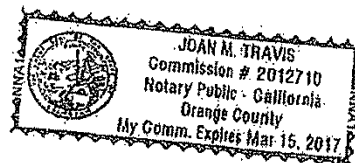
On May 29, 2015, before me, Joan M. Travis, a Notary Public, personally appeared DINNY G. FRASIER, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Joan M. Travis (Seal)

11-21



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached and not the truthfulness, accuracy, or validity of that document.

STATE OF Nevada -

COUNTY OF Clark -

)
SS
)

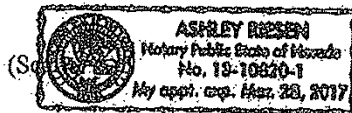
On June 24, 2015 before me, Ashley Riessen — a Notary Public, personally appeared Mark Dreschler — PREMIER TRUST INC., A NEVADA CHARTER TRUST COMPANY, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Nevada — that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Ashley Riessen



Prepared by:
H. Brooks Travis
The Law Offices of H. Brooks Travis, P.C.
28202 Cabot Road, 3rd Floor
Laguna Niguel, CA 92677
(949) 454-8706 FAX (949) 598-9613
www.HBTravis-Law.com

EXHIBIT “11”

EXHIBIT “11”

Dinny G. Frasier
31521 Paseo Campeon
San Juan Capistrano, CA 92675

June 2, 2017

Via Certified Mail – Return Receipt Requested

G. David Robertson, Esq.
Robertson, Johnson, Miller & Williamson
Bank of America Plaza
50 W. Liberty Street, Suite 600
Reno, Nevada 89501

Re: Termination of Representation

Dear Mr. Robertson:

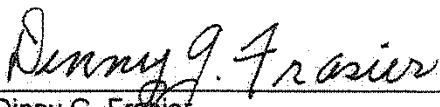
This letter is to notify you that I hereby disengage the law firm of Robertson, Johnson, Miller & Williamson as my attorneys in my capacity as Co-Trustee of the Jordan Dana Frasier Family Trust dated December 29, 1980, as Co-Trustee of the Tax Exemption Trust created under the Jordan Dana Frasier Family Trust, and as Co-Trustee of the Survivor's Trust created under the Jordan Dana Frasier Family Trust, to be effectively immediately.

Not later than ten (10) days from the date of this letter, please send copies of all of my files in your possession, custody, and/or control, to:

Dinny G. Frasier
c/o Vogt, Resnick & Sherak
4400 MacArthur Blvd., Suite 900
Newport Beach, CA 92660

All paper files should be overnighted or delivered by courier service; electronic copies of files should be on disk or flash drive.

Please acknowledge receipt of this letter and the requests made herein, in writing, to my attorney Barnet Resnick at bresnick@vrslaw.net.


Dinny G. Frasier

cc: Barnet Resnick

EXHIBIT “12”

EXHIBIT “12”

STEPHAN H. ANDRANIAN
RICHARD M. BLUMENTHAL
SARAH E. BREWSAUGH
JEROME A. BUSCH*
YUMI CHOE
JEANY A. DUFF
ADAM M. GREELY
BRYAN K. JOHNSON**
GINA H. KIM
BARNET RESNICK*
JEFFREY M. RESNICK*
DAVID A. SHERAK*

*A Law Corporation
** Also admitted to practice in New York

JAMES D. VOGT, Retired



VOGT | RESNICK | SHERAK, LLP

ATTORNEYS AT LAW
4400 MacARTHUR BOULEVARD, NINTH FLOOR
P.O. BOX 7849
NEWPORT BEACH, CA 92658-7849
TELEPHONE (949) 851-9001
TELECOPIER (949) 833-3445
www.vrslaw.net
law@vrslaw.net

OF COUNSEL
JACK SMART*



FILE NO. 05447.01

June 12, 2017

**VIA ELECTRONIC MAIL (gdavid@nvlawyers.com) &
VIA CERTIFIED MAIL**

Premier Trust Inc./Nicole Shrive
c/o Robertson, Johnson, Miller & Williamson
Bank of America Plaza
50 W. Liberty St., Suite 600
Reno, NV 89501

Re: Frasier Family Trust

Dear Ms. Shrive:

As you know, this firm represents Dinny Frasier, individually, as Settlor and Beneficiary of the Jordan Dana Frasier Family Trust and the Survivor's Trust and Tax Exemption Trust created thereunder ("Trusts").

The terms of the Trusts require Premier Trust, Inc. ("Premier Trust") to render an accounting to Dinny, as the current income beneficiary of both subtrusts, at least annually. It has been two years since Premier Trust's appointment as corporate co-trustee of the Trusts, but Dinny has not received any accountings to date.

Given the delinquency on Premier Trust's part to provide an accounting as required under the terms of the Trust, please immediately provide a full accounting of the Survivor's Trust created under the Jordan Dana Frasier Family Trust and the Tax Exemption Trust created under the Jordan Dana Frasier Family Trust that comply with the requirements of California Probate Code Section 16063. Since you have stated your desire to meet with Dinny to review her trust finances with her, I presume that an immediate compliance of this request will not be an issue.


VOGT | RESNICK | SHERAK, LLP
ATTORNEYS AT LAW

June 12, 2017

Page 2

Sincerely,

VOGT | RESNICK | SHERAK, LLP
Attorneys At Law

A handwritten signature in dark ink, appearing to read 'Barnet Resnick', is written over a horizontal line.

Barnet Resnick

BR:gk

cc: G. David Robertson, Esq.

EXHIBIT “13”

EXHIBIT “13”

STEPHAN H. ANDRANIAN
RICHARD M. BLUMENTHAL
SARAH E. BREWSTER
JEROME A. BUSCH*
YUMI CHOE
JEANY A. OUFF
ADAM M. GREELY
BRYAN K. JOHNSON**
GINA H. KIM
BARNET RESNICK*
JEFFREY M. RESNICK*
DAVID A. SHERAK*

*A Law Corporation
** Also admitted to practice in New York

JAMES D. VOGT, Retired

VOGT | RESNICK | SHERAK, LLP

ATTORNEYS AT LAW
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TELEPHONE (949) 851-9001
TELECOPIER (949) 833-3445
www.vrslaw.net
law@vrslaw.net

OF COUNSEL
JACK SMART*



FILE NO. 5447.01



June 19, 2017

VIA ELECTRONIC MAIL (gdavid@nvlawyers.com)

VIA & FIRST CLASS MAIL

G. David Robertson
Robertson, Johnson, Miller & Williamson
50 W. Liberty St., Suite 600
Reno, NV 89501

Re: Frasier Trust

Dear David:

This letter is Dinny's response to the six conditions you proposed at the meeting/conference call held between you, me, Nicole Shrive, and Patrick Millsap.

1. Meeting Between Dinny and Nicole to Review Accounting

Dinny does not want to meet with Nicole to review the trust accounting. There is no requirement that Premier review the accounting with Dinny in person. I propose that Premier send the accounting via mail for Dinny's review.

2. Nicole's Call with Lydia

Dinny consents to Nicole speaking to Lydia Rojas at Farmers & Merchants. Gina Kim sent Lydia's email address to you and Nicole on June 16, 2017.

3. Making Dinny Aware that Premier Did Not Choose the SJC House

I will talk to Dinny and make her aware that Premier did not choose the San Juan Capistrano house. After I speak to Dinny, I will have Dinny sign an acknowledgment regarding the same. However, Premier Trust as a co-trustee did agree to the purchase of the house, as no sale could have occurred without its signature.

June 19, 2017

Page 2

4. Premier Must Understand Dinny's Situation

As you know, Dr. Spar met again with Dinny for another capacity assessment on May 19, 2017, and wrote his opinion letter dated May 22, 2017, which you were provided a copy of. As the letter shows, Dinny told Dr. Spar, "I want to fire my Trustee, especially Nicole." The meeting was held in Dr. Spar's office, and the only persons present were Dr. Spar and Dinny; there was no one else present to unduly influence Dinny or to "coach" her on what to say to Dr. Spar. Despite these facts, you have expressed your inexplicable concern on more than one occasion that Dinny is being unduly influenced in her decision to replace Premier Trust as co-trustee of the Trust.

As we have relayed to you numerous times, Dinny simply does not wish to meet with you or Nicole. In lieu of an in-person meeting, we proposed alternatives as a means to alleviate your concerns of undue influence. First, we offered to arrange a video conference with you, me, Premier, and Dinny so that you can talk to Dinny and see for yourself whether she is acting under undue influence. You and/or Premier have rejected this proposal. Next, we offered to have retired Justice Jeffrey King, who was the mediator in the January 27, 2017 mediation in Orange County, to meet with Dinny alone to ensure that she is not acting under undue influence. You and/or Premier also rejected this proposal. The reason you provided for your rejection of this offer – that such an assessment would be fruitless because Justice King is biased and would simply reiterate his previous opinion that Dinny has full capacity – is unfounded because your concerns center around undue influence of Dinny and not about her capacity. Therefore, Justice King's prior observation about Dinny's capacity should not color his assessment of whether Dinny is now acting under undue influence. Justice King is a completely neutral third party who has sufficient knowledge of facts surrounding the trusts, the family dynamics, and the litigation, and he would be the best option to assess Dinny.

If it will help in reaching an agreement, Dinny is willing to meet with Justice King (subject to his availability and openness to the idea) and a videographer so that you can observe the meeting afterwards to see for yourself whether anyone else in the room coached or influenced Dinny. It is my sincerest hope that you will agree with this proposal. I am sure you realize that it is not in anyone's best interest to drag this issue out and necessitate court intervention, especially after I have presented you with several proposals for resolution.

We also hereby formally reject your proposition to have H. Brooks Travis meet with Dinny to assess whether she is acting under undue influence. There are legitimate concerns and doubts about Mr. Travis' impartiality, stemming from when he drafted the documents related to the Survivor's Trust. Therefore, I cannot reasonably agree to a meeting between Dinny and Mr. Travis regarding an assessment of undue influence. As you recall, the amendment and restatement of the Survivor's Trust that Mr. Travis prepared left everything to Amy and disinherited her two siblings, Brad and Nori.

In addition to Dr. Spar's letter, we have obtained approximately ten declarations

June 19, 2017

Page 3

corroborating Dinny's stated intent to remove Premier and specific reasons for her wanting to do so. If necessary, these declarations will be filed with the court as exhibits to our pleading to remove and replace Premier. I am confident that these letters and declarations will clearly prove to the court that Dinny truly desires to remove Premier as a cotrustee, and that such desire is a product of her own volition and not that of outside influence.

5. Amy and Bill

I, as well as Dinny, am a bit puzzled by your proposal of having Amy and Bill move in with Dinny. This proposal directly contradicts your claims that you are concerned about Dinny's welfare and acting in her best interest. We have a letter from Dinny's primary care physician which shows that unwanted contact causes her stress, which is extremely detrimental to her health. I am sure you know how Dinny feels about her children, especially Amy. There is plenty of evidence to show that Amy was behind the purchase of the San Juan Capistrano house, for which Dinny resents Amy, among other reasons. Dinny absolutely does not want Amy and Bill to move into her house and vehemently rejects the offer you are advocating on Amy's behalf.

6. Approval of Accounting by Court

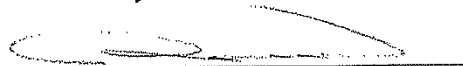
I have requested that the long overdue accounting be immediately provided by your client to Dinny. Please provide it as soon as possible and have it be submitted to the court for approval. If there are any objections that Dinny wishes to make, she will do so through the court.

7. Email to Dinny

At the June 16, 2017 meeting/conference call, we agreed that you would email to Dinny a copy of your letter prepared in response to Dinny's letter to terminate your representation of her as cotrustee of the trust. To date, Dinny has not received the email or the original letter which you said was sent via certified mail. Please immediately send the letter to Dinny's email address we provided you last week.

Sincerely,

VOGT | RESNICK | SHERAK, LLP
Attorneys At Law


Barnet Resnick

BR:gk

cc: Patrick Millsap (via electronic mail only)

EXHIBIT “14”

EXHIBIT “14”

**Advanced Medical Home Physicians, INC.
1001 Avenida Pico #C517
San Clemente, CA 92673
Ph: 949-226-8416 - Fax: 877-223-5602**

June 28, 2017

To Whom it May Concern:

This letter is support the fact that Mrs. Frasier has on multiple occasions during our medical interviews and examinations reported to me that she is aware of the ongoing litigation with her children and the broken relationships with those children. She has also mentioned her unhappiness with the trust bank and trust attorneys during these visits. She has stated un-coached that she wishes to fire her trust attorneys and hire different ones. She does have some memory loss, but I do believe she has the capacity to make decisions regarding her financial status.

Janie Mulrain has not been present for any significant amount of time during any of these visits, and when she was in attendance during one follow up appointment, she did not interject or speak when I was with Mrs. Frasier.

During my multiple visits, the only persons generally present have been Dinny's private caregivers, and geriatric case manager RN.

These issues over the financial and relational concerns have been a great source of stress and many of her medical issues are worsened by this ongoing stress.

Best Regards

A handwritten signature in black ink, appearing to read 'MH', followed by a long, sweeping horizontal line that extends to the right.

Michael Haga, MD

EXHIBIT “15”

EXHIBIT “15”

Patrick Millsap

From: David Robertson <gdavid@nvlawyers.com>
Sent: Thursday, July 6, 2017 2:05 PM
To: Gina Kim
Cc: Barnet Resnick; Patrick Millsap; Nicole Shrive (nshrive@premiertrust.com)
Subject: RE: Frasier

Hi Gina:

In light of the Court's Order Re Hearing today, Barry's June 19, 2017, letter - and its topics - are now moot.

It should be noted, however, that we *repeatedly* stated to Barry that we were not placing *any* conditions on Premier's resignation but, rather, we simply wanted to discuss the situation and brainstorm solutions. Despite that fact, Barry continued to refer to our discussion points as "conditions" -- and his letter persists in this erroneous characterization.

It is unfortunate that we were unable to use that meeting and telephone conference to productively discuss options and solutions - with Barry instead taking a contentious stand and refusing to engage in meaningful resolution discussions.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gdavid@nvlawyers.com
Please visit our website at www.nvlawyers.com

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From: Gina Kim [<mailto:gkim@VRSLaw.net>]
Sent: Monday, June 19, 2017 5:27 PM
To: David Robertson
Cc: Barnet Resnick; Patrick Millsap
Subject: Frasier

EXHIBIT “16”

EXHIBIT “16”

Leah Gregory

From: Nicole Shrive
Sent: Wednesday, December 28, 2016 10:58 AM
To: Leah Gregory
Subject: FW: Meet at my office

Importance: High

From: Barnett Resnick [mailto:bresnick@VRSLaw.net]
Sent: Tuesday, December 27, 2016 10:44 AM
To: janie@ethosfiduciary.com; Nicole Shrive <nshrive@premiertrust.com>
Subject: Fwd: Meet at my office

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

Begin forwarded message:

From: Nori Frasier <nori_frasier@hotmail.com>
Date: December 27, 2016 at 10:25:10 AM PST
To: Barnett Resnick <bresnick@VRSLaw.net>, Bruce <bgslawoffice@aol.com>, "Nori Frasier" <nori_frasier@hotmail.com>
Subject: Re: Meet at my office

You and Janie are destroying my mother day by day. I wish you both would stop this immediately!!

You were asked to help my mother but instead this person Janie is destroying her by the rules and restriction she is putting in place which is NOT my mother's wishes. You promised you would listen to my mother but no one is listening to her again!! And you would help her.

Kindly, Nori

From: Barnett Resnick <bresnick@VRSLaw.net>
Sent: Monday, December 26, 2016 3:53 PM
To: Nori Frasier
Subject: Re: Meet at my office

EXHIBIT “17”

EXHIBIT “17”

Yumi Choe

From: Nori Frasier <nori_frasier@hotmail.com>
Sent: Tuesday, January 24, 2017 6:18 PM
To: Barnet Resnick; Bruce
Cc: Nori Frasier; rick@cady.net
Subject: Fw: Frasier Trust Mediation
Attachments: Co-Trustees' Mediation Brief.pdf; IMG_1501.JPG; IMG_1503.JPG; IMG_1508.JPG; IMG_1510.JPG

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Please confirm this is going forward, that is all I am asking as I thought you had a plan and settlement. What ever my mother wants is fine by me? Many things stated in this document are opinion and are inaccurate as my mother and I never talked about the trust, money, etc. This is very upsetting and I wish I did not have to attend.

I have a few documents from my father last attorney which I have attached here as my father's intention was to make the building part of Brad's inheritances. Your choice if you read them or not. But people who do not know my mother or father are making judgement and calls which are in correct. My father would be rolling over in his grave right now!! It seems like attorneys can say anything they want and it is believed.

Makes me sad! My mother did not decide on an attorney in Reno, if you ask her she will tell you. She has never even been to Reno (I do not think). If you ask my mom, like by line what is in the document, she will tell you it is not true (I believe). And I did say my mother did not seem together but once I was able to see her and spend time with her, I found she was so much better and alert after the fall then after my father passed away. YOur people put such a negative twist on everything in your favor and us lay people., like me, can not do anything.

My parents worked hard what what they made and were proud people, not to give away to people who keep wanting to drag this out. For as much money as this has cost and the Reno lawyers have received, it cancels out what could have been.

Anyway, thank you for helping my mother. I wish you knew my father.

Kindly, Nori

From: David Robertson <gddavid@nvlawyers.com>
Sent: Tuesday, January 24, 2017 5:32 PM
To: Karla Adams (KAdams@JAMSADR.com)
Cc: Rich Williamson; Nicole Shrive (nshrive@premiertrust.com); Nori Frasier (nori_frasier@hotmail.com); Amy Frasier (digitalmermaid8@gmail.com); David Sherak; bfrasiermd@gmail.com; Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net); Teresa Stovak; Mike Sullivan (MSullivan@rbsllaw.com); john@gonzalezcpa.com; Judy Hamilton

FILED
Electronically
PR16-00128
2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “20”

EXHIBIT “20”

Janie Mulrain

From: Janie Mulrain
Sent: Wednesday, March 15, 2017 9:46 PM
To: Barnett; Resnick
Cc: Gina Kim
Subject: Russell Visit and SJC Escrow signed Docs
Attachments: Signed Items for Nicole Shrive.pdf; 2017-0311 12-17pm vm from care supervisor re Russell interference.mp3; 2017-0310 text from Raelynn re Russell.pdf

Barry,

Per our conversation, please see below email from Nicole today at 3:53 pm **"It was my understanding that either Russell or Tony went to the rehab facility to obtain Dinny's signature"**. I've also attached the document received from Nicole thus far.

Caregiver Desarae as well as Dinny herself have repeatedly told me that the first time Dinny ever saw the SJC house is the day she was discharged to go (sjc) home. Care agency was told to transport her there since that is now her residence (as opposed to the Irvine house).

According to Cottee Nicole, Tony and Russell was the realtor who represented Dinny on the purchase of the home. Dinny also affirmed this. At Russell's last Friday's visit (witnessed by Raelynn), Russell was trying to talk Dinny out of not getting rid of the SJC home and said **"I helped you get this house for you and Bill and Amy, this is the house you want, you need to call Bill and Amy to have them come live with you, that was the plan"**

I received a call from Raelynn around 11:15 am. She relayed that Russell had initially called Desarae's cell phone# to see when Dinny was going to be home. He complained that he often drops by (unannounced) but she is never home so something must have happened to her. When she informed him that Friday is not her shift and he needs to call Dinny's home. When Raelynn witnessed Russell said to Dinny **"Janie personally told me that she is not going to help you, she is not going to do anything for the Irvine house, she is stealing and taking your money, you need to fire Janie, your lawyers and your trust banker"** ... that was when Raelynn ran out of the house to call me from her cell phone and relayed these info to me.

When I took the call, I didn't have much time so I wanted to focus on calming Dinny and to prevent Russell from further distressing her. I devised a plan where I would call the house to tell Dinny that Costco contacted me because she has not picked up her meds and she needs to take them before lunch in order to have a settled stomach prior to her 1pm physical therapy appt.

Raelynn was trying to warn me that Russell was listening to Dinny's conversation but I was not aware of her text since I was using my cell phone to speak w/Dinny. But I knew Dinny always takes her calls via speaker phone so I framed my conversation with Dinny accordingly. Dinny took to my direction that she needs to prepare to leave for her errands, lunch, and PT appt, but before the call ended, Dinny asked about information regarding the SJC home. I informed Dinny that I do not have authority over trust assets and the transaction took place prior to my appointment and I do not have info on the home purchase. She asked for my help and I purposely asked Dinny to be specific as to what she was asking me to help her obtain. That is when I can hear an (inaudible) male voice whispering in the background, when it stopped, Dinny said **"escrow papers, deeds, title"**, she also said **"who took my money and bought the house without my permission"**. I informed Dinny that as her POA, I would advocate on her behalf and assist her with what she wants to obtain but at the moment, she needs to tend to her own selfcare and go to Costco and her scheduled appointments, I would contact her another time to discuss further. My call ended w/Dinny around 11:33 a.m.

Shortly after, Raelynn informed me that Russell left around noon (see attached text message on Friday from Raelynn). So it appears that Russell stay around to continue to talk to Dinny for approx. 30 minutes after my call with her.

On Saturday, I received a voice mail from care supervisor Jonathon relaying info about Russell's visit. The recording is attached to this email.

Janie L. Mulrain
CLPF #768, NCG
Ethos Fiduciary Services
P.O. Box 61282, Irvine, CA 92602
949.229.6193 Fax: 949.393.2293
Janie@ethosfiduciary.com

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From: Nicole Shrive [mailto:nshrive@premiertrust.com]
Sent: Wednesday, March 15, 2017 4:22 PM
To: Janie Mulrain <janie@ethosfiduciary.com>
Cc: Leah Gregory <lgregory@premiertrust.com>
Subject: RE: 31521 Paseo Campeon - signed items

It is my understanding that an entire escrow packet was sent to Dinny. What is interesting about that is escrow called me last month to inquire about the refund check, which I never received. I'm thinking it was sent with the escrow docs to Dinny, but nobody ever cashed it. I has escrow put a stop pay on it and reissue to my office. I would be willing to bet that Nori took the escrow docs among other things while staying at the house. I have a call into David to discuss how to handle requesting that she return all documentation related to trust property which she may have previously removed from San Juan. David is in court all week except Fridays. He has indicated we will discuss this issue on Friday this week. I can ask Bill and Amy's council if they know what happened to the escrow docs, and if they have them instruct them to return to my office. Unfortunately, the only copies I have only have my signature. I guess everything was signed in counter-part. I called escrow today and requested the send me what they could showing Dinny's signature. I will try and track down the whole packet of docs and get them to you.

From: Janie Mulrain [mailto:janie@ethosfiduciary.com]
Sent: Wednesday, March 15, 2017 4:14 PM
To: Nicole Shrive <nshrive@premiertrust.com>
Cc: Leah Gregory <lgregory@premiertrust.com>
Subject: Re: 31521 Paseo Campeon - signed items

Thanks for the attached.

Is this the only document in the escrow file? What about the final escrow settlement statement?

Janie L. Mulrain
CLPF #768, NCG
ETHOS FIDUCIARY SERVICES

P.O. Box 61282, Irvine, CA 92602
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janie@ethosfiduciary.com

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On Mar 15, 2017, at 3:53 PM, Nicole Shrive <nshrive@premiertrust.com> wrote:

Janie,

Attached are escrow docs from the purchase of the San Juan Capistrano house that reflects Dinny's signature. It was my understanding that either Russell or Tony went to the rehab facility to obtain Dinny's signature. I will keep a copy of these documents in my file too.

Thank you,


Nicole

From: Jennifer Walsh [<mailto:jennifer@bluewaterescrow.com>]
Sent: Wednesday, March 15, 2017 3:51 PM
To: Nicole Shrive <nshrive@premiertrust.com>
Subject: 31521 Paseo Campeon - signed items

Hi Nicole,
Please see attached signed items. Please let me know if there is anything else that you may need.
Thank you,

JENNIFER WALSH
Main 949.478.7900
Direct 949.478.7807
Fax 949.478.7999
DBO#963-2567




blue water escrow
www.BlueWaterEscrow.com
[Get Directions](#)
1400 Newport Center Drive | Suite 125 | Newport Beach, CA 92660

ATTENTION: BE AWARE! Online banking fraud is on the rise. If you receive an email containing WIRE TRANSFER INSTRUCTIONS call your Escrow Officer IMMEDIATELY to verify the information prior to sending funds

56. **CONSTRUCTION OF AGREEMENT:** In construing these instructions, all paragraph headings and captions are for the convenience of the parties only and shall not be considered as part hereof.

57. **DEFINITIONS:** The definition of "Escrow Holder" shall mean Blue Water Escrow, Inc., a California corporation and any and all of its Directors, Officers, employees, representatives and agents. "Parties" as used in this escrow transactions includes the Buyer and Seller, collectively.

RESIDENTIAL BROKERAGE COMPANY WHO MAY BE SERVING AS A BROKER IN CONNECTION WITH THIS ESCROW TRANSACTION IS OWNED BY A COMPANY WHICH ALSO OWNS BLUE WATER ESCROW, INC.

BY SIGNATURE BELOW, AND BY INITIALING EVERY PAGE OF THE 'SUPPLEMENTAL ESCROW INSTRUCTIONS AND ADDITIONAL ESCROW INSTRUCTIONS AND GENERAL PROVISIONS', EACH PARTY TO THIS ESCROW ACKNOWLEDGES RECEIPT OF A COPY OF SAME AND AGREES THAT THEIR SIGNATURE THEREON CONFIRMS THEIR FULL ACCEPTANCE AND APPROVAL OF, CONCURRENCE IN, AND AGREEMENT TO BE BOUND BY ALL OF THE TERMS, PROVISIONS, CONDITIONS, INSTRUCTIONS AND AGREEMENTS, IN THEIR ENTIRETY, AS CONTAINED HEREIN.

Buyer's Signature:

Dinny Frasier

Seller's Signature:

Frasier Surviving Spouse Trust

the Molina Lehnert Trust dated January 20, 2012

By: *Dinny Frasier*
By: Dinny Frasier, Trustee

By: Kevin L. Lehnert, Trustee

X By: Premier Trust By: Nicole Shrive, Co-Trustee

By: Patricia A. Molina, Trustee

EXHIBIT “21”

EXHIBIT “21”

Janie Mulrain

From: Nicole Shrive <nshrive@premiertrust.com>
Sent: Tuesday, February 21, 2017 12:59 PM
To: Janie Mulrain
Subject: RE: Frasier

Hi Janie,

I'm sorry to hear about your vacation. Fourth times the charm? ☺

I have no idea who Shirley is. Never heard of her until now. Can't these people just leave Dinny alone? What is the deal? If I speak with Bill or Amy, I will find out everything I can. Keep you posted.

Thanks!

Nicole

From: Janie Mulrain [mailto:janie@ethosfiduciary.com]
Sent: Monday, February 20, 2017 9:12 PM
To: Nicole Shrive <nshrive@premiertrust.com>
Subject: Frasier

Was gone for the weekend and just returned. I didn't have access to electronics (intermittent power outage at the hotel due to storm, and the power went out completely while we were dining at a restaurant last night). Now 3 for 3 on trying to take some time for family. Xmas and new years I had to deal w/Nori and Dinny's cousin Gwen. This weekend was friend Shirley Axelrod who made Dinny upset and both got into a shouting match to each other. Dinny was actually cursing!

I asked the caregivers to document. It appears w/each call, Shirley has been more pushy and this weekend she demanded Dinny to fire everyone and to call Amy/Bill. She went as far as saying she drafted a document for Dinny to sign and told Dinny, she will call Bill and Amy on her behalf to tell them they can move in w/Dinny to take care of her and her finances. When Dinny brought up the \$1.5mm house purchase Shirley replied that "geez I didn't know you had that kind of money, if I knew I would of helped you myself"

Brad has his best friend from high school trying to ingratiate himself to Dinny, and Bill/Amy has Shirley pushing Dinny on their behalf. Gwen had pushed Dinny to make up with both of her girls until I told her back in New Years to remain neutral and just be a supportive family member. The caregivers have reported that Gwen has not pushed since then but Dinny's situation seems akin to the "wack a mole" game, when you try to take care of one, another seems to pop up.

Can you provide some background as to Shirley Axelrod since premier has been involved?

Janie L. Mulrain
CLPF #768, NCG
Ethos Fiduciary Services
P.O. Box 61282, Irvine, CA 92602
949.229.6193 Fax: 949.393.2293
Janie@ethosfiduciary.com

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PR16-00128
2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “22”

EXHIBIT “22”

Janie Mulrain

From: Janie Mulrain
Sent: Tuesday, April 18, 2017 8:25 PM
To: Nicole Shrive
Subject: Frasier - Distribution
Attachments: 2017-0401 1012 Brad Ramos \$540.81.pdf

Nicole,

Per our conversation, please deposit funds into Dinny's personal account at Opus Bank.

To date, I've remitted from Dinny's personal account a total of \$68,544.50 for legal and medical professional fees. I also remitted \$540.81 from her account to pay for getting the Palm Desert in a habitable condition on the inside so she can stay in her own home as she wishes. I've included a copy of the invoice herein.

The above legal/professional figure does not include my fees/expenses to date because I wanted to go over my bill w/Dinny and obtain her consent before sending it to you. As long as Dinny is able to understand and is able to express her wishes, I feel obligated to present my bill to her first and obtain her consent before remitting it to you for payment. Unfortunately, my in person meetings w/her have been superseded w/other more pressing issues and documents to sign...i.e. last week's discussion of her bank account, signature card, tax filings, and my explaining to her the purpose of the documents you've asked me to go over w/her and obtain her signature.

I had planned to meet w/her this Thursday for the sole purpose of going over my bill, however, in light of the care manager situation, this Thursday will now be taken up w/an introduction to a new care manager who is better equipped 'personality wise' to handle this case and to assist in obtaining Dinny's authorization to clear out the Irvine house and to sell the Mercedes.

Please email me the letter of authorization tomorrow so I will have it w/me for my meeting w/Dinny on Thursday at 10 a.m. I will play it by ear and present my invoice if not, I will plan to see her beginning of May upon return from my out of town trip during 4/22-4/29.

Janie L. Mulrain
California Licensed Professional Fiduciary #768
National Certified Guardian

ETHOS FIDUCIARY SERVICES
P.O. Box 61282, Irvine, CA 92602
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2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “23”

EXHIBIT “23”

Janie Mulrain

From: Janie Mulrain
Sent: Wednesday, April 05, 2017 2:46 PM
To: Leah Gregory
Cc: Nicole Shrive
Subject: RE: Dinny Frasier

Nicole/Leah

Thanks for the attached. I'll make arrangements for Dinny to sign.

Re monthly distribution, I've asked Dinny twice and each time she has replied "I'll have to think about it".

Please follow-up w/her directly, perhaps she can give you a quick answer.

Janie L. Mulrain
CLPF #768, NCG
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Tel 949.229.6193 Fax 949.393.2293
Janie@ethosfiduciary.com

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From: Leah Gregory [mailto:lgregory@premiertrust.com]
Sent: Wednesday, April 5, 2017 1:51 PM
To: Janie Mulrain <janie@ethosfiduciary.com>
Cc: Nicole Shrive <nshrive@premiertrust.com>
Subject: Dinny Frasier

Hello Janie,

Please find a Form 2848 for Dinny's signature in the link below. The password to the link is the last four of Dinny's social security number and the link will expire in one month from today. The CPA wants to confirm that we have caught everything that was reported as income to the IRS for the 2015-2016 tax year. Please have Dinny sign the form and return it to us ASAP. Also, Nicole wanted me to request that you ask Dinny what amount she would like for a monthly distribution. Please let me know.

<https://dv.premiertrust.com/sharedlink.aspx?tokenid=99d07f82-5528-4df3-b337-89ca59abcc3b>

Thank you,

Leah Gregory
Trust Administrator

EXHIBIT “24”

EXHIBIT “24”

Janie Mulrain

From: Janie Mulrain
Sent: Wednesday, March 15, 2017 1:58 PM
To: Nicole Shrive
Cc: Leah Gregory; Office Support
Subject: RE: Bills to Pay for Dinny Frasier

Dinny prefers to see the bills before I forward them to you because she wants to know her bills are being paid. That is how I was able to remind her (after the erroneous Merrill Lynch call) that I meet w/her and show her bills before sending it to you to be paid.

I had also told her prior that there were a few bills that she does not receive anymore because mailing address was already updated to Premier Trust.

Feel free to contact Dinny to change this protocol and have Leah forward the correspondence for Dinny's signature. In fact, I prefer to not have to be involved if I don't have to, it's more cost effective to the client and saves me time to be able to tend to her other needs. But unfortunately, I've had to be the intermediary between Dinny and others to help move things along so that there's no gridlock.

I am here to help, let me know whatever you and Dinny decide.

Janie L. Mulrain
CLPF #768, NCG
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Janie@ethosfiduciary.com

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From: Nicole Shrive (<mailto:nshrive@premiertrust.com>)
Sent: Tuesday, March 14, 2017 6:54 PM
To: Janie Mulrain <janie@ethosfiduciary.com>
Cc: Leah Gregory <lgregory@premiertrust.com>; Office Support <info@ethosfiduciary.com>
Subject: Re: Bills to Pay for Dinny Frasier

Totally weird. I have a call into our IT people, and will see what is going on.

Leah paid all the bills today so we are caught up. If anything we will attempt to make calls to waive any late charges. Do you want Leah to draft correspondence for Dinny's signature to change the mailing address on the invoices you sent?

Nicole Shrive, CTFA, MBA, NCG
Premier Trust, Inc.
1 East Liberty Street, Suite 600
Reno, Nevada 89501
Main 775.473.2200
Direct 775.473.2202

Fax 775.562.4718
www.premiertrust.com

On Mar 14, 2017, at 5:02 PM, Janie Mulrain <janie@ethosfiduciary.com> wrote:

That is weird, it appears you're not only having phone/voice mail problems but email problems too.

Paige cc's me on all outgoing emails so I was able to pull up her email sent to you for Dinny's file for that day.

Here's the screen shot from my email showing copies of correspondence that Paige sent on 2/24/17. The bills to pay was sent an hour earlier prior to the citizen's bank statement.

The Citi Costco bill is one of many bills sent in that attachment, I would assume the rest of the bills in that email attachment was not paid as well.

<image001.png>

Paige,

Please see above for Nicole's assistant's email address. Please cc Leah going forward.

Thanks!

Janie L. Mulrain
California Licensed Professional Fiduciary #768
National Certified Guardian

ETHOS FIDUCIARY SERVICES

P.O. Box 61282, Irvine, CA 92602
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From: Nicole Shrive [<mailto:nshrive@premiertrust.com>]
Sent: Tuesday, March 14, 2017 4:50 PM
To: Janie Mulrain <janie@ethosfiduciary.com>
Cc: Leah Gregory <lgregory@premiertrust.com>
Subject: RE: Bills to Pay for Dinny Frasier

Hi Janie,

I looked back at my emails, and the only email that I received on 2/24 was a copy of the First Citizen's Bank statement. I have no other emails from you that day or from Office Support. We never received any of the invoices that you just forwarded. We will make sure payment is up to date on all of the invoices you just sent. I see that the email is attached to the bottom of this chain, but in researching on my end, we never received that email.

Nicole,

Per Janie's request, here are Dinny's bills that need to be paid.

Respectfully,

Paige Key
Office Assistant

Ethos Fiduciary Services
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Tel: 949.229.6193 Ext 2
Fax: 949.393.2293
info@ethosfiduciary.com

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PR16-00128
2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “25”

EXHIBIT “25”

Janie Mulrain

From: Janie Mulrain
Sent: Tuesday, April 04, 2017 9:36 PM
To: Nicole Shrive; lgregory@premiertrust.com
Subject: Frasier - personal tax info
Attachments: 1099 Charles Schwab acct. 4143-1157.pdf; 1099 Charles Schwab acct. 5120-6217.pdf; 1099-INT BofA.pdf; 1099-R Genworth.pdf; 2017-0209 1099 Interest Tax Statement.pdf; Premier Tax Exempt Trust.pdf; SSA-1099.pdf; Survivor's Trust.pdf; W-9 Dept of Treasury IRS.pdf

Per our conversation, attached are copies of all tax related documents for Dinny's personal and trust matter that have been received at her POB and SJC residence.

Please forward a copy of her filed 2015 and 2016 (when complete) returns.

Thanks.

Janie L. Mulrain
CLPF #768, NCG
ETHOS FIDUCIARY SERVICES
P.O. Box 61282, Irvine, CA 92602
Tel 949.229.6193 Fax 949.393.2293
Janie@ethosfiduciary.com

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Janie Mulrain

From: Janie Mulrain
Sent: Wednesday, May 24, 2017 4:46 PM
To: Nicole Shrive
Cc: Leah Gregory
Subject: Frasier - 1st Citizen's Bank
Attachments: 2015-0808 to 2017-0505 stmts.pdf

Nicole,

Mission accomplished!!! Attached are the bank statements for the time period you've requested 9/2015 to 12/2016.

Regarding retitling the trust to you and Dinny, 1st Citizen's Bank's back office (legal dept) is still reviewing the docs. I'll defer that to you to follow up with them.

Now that you have all of the financial info, would Dinny's personal taxes and the trust taxes can now proceed to be filed?

You also mentioned that you have a copy of Dinny's personal tax return for 2015. There was no such info at the SJC home office, can you email or snail me a copy for my files? Thanks.

Janie L. Mulrain
California Licensed Professional Fiduciary #768
National Certified Guardian

ETHOS FIDUCIARY SERVICES

15615 Alton Pkwy Ste 450, Irvine, CA 92618
Mailing: P.O. Box 61282, Irvine, CA 92602
949.229.6193 x1 Fax 949.393.2293
janie@ethosfiduciary.com

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EXHIBIT “26”

EXHIBIT “26”



STATE OF CALIFORNIA
FILING ENFORCEMENT SECTION MS F180
FRANCHISE TAX BOARD
PO BOX 942840
SACRAMENTO CA 94240-0040

Request for Tax Return

04/26/2017

Telephone: 866.204.7902
Fax: 916.855.6646
ftb.ca.gov/inc



Code Number: 18

Notice Number: 01-2660381-042617

IN CARE OF DINNY FRASIER
DINNY G FRASIER
PO BOX 54324
IRVINE CA 92619-4324

Your reply is due:
**Wednesday,
May 31, 2017**



**You must respond
by 05/31/2017**

We have no record of your:
2015 California income
tax return

**This notice is a
request for your
2015 tax return.**

We believe you need to file a 2015 California income tax return.

You have an excellent history of filing your annual tax returns. However, we have no record of your 2015 California personal income tax return.

We received information from
MERRILL LYNCH, PIERCE, FENNER & SMITH IN
that you sold stocks, bonds, or certain commodities or exchanged property or services
through a barter exchange reported on federal Form 1099-B.

The gross sales price, less an adjustment for average cost basis, or the value of services
performed indicates that you have a California filing requirement for 2015.

We also received information that you earned income from, but not limited to:
CHARLES SCHWAB & CO., INC.
MERRILL LYNCH, PIERCE, FENNER AND SMITH
BANK OF AMERICA, N A

We want to work with you to resolve this matter as soon as possible.

Refer to the *Filing Requirement Guidelines* on page 2 of this notice for 2015 filing
requirements. You must file even if you are due a refund.

**To respond to this
notice you must
complete one of
the following:**

- 1. File your 2015 California income tax return**
Complete your personal income tax return and mail it to the address on PAGE 3 by the above referenced due date.
- 2. Provide evidence that you already filed your 2015 tax return**
Complete Section A of the enclosed Reply to FTB form and mail it to the address on PAGE 3 by the above referenced due date.
- 3. Provide information that you do not have a requirement to file a 2015 tax return**
Complete Section B of the enclosed Reply to FTB form and mail it to the address on PAGE 3 by the above referenced due date.

If you would like to electronically complete and submit **Section A** or **Section B** online, go to ftb.ca.gov/inc, enter the notice number, and complete the appropriate section of the form by the above referenced due date.

Please call our Interactive Voice Response at 866.204.7902 to obtain additional information regarding 1) order forms, 2) request a delay, 3) payment options, 4) if you have filed a return, or 5) for Frequently Asked Questions.

To file your state tax return directly to FTB for free, go to ftb.ca.gov and search for **CalFile**.

To Get Forms

Website

Go to ftb.ca.gov and search
for **prior year forms** to get
the form you need.

Telephone

Call us at 800.338.0505
to request forms.
TTY/TDD: 800.822.6268

Mail

Request forms by mail to:
**TAX FORMS REQUEST UNIT
FRANCHISE TAX BOARD
PO BOX 307
SACRAMENTO CA 95741-0307**

(For form requests only. Do not mail *Reply to FTB*
form or supporting documents to this address.)

FILED
Electronically
PR16-00128
2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “27”

EXHIBIT “27”

Blue Water Escrow, Inc.
1400 Newport Center Drive, Suite 125
Newport Beach, CA 92660
Phone: (949) 478-7900 • Fax: (949) 478-7999

SUPPLEMENTAL ESCROW INSTRUCTIONS/GENERAL PROVISIONS

TO: Blue Water Escrow, Inc.

Date: July 27, 2016
Escrow Officer: Jason Miller
Escrow Number: 16-5027-JM

BLUE WATER ESCROW, INC. IS LICENSED AS AN ESCROW AGENT BY THE DEPARTMENT OF BUSINESS OVERSIGHT OF THE STATE OF CALIFORNIA, LICENSE # 963-2567.

Terms of Transaction		
Buyer has deposited with escrow	\$	50,000.00
Balance of down payment prior to close of escrow	\$	1,329,000.00
TOTAL CONSIDERATION:	\$	1,379,000.00

You are authorized to use and/or deliver the funds and documents deposited by the parties in this escrow on the scheduled closing date of August 17, 2016, provided you are in a position to order a Policy of title Insurance through Ticor Title Company, with a liability of 1,379,000.00, covering the following described property in the City of San Juan Capistrano, in the County of Orange, State of California

Parcel No. 1: Lot 34 (the "Lot") of Tract No. 16221, as shown on the Subdivision Map ("Map") filed in Book 861, at Pages 6 to 20, inclusive, of Miscellaneous Maps in the Office of the Orange County Recorder. For complete legal description see Exhibit "A" attached hereto and made apart hereof.

COMMONLY KNOWN AS 31521 Paseo Campeon, San Juan Capistrano, CA 92675-1828

SHOWING TITLE VESTED IN Frasier Surviving Spouse Trust, as Trustee

(Escrow Holder is hereby authorized and instructed to affix Buyer's complete vesting to the Grant Deed upon written authorization from the Buyer without further approval of the Seller.)

SUBJECT TO:

1. General and Special County and City (if any) Taxes, Covenants, Conditions and Restrictions, easements reservations, rights, rights of way, and exceptions of gas, water, oil, minerals, carbons and hydrocarbons on or under said land, now of record, and in deed to file, if any, affecting the use and occupancy of said land, and Assessments and bonds of record, for the current fiscal year, not due or delinquent, including any special levies, payments for which are included therein and collected therewith.
2. Lien of Supplemental Taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.
3. Covenants, Conditions and Restrictions, reservations easements for public utilities, districts, water companies, alleys and streets, rights and rights of way of record, if any; also exceptions of oil, gas, minerals and hydrocarbons, and/or lease, if any, without the right of surface entry.
4. This is an "All Cash" transaction and no financing will be secured on the subject property. Additionally, Escrow Holder is instructed to close this escrow without regard or concern about fire insurance coverage for the subject property (Unless property is a Condominium/Townhouse, in which case, Escrow Holder's only concern is to transfer the Seller's interest in the master policy to Buyer at close of escrow). Buyer is to obtain their own insurance coverage outside of escrow and release Escrow Holder from any responsibility in connection therewith.

Page 1

Buyer Initials DF

Seller Initials _____

INSTRUCTIONS TO ESCROW:

PURCHASE AGREEMENT: BLUE WATER ESCROW, INC., acknowledges receipt of that certain Purchase Agreement and Joint Escrow Instructions (Agreement) dated July 25, 2016, between Frasier Surviving Spouse Trust (Buyer) and the Molina Lehnert Trust dated January 20, 2012 (Seller), together with the related Counter Offer(s) Numbered N/A, addenda and any other mutual instructions. Duties of the Escrow Holder as set forth in said Agreement are made a part hereof. Buyer and Seller acknowledge that the Acceptance Date of the transaction is July 27, 2016.

Escrow Holder shall only be concerned with those items as specifically set forth in Paragraph number 20 of said Purchase Agreement and Joint Escrow Instructions. These Supplemental Escrow Instructions may include matters required to close this escrow which are not covered by the Purchase Agreement. The omission from Supplemental Escrow Instructions of any provision in the Purchase Agreement shall not constitute a waiver of the provisions or the contractual rights or obligations of any party. Escrow Holder is not responsible for the delivery of any California Association of Realtors (CAR) disclosures, as these documents contain no instructions to Escrow Holder and are intended for use between the parties and the Real Estate Brokers. Any change in the terms or provisions of this escrow requires the mutual written consent of Buyer and Seller.

CLARIFICATION TO ESCROW: For the purpose of clarification to escrow, the following are restated from the parties' original Residential Purchase Agreement together with Counter Offers and Addenda thereto:

Buyer contingencies, including but not limited to, review of the Preliminary Title Report and Homeowner Association documents and Inspections, shall remain in effect until August 13, 2016 (17 days from date of final acceptance), per the complete agreement of Buyer and Seller regarding contingency removal as provided in Paragraphs 14A through 14G of their Residential Purchase Agreement and Joint Escrow Instructions. There is no appraisal contingency per the complete agreement of Buyer and Seller regarding contingency removal as provided in Paragraph 31. In the event the time period for approval of contingencies falls on Saturday, Sunday or a holiday, the date shall be moved to the next business date.

HOME PROTECTION PLAN: Seller agrees to provide Buyer with a one-year Home Protection Plan, issued by American Home Shield. Escrow Holder's only responsibility is to pay for said Home Protection Plan from proceeds due Seller at the close of escrow, at a cost not to exceed \$450.00. In the event the cost for said Plan exceeds said amount, any difference is to be paid by Buyer at the close of escrow.

NATURAL HAZARD DISCLOSURE: Buyer shall be provided with a report which furnishes "Mandatory Disclosure" information. The cost of said report is to be paid from Seller's proceeds at close of escrow. Escrow Holder is authorized and instructed to order said report and upon receipt of same, furnish a copy to Buyer for informational purposes.

HOMEOWNER ASSOCIATION(S): Seller advises Buyer that there is 1 Homeowner Association(s) which affect the subject property. Escrow Holder is relieved of any responsibility and/or liability for non-disclosure by Seller of any additional Homeowner Associations. Unless immediately advised otherwise in writing by Seller, Escrow Holder is authorized and instructed, on behalf of Seller, to request from the Homeowner Association, or its Management Company, the following documents: Statement of Account reflecting all assessments, including any pending approved charges or special assessments, Covenants, Conditions and Restrictions, Articles of Incorporation (or Articles of Association if not incorporated), By-Laws, current operating Budget and Assessment Enforcement Policy, most current Financial Statement, Rules and Regulations, summary of any pending Litigation, and the most current 12 months of Association Board Minutes. Buyer and Seller acknowledge that Escrow Holder is ordering said documents as an accommodation to the parties only. Immediately upon receipt of said documents, escrow will forward same to Buyer. Escrow Holder shall have no responsibility or liability as to the accuracy or completeness of any documents furnished by the Association or its property manager, and no responsibility or liability with regard to Seller's disclosure requirements as set forth in Paragraph 10F of the parties Residential Purchase Agreement and Joint Escrow Instructions.

PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS: Unless otherwise agreed in writing, the following items shall be paid current and prorated between Buyer and Seller at close of escrow: General Real Property Taxes and Assessments, Supplemental Real Property Taxes assessed for the current year only, interest on loans assumed by Buyer, rents, Homeowner Association regular, special and emergency dues and assessments imposed prior to the close of escrow, premiums on insurance assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. Seller understands that all

open Supplemental tax bills must be paid in full at close to meet title insurance requirements, and Escrow Holder is instructed to charge Seller's account accordingly at close of escrow.

COSTS INCURRED: Escrow Holder is authorized and instructed to disburse from Buyer's funds on deposit, any amounts necessary to the payment of expenses which must be paid prior to the close of escrow, including but not limited to: demand request fees, city report fees, and courier/overnight mail services. The parties acknowledge that though such disbursements are made from Buyer's funds on deposit, these payments may be made for the benefit of either the Seller or the Buyer to facilitate the closing of this transaction. These payments are not refundable whether this escrow closes or cancels, and all parties acknowledge Blue Water Escrow, Inc. shall have no responsibility or liability in connection with the recovery of Buyer's funds should a dispute arise between Buyer and Seller. At close of escrow, Escrow Holder is instructed to charge the party for whom the expense was incurred and is released from any and all liability in connection with compliance with this instruction.

BUYER'S SETTLEMENT: The Buyer will pay on demand, whether or not this escrow closes, all expenses and charges incurred on Buyer's behalf, including but not limited to: Buyer's customary escrow fees, document preparation fees, email document printing, notary fees, wire fees, messenger and overnight delivery fees, new loan charges and loan document sign-up service fees, if any, existing loan assumption transfer fees, if any, Lender's policy of title insurance, Buyer's portion of the sub-escrow fee, recording charges and fire insurance premiums and/or insurance certificate fees, as necessary. Deposit by Buyer of funds sufficient to close escrow shall be deemed Escrow Holder's authorization to proceed with the close of escrow in accordance with the agreements and instructions handed you.

SELLER'S SETTLEMENT: From funds due Seller at close of escrow, deduct any pay encumbrances of record, plus accrued interest, charges and prepayment penalty, if any, bonds and/or assessments, and any delinquent monthly installment(s) on existing encumbrance(s) as disclosed by beneficiary statement(s) and county and/or city transfer fees, as necessary to comply with these instructions, without any additional written instruction from Seller. Escrow Holder is authorized to deduct from funds due Seller at the close of escrow, or Seller agrees to pay on demand, whether or not this escrow closes, all expenses and charges incurred on Seller's behalf, including, but not limited to: Seller's customary escrow fees, email document printing, fees for preparation, notarizing and recording of documents as necessary on Seller's behalf, charged for preliminary title report, title commitment, policy of title insurance, Seller's portion of the sub-escrow fee, and fees for obtaining beneficiary statement(s), as necessary, and Broker compensation as per separate agreement, if any.

Page 3

Buyer Initials

D.F.

Seller Initials _____

ADDITIONAL INSTRUCTIONS AND GENERAL PROVISIONS

All parties are aware that Blue Water Escrow, Inc. is affiliated with Surterre Properties, Inc. acting as a neutral third party in all escrow transactions.

1. **AGREEMENT TO BE BOUND BY GENERAL PROVISIONS:** The Parties agree to execute these instructions and any supplemental instructions presented by Escrow Holder confirming their agreement to be bound to any additional terms and conditions of Escrow Holder, including Escrow Holder's general provisions, and authorize Escrow Holder to resign from processing this escrow transaction if mutual agreement cannot be reached between the Parties and Escrow Holder relative to the terms and conditions of Escrow Holder's duty. THESE ESCROW INSTRUCTIONS ARE NOT INTENDED TO SUPERSEDE THE REAL ESTATE PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS, BUT TO CARRY OUT ITS TERMS AND CONDITIONS IN CONSUMMATING THIS PURCHASE AND SALE, EXCEPT AS MAY BE AMENDED OR MODIFIED BY THE MUTUAL WRITTEN INSTRUCTIONS OF THE PARTIES.
2. **OPENING OF ESCROW:** This escrow transaction is deemed open, and Escrow Holder's duty commences, upon receipt of mutual or matching escrow instructions, signed by all Parties and the initial, good faith deposit are deposited with Escrow Holder. Said escrow instructions shall be incorporated in the purchase agreement or, if the purchase agreement does not include escrow instructions or no purchase agreement is entered into by the Parties, shall be drafted by Escrow Holder at the direction of the Parties.
3. **ESCROW HOLDER'S DUTIES:** The Parties agree that Escrow Holder has only those responsibilities inherent of an escrow service provider and that there are no other legal relationships established between Escrow Holder and the Parties by way of this escrow transaction. Those duties are limited to the safekeeping of such money and documents received by Escrow Holder and for the disposition and/or disbursement of same in accordance with the written instructions accepted by Escrow Holder in this Escrow. Escrow Holder shall not be liable for any damages, losses, costs, or expenses incurred by any Party in the handling and processing of this escrow transaction as a result of any act or failure to act made or omitted in good faith or for any action taken that Escrow Holder shall in good faith believe to be genuine, excepting such as may arise through or be caused by Escrow Holder's willful neglect or gross misconduct.
4. **ACCEPTANCE AND VERACITY OF SIGNATURES:** Escrow Holder shall not be responsible or liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any document deposited with Escrow Holder relative to the identity, authority, or rights of any person executing the same. All signatures submitted into this escrow transaction shall be construed as unconditional approval of the within document as to form, content, terms, and conditions. Escrow Holder shall have no obligation to verify, and will not verify, the authenticity of any signature on any document made relative to this escrow transaction. Escrow Holder shall not be liable or responsible for any loss that may occur because of forgeries, fraud, or false representations made or involving the Parties to this escrow transaction, any third Parties, the agents or any other person or entity.
5. **WRITTEN INSTRUCTIONS REQUIRED:** Pursuant to California Civil Code Section 1624, no notice, demand, supplemental escrow instruction, or amendment of the escrow instructions (hereinafter collectively "supplemental instructions") shall be effective unless given in writing by the parties affected thereby. Escrow Holder shall not act upon or consider such supplemental instruction to have any validity until same is fully executed and delivered to Escrow Holder by all parties concerned.
6. **STANDARDIZED FORMS:** Escrow Holder is to use Escrow Holder's usual document forms or the usual forms of any reliable forms company or any title company and in the instructions insert dates and terms on the instruments if incomplete when executed. Excepting Escrow Holder's own form, Escrow Holder shall not be liable for the correctness or sufficiency of such standardized preprinted forms.
7. **ACTS OUTSIDE OF ESCROW AND MEMORANDA ITEMS:** Whenever provision is made herein for the payment of any sum, the delivery of any document, or the performance of any act "outside of escrow", Escrow Holder shall have no responsibility therefor, shall not be concerned therewith, and is specifically relieved of any obligation relative thereto. Escrow Holder is expressly instructed not to act upon or be concerned with or liable for those items designated in the purchase agreement, escrow instructions, or supplemental instructions as memoranda items between the Parties, nor any other agreement between the Parties not expressly addressed to Escrow Holder in the form of a supplemental instruction.

Page 4

Buyer Initials

D.F. L

Seller Initials _____

8. **PROPRIETARY INFORMATION:** Escrow Holder is relieved of any duty, responsibility, and/or liability relative to disclosure of the proprietary information of the Parties and/or agents to this or any other escrow transaction. Such propriety information includes, but is not limited to, any (A) sale, resale, loan, exchange, or other transaction involving the real property and/or personal property that is the subject of this escrow transaction or (B) benefit, including but not limited to financial gain or profit, involving the real property and/or personal property that is the subject of this escrow transaction. Escrow Holder shall be relieved of any and all liability if such proprietary information is disclosed as necessary for Escrow Holder to comply with the instructions of the Parties or if requested by a lender, agent, governmental agency, or any other entity entitled to such propriety information. Escrow Holder is specifically authorized to furnish copies of all escrow instructions, amendments thereto, preliminary title reports, closing statements and/or related documentation to the agents and/or attorneys representing any party to this escrow transaction, as may be requested by them, without obtaining any further authorization from Buyer or Seller.
9. **NOTIFICATION OF DISHONORED CHECKS:** If any check submitted to Escrow Holder is dishonored upon presentment for payment, Escrow Holder is authorized to notify all Parties and/or their respective agents of such nonpayment. The Party receiving credit for the deposit agrees to pay a reasonable fee to Escrow Holder for the returned check.
10. **CLOSE OF ESCROW AND PRORATIONS:** All prorations and adjustments are to be made on the basis of a thirty (30) day month unless otherwise instructed in writing by all parties. Escrow Holder is to use information contained on latest available tax statement, rental statement, beneficiary's statement, insurance statement, or other statement as delivered to Escrow Holder for the prorations provided for herein. The close of escrow with reference to prorations, adjustments, and all other purposes in this escrow transaction shall be the day the instruments of conveyance are recorded with the County Recorder. For proration purposes, unless otherwise agreed upon by the parties, the Buyer will have ownership of the real property which is the subject of this escrow transaction for the entire close of escrow day, regardless of the hour of recording. If the date by which the parties' performances are due shall be other than Escrow Holder's regular business day, such performances shall be due on Escrow Holder's next succeeding business day.
11. **RECORDING OF DOCUMENTS:** The Parties authorize the recordation of any instrument delivered through this escrow transaction if necessary or proper for the issuance of the required policies of title insurance or as necessary for close of escrow. Recording fees shall be charged to the account of the benefited Party unless instructed otherwise by the Parties in writing.
12. **DELIVERY OF DEED:** Regardless of the date of execution or transmission to Escrow Holder of the deed, same shall be deemed delivered ONLY upon recordation through this escrow transaction. The phrase "close of escrow" as used in this escrow transaction shall mean the date on which documents are recorded, unless otherwise specified.
13. **CLOSING STATEMENT:** If within five (5) days after the delivery of a closing statement by Escrow Holder to any principal hereto, said principal fails to notify Escrow Holder of any objections to said statement, the statement shall be deemed to be correct and agreed to by the principal receiving same.
14. **DISBURSEMENT OF FUNDS AND DELIVERY OF DOCUMENTS:** All disbursements are to be made by the Escrow Holder's trust account check unless instructed otherwise in writing. Escrow Holder will not indemnify any payee or guarantee signatures of any person or entity at any financial institution. Generally, Escrow Holder or its sub-escrow agent will disburse funds, including net proceeds and payment for encumbrances of record, on the date the escrow closes; however, there are circumstances which may arise wherein said disbursements could be delayed by one or two business days. Any funds disbursed during or at the close of escrow will be issued jointly to the Parties designated as payee unless Escrow Holder is instructed otherwise in writing by all designated payees. The funds representing loan and/or sale proceeds will be disbursed jointly to all persons who were the record owners of the subject property. All disbursements of funds and/or delivery of other documents or instruments concerning this escrow transaction will be mailed to the entitled Party by regular first class mail, postage prepaid, at the last address provided to Escrow Holder. However, at Escrow Holder's discretion, Escrow Holder may send funds and/or other documents by certified or registered mail, overnight delivery, or messenger, in which case the Party for whom the delivery was made agrees to pay the costs.
15. **ASSIGNMENT OF PROCEEDS:** If a party unilaterally assigns or orders its proceeds from this escrow transaction to be paid to a person or entity other than the original parties to this escrow transaction, such assignment or order shall be subordinate to the expenses of this escrow transaction and liens of record on the subject property. If there are not sufficient proceeds at the close of escrow to pay such assignment or order, Escrow Holder is nevertheless directed to close this escrow. In such an event, Escrow Holder shall pay such assignment or order up to the net proceeds and is not to be concerned with the balance remaining unpaid, if any.

Page 5

Buyer Initials D.F. x

Seller Initials _____

Furthermore, if there are insufficient proceeds to pay fully the assignment or if the assignment is revoked, Escrow Holder shall have no responsibility or liability for providing such information to the assignee.

16. PAYMENT OF EXPENSES AND FEES: Unless otherwise agreed upon in writing, the parties, and each of them, shall pay on demand, whether or not this escrow transaction closes, all expenses and charges incurred by Escrow Holder on their behalf. Escrow Holder is authorized to charge, and the parties agree to pay, additional escrow fees or extraordinary services not within the range or customary escrow processing, including an administrative fee for bank wiring charges for the party for whom the bank wire was processed, overnight mail, messenger service or other expedited delivery service. At the discretion of the Escrow Holder and without further instructions, the escrow fee may be reduced for one or both of the parties.

17. DEPOSIT OF FUNDS: Escrow Holder is authorized and directed to deposit all funds received by Escrow Holder with any state or national bank in a trust account in the name of Escrow Holder, without liability for the payment of interest. The funds may be withdrawn by Escrow Holder and disbursed in accordance with the written instructions of the parties. All deposits made by personal check, cashier's check, certified check or official check are subject to clearance and payment by the financial institution on which drawn and will be identified as collected funds when Escrow Holder's financial institutions confirms the funds are available for disbursement. Escrow Holder does not accept money orders, cash, foreign currency or Automatic Clearing House transactions for deposit. **BE ADVISED THAT CYBER CRIMINALS ARE USING PHISHING TECHNIQUES (AKA USING THE INTERNET TO ACQUIRE SENSITIVE INFORMATION SUCH AS USERNAME, PASSWORDS, AND CREDIT CARD DETAILS AND SOMETIMES, INDIRECTLY, MONEY, OFTEN FOR MALICIOUS REASONS, BY MASQUERADING AS A TRUSTWORTHY ENTITY IN AN ELECTRONIC COMMUNICATION) TO TRY AND DIVERT WIRES COMING INTO AND GOING OUT OF ESCROW COMPANIES. TO AVOID SUCH SCAMS, PRIOR TO SENDING ANY WIRE TO ESCROW HOLDER, THE WIRING PARTY MUST CONTACT ESCROW HOLDER TO CONFIRM THE APPROPRIATE WIRING INSTRUCTIONS.**

18. TITLE INSURANCE: Escrow Holder shall order title insurance from the title company designated by the Parties. If requested in writing by the mutual instructions of the Parties or upon the request of any lender, Escrow Holder shall provide copies of the preliminary report of title to them without liability as to its contents. The Parties acknowledge that the title insurance policies to be issued by the title company shall be delivered directly from the designated title company to the appropriate Parties after the close of escrow. The Parties agree that matters regarding that title insurance are between the title company and the insured Party and not Escrow Holder.

19. AUTHORIZATION TO USE SUB-ESCROW AGENT: Escrow Holder is authorized to use the title company as a sub-escrow agent for the handling of funds and documents in this escrow transaction. Escrow Holder is to comply with all sub-escrow agent's instructions and requirements, and Escrow Holder is authorized to deliver funds or documents to said sub-escrow agent at any time during the course of this escrow transaction as Escrow Holder deems appropriate. The Parties agree to pay the fee for such sub-escrow service as charged by the title company.

20. AUTHORIZATION TO ACCEPT ELECTRONIC SIGNATURES AND DOCUMENTS: In accordance with California's Uniform Electronic Transactions Act (the "Act"), the Parties hereby authorize Escrow Holder to accept electronic and/or digital signatures and records, transmitted via facsimile or other electronic means (collectively "electronic signatures") into this escrow as originals. The Parties expressly agree that this transaction can be conducted electronically, at the option of the Parties, to the fullest extent possible under the Act and recording laws. The Parties agree to transmit original, wet signatures on (1) all documents to be recorded, (2) all documents excluded from being enforceable under the Act, and (3) all documents required to be in original form by any regulatory agency. The Parties agree to verify any and all electronic signatures upon request of Escrow Holder.

21. MUTUAL CANCELLATION INSTRUCTION REQUIREMENTS: The Parties acknowledge that they are on notice that Escrow Holder shall exercise its discretion to require mutual or matching cancellation instructions instructing Escrow Holder on how the deposit is to be released, signed by all Parties and deposited with Escrow Holder prior to releasing any deposit held by Escrow Holder relative to this escrow transaction.

22. CANCELLATION FEES: In the event of cancellation or any other termination of this escrow transaction, the Parties agree to pay Escrow Holder for any costs or expenses which Escrow Holder may have incurred or become obligated for pursuant to this escrow transaction and a reasonable escrow fee for the services performed to date. Such costs and expenses, if any, and Escrow Holder's fee shall be deposited with Escrow Holder before any cancellation or other termination is effective. The Parties agree that

Page 6

Buyer Initials

D, F

Seller Initials

said charges for costs, expenses and fees may be apportioned between the Parties in a manner which Escrow Holder, in Escrow Holder's sole discretion, considers equitable, and that Escrow Holder's decision in that regard will be binding and conclusive upon the Parties unless specifically agreed to or determined by a court of competent jurisdiction. In the event of failure to pay costs, expenses, and fees due hereunder, on demand, the Parties agree to pay reasonable fees for any attorney services which may be required to collect such fees or expenses. Upon payment of such cancellation fees, Escrow Holder is authorized to return documents and funds to the respective Parties depositing same, or for whose benefit an unconditional deposit was made; or to void executed instruments as appropriate.

23. ABANDONMENT OF ESCROW TRANSACTION: Escrow Holder duties and functions related to this escrow transaction shall terminate six (6) months following the date last set for close of escrow unless the escrow transaction has closed or cancelled. At such time, Escrow Holder shall have no further obligations as Escrow Holder except to disburse funds and documents pursuant to written instructions and to interplead or otherwise dispose of funds and documents in accordance with a validly issued and validly served order from a court of competent jurisdiction.

24. CLOSING FUNDS/GOOD FUNDS NOTICE: Section 12413.1 of the California Insurance Code requires that any title company handling funds in an escrow or sub-escrow capacity wait a specified number of days after depositing funds before recording any documents and disbursing funds. Due to this title company requirement, Escrow Holder requires one of the following before recording will be authorized:

(A) If funds required to close escrow are less than \$500,000.00, Escrow Holder will accept payment in the form of a Cashier's Check drawn on California bank or savings and loan or wired funds payable to Escrow Holder. Said funds must be deposited in escrow seven (7) days prior to authorization of recordation with the title company. Funds received in a form other than as set forth may delay the closing of this escrow transaction anywhere between one (1) and ten (10) business days, due to the check clearance processing.

(B) If funds required to close escrow are \$500,000.00 or more or the remitter prefers to wire, said funds MUST be wire transferred to Escrow Holder at least two (2) days prior to authorization of recordation with the title company. In this event, Escrow Holder shall provide to the appropriate parties Escrow Holder's wiring instructions. Escrow Holder shall not authorize recording until (a) Escrow Holder receives written confirmation of collected funds on any checks deposited, or (b) Escrow Holder receives written confirmation from its bank that all funds are available for disbursement.

NOTE: FUNDS TO BE WIRED OUT ON ANY TRANSACTION WILL BE WIRED OUT ON THE NEXT BUSINESS DAY AFTER RECEIVING WRITTEN CONFIRMATION FROM ESCROW HOLDER'S BANK THAT ALL FUNDS ARE AVAILABLE FOR DISBURSEMENT.

25. PRELIMINARY CHANGE OF OWNERSHIP REPORT: California Revenue and Taxation Code Section 480.3 requires that a Preliminary Change of Ownership Report be completed and certified by the transferee and filed concurrently with the recording of any document that reflects a change of ownership in real property. The Parties herein agree to complete and sign said report and deliver same to Escrow Holder for filing, as necessary. The Parties understands and acknowledges that the recorder's office may charge a non-refundable fee of twenty dollars (\$20.00) should the fully completed/certified report not accompany the conveyance document. If the recorder's office charges such a fee, the Party benefitted by the recording of the transfer document shall be charged the fee at close of escrow. In such event, a Standard Change of Ownership Statement will be mailed to the transferee by the office of the county assessor. Further, if Buyer fails to file said form upon the request of the county assessor after the close of escrow, severe penalties may be assessed against the Buyer.

26. SUPPLEMENTAL PROPERTY TAXES: PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1102.6C, THE FOLLOWING DISCLOSURE IS HEREBY PROVIDED: "CALIFORNIA PROPERTY TAX LAW REQUIRES THE ASSESSOR TO REVALUE REAL PROPERTY AT THE TIME THE OWNERSHIP OF THE PROPERTY CHANGES. BECAUSE OF THIS LAW, YOU MAY RECEIVE ONE OR TWO SUPPLEMENTAL TAX BILLS, DEPENDING ON WHEN YOUR LOAN CLOSSES. THE SUPPLEMENTAL TAX BILLS ARE NOT MAILED TO YOUR LENDER. IF YOU HAVE ARRANGED FOR YOUR PROPERTY TAX PAYMENTS TO BE PAID THROUGH AN IMPOUND ACCOUNT, THE SUPPLEMENTAL TAX BILLS WILL NOT BE PAID BY YOUR LENDER. IT IS YOUR RESPONSIBILITY TO PAY THESE SUPPLEMENTAL BILLS DIRECTLY TO THE TAX COLLECTOR. IF YOU HAVE ANY QUESTIONS CONCERNING THIS MATTER, PLEASE CALL YOUR LOCAL TAX COLLECTOR'S OFFICE."

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If there is an impound account for taxes, the borrower is advised to inquire with the lender to determine if the supplemental tax bill will be paid by the lender from the impound account. Tax bills issued AFTER the close of escrow shall be handled or prorated directly between the Parties outside of escrow. Escrow Holder shall prorate taxes at the close of escrow based on the latest available tax statement and is relieved of any and all liability for taxes and/or prorations necessary after close of escrow as a result of supplemental tax bills issued by the tax assessor.

27. PERSONAL PROPERTY TAXES: Escrow Holder is not to be held responsible in any way whatsoever for any personal property taxes which may be assessed against any former or present owner of the property that is the subject of this escrow transaction, nor for the corporation or license tax of any corporation as a former or present owner.

28. FEDERAL TAX WITHHOLDING: The sale of a U.S. real property interest by a foreign person is subject to the Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA") income tax withholding. This law authorizes the United States to tax foreign persons on the sale of U.S. real property interests. Persons purchasing U.S. real property interests from foreign persons, certain purchasers' agents, and settlement officers may be required to withhold a portion of the amount realized. Withholding is intended to ensure U.S. taxation of gains realized on disposition of such interests. The purchaser is liable if the withholding is not made when required. The Parties agree to execute and deliver to Escrow Holder any instrument, affidavit and statement or to perform any act reasonably necessary to carry out the provisions of FIRPTA and regulations promulgated thereunder.

29. STATE TAX WITHHOLDING: The following disclosure is being provided pursuant to California law for all escrow transactions wherein a transfer of title is being completed as part of the escrow transaction. In accordance with Section 18662 of the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to 3 1/4 percent of the sales price, or an optional gain on sale withholding amount certified by the seller in the case of a disposition of California real property interest by either: (a) A seller who is an individual, trust, estate, or when the disbursement instructions authorize the proceeds to be sent to a financial intermediary of the sellers; or (b) A corporate seller that has no permanent place of business in California immediately after the transfer of title to the California property. The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500). However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if any of the following apply: (a) The sale price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000); (b) The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a corporation with a permanent place of business in California; (c) The seller, who is an individual, trust, estate, or a corporation without a permanent place of business in California, executes a written certificate, under the penalty of perjury, of any of the following: (i) The California real property being conveyed is the seller's or decedent's principal residence (within the meaning of Section 121 of the Internal Revenue Code (IRC)); (ii) The last use of the property being conveyed was use by the transferor as the transferor's principal residence (within the meaning of IRC Section 121); (iii) The California real property being conveyed is, or will be, exchanged for property of like kind (within the meaning of IRC Section 1031), but only to the extent of the amount of gain not required to be recognized for California income tax purposes under IRC Section 1031; (iv) The California real property has been compulsorily or involuntarily converted (within the meaning of IRC Section 1033) and the seller intends to acquire property similar or related in service or use so as to be eligible for nonrecognition of gain for California income tax purposes under IRC Section 1033; or (v) The California real property transaction will result in a loss or net gain not required to be recognized for California income tax purposes. The seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

30. 1099 REPORTING DISCLOSURE: The Parties acknowledge their awareness of the fact that, upon transfer of property, Escrow Holder must provide information pertaining to the escrow transaction to the Internal Revenue Service as required by Internal Revenue Code Section 6045(e) relative to the production of 1099 forms. The Parties agree to provide Escrow Holder all information necessary to produce the tax reporting documentation in compliance with Federal Law.

31. DESTRUCTION OF DOCUMENTS: Escrow Holder is authorized to destroy or otherwise dispose of any and all documents, papers, escrow instructions, correspondence, records or other material pertaining to this escrow, at any time after five (5) years from the date of close of escrow, cancellation of this transaction, or the date of the last activity (whichever comes first), without liability and without further notice to the Parties.

32. ACTION AGAINST ESCROW HOLDER: No action shall lie against Escrow Holder and Escrow Holder shall be held harmless and completely and fully indemnified, for any claim, loss, liability or alleged cause of action of any kind or nature

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whatsoever, however caused or incurred under this escrow transaction or in connection with the handling or processing of this escrow transaction, except for gross negligence or willful misconduct.

33. **CONFLICTING DEMANDS:** If conflicting demands or notices are made or served upon Escrow Holder or any controversy arises between the Parties or with any third person arising out of or relating to this escrow transaction, Escrow Holder shall have the absolute right to withhold and stop all further proceedings in, and in performance of, this escrow transaction until Escrow Holder receives written notification satisfactory to Escrow Holder of the settlement of the controversy by written agreement of the Parties, or by the final order or judgment of a court of competent jurisdiction.

34. **THIRD PARTY CLAIMS:** The parties, jointly and severally, indemnify and hold you harmless against third party claims for any loss, damages, claims, attorneys' fees, and related costs and expenses.

35. **ATTORNEYS' FEES/LEGAL COSTS:** IF ANY LEGAL ACTION OR OTHER PROCEEDING, INCLUDING MEDIATION OR ATTENDANCE AT ARBITRATION PROCEEDINGS INVOLVING THE PARTIES AND/OR OTHER PERSONS OR ENTITIES, ARE BROUGHT FOR THE ENFORCEMENT OR INTERPRETATION OF THESE ESCROW INSTRUCTIONS, OR IF ESCROW HOLDER IS REQUIRED TO RESPOND TO ANY LEGAL SUMMONS OR PROCEEDING, OR IF ANY ACTION IN INTERPLEADER OR FOR DECLARATORY RELIEF IS BROUGHT BY OR AGAINST ESCROW HOLDER, THE PARTIES, JOINTLY AND SEVERALLY, SHALL PAY ALL COSTS, EXPENSES, AND/OR ATTORNEYS' FEES EXPENDED OR INCURRED BY ESCROW HOLDER INCLUDING, BUT NOT LIMITED TO, A FEE FOR ESCROW SERVICES RENDERED, EXPENSES TO THE LAWSUIT, COSTS TO APPEAR AT MEDIATION OR ARBITRATION PROCEEDINGS, EXPENSES ON APPEAL OF ANY JUDGMENT AWARDED TO IT, AND IN THE COLLECTION OF ANY JUDGMENT ENTERED FOR ESCROW HOLDER ["ESCROW HOLDER'S COSTS"].

36. **PROMISE TO PAY AND INDEMNIFY:** The Parties hereby jointly and severally promise and agree to pay promptly on demand, as well as to indemnify Escrow Holder and hold Escrow Holder harmless from and against all litigation and interpleader costs, damages, judgments, attorneys' fees, expenses, obligations, and liability of every kind which in good faith Escrow Holder may incur or suffer in connection with or arising out of this escrow transaction, whether said litigation, interpleader, obligation, liability or expense arises during the performance of this escrow transaction or subsequent thereto, directly or indirectly. The Parties agree to pay Escrow Holder a reasonable fee for all time spent by officers or employees of Escrow Holder in connection with any dispute resolution action taken relative to this escrow transaction including but not limited to time spent researching, reviewing and/or testifying relative thereto.

37. **NO DUTY TO DISCLOSE OR INSPECT:** Escrow Holder's sole duty relative to disclosures shall be the payment of invoices presented to Escrow Holder. Escrow Holder is not to be concerned with the giving of any disclosures except as expressly required to be given by an escrow service provider pursuant to Federal or State law, including but not limited to those disclosures related to lending, zoning, land division, property condition, or usury. Neither will Escrow Holder conduct any lien search or title searches relative to personal property in connection with the sale or transfer of personal property through this escrow transaction, if any. Escrow Holder urges the Parties to seek appropriate counsel from an attorney or licensed broker to ascertain what disclosures and/or laws, if any, need to be complied with prior to close of escrow. The Parties jointly and severally agree to indemnify and hold harmless Escrow Holder by reason of any misrepresentation or omission by a Party or agents or failure of the Parties to this escrow transaction to comply with the rules and/or regulations of any governmental agency, whether state, federal, county, municipal, or otherwise and Escrow Holder is not to be concerned with enforcement of same. If presented with an invoice in connection with any disclosure Escrow Holder is authorized to pay same without further instructions. Escrow Holder will make no physical inspection of the real property and/or personal property that is the subject of this escrow transaction, and Escrow Holder is not to be concerned with or liable for the condition of same.

38. **LIEN HOLDER STATEMENTS DEPOSITED INTO ESCROW:** Escrow Holder is not responsible for the contents or accuracy of any beneficiary demand and/or beneficiary statement delivered to Escrow Holder by the existing lien holder. Escrow Holder is not required to submit any such beneficiary statement and/or beneficiary demand to any party for an approval before the close of escrow. Should any party desire to pre-approve any such beneficiary statement and/or beneficiary demand, the party requesting same shall deliver separate the specific written Escrow Instructions to Escrow Holder.

39. **LOAN DOCUMENTS:** Escrow Holder is not responsible nor concerned with the terms of any new loan(s) or the contents of any loan documents obtained by any party in connection with this escrow transaction except to order such loan documents into the escrow

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file, transmit the loan documents to the Buyer or Borrower for execution and transmit the executed loan documents to Lender. Buyer (Borrower) acknowledges that a sub-agent, including, but not limited to, a notary public or document sign-up service, may be required to temporarily take possession of the loan documents and various escrow documents to facilitate such delivery, and Escrow Holder is authorized to make arrangements as Escrow Holder deems necessary without incurring liability. The parties understand and agree that Escrow Holder is neither involved nor concerned with the approval and/or processing of any loan or the contents and effect of loan documents prepared by a Lender. Escrow Holder is not responsible for any portion of the Lender's instructions which requires their performance or obligation or duties exceeding those imposed by California statutory authority or which requires Escrow Holder to assume liability for the Lender's regulatory responsibilities.

40. MASTER/DUAL CLOSING STATEMENT: The Parties are hereby made aware that certain lenders may require a copy of the Master/Dual Closing Statement, Seller Closing Disclosure and/or records showing all deposits and disbursements occurring as part of this escrow transaction. Escrow Holder is hereby authorized and instructed by the Parties to release the Master/Dual Closing Statement as required. Said information may be disclosed to the Buyer as part of the Buyer's Closing Disclosure by the lender.

41. RESPA GUIDELINES: The undersigned Parties acknowledge that in order for Escrow Holder to comply with the Real Estate Settlement Procedures Act ("RESPA") some of the costs and charges may need to be itemized on the lending disclosures in a fashion that differs from the terms agreed to by the parties. Said costs and charges may include, but are not limited to, the title policy fees and documentary transfer taxes. Escrow Holder is hereby authorized and instructed to comply with these RESPA guidelines, as necessary. Said charges and credits shall not change the amount of any other credits between the Parties.

42. RIGHT TO RESIGN: At any time prior to the close of escrow, Escrow Holder, at its sole and absolute discretion and without liability to the Parties to this escrow transaction, may withdraw and resign from acting as Escrow Holder by providing ten (10) days prior written notice to the Parties at their last known addresses. In such event, Escrow Holder shall be entitled to reasonable compensation for its escrow services performed and for all costs and expenses incurred in the resignation, including, but not limited to, attorneys' fees. Upon resignation, Escrow Holder shall return to the Parties who deposited the same, the balance of any funds it holds, along with any property or documents in its possession. Alternatively, at the mutual instruction of the Parties, Escrow Holder shall deliver the funds, property, and documents to a new Escrow Holder.

43. ESCHEATMENT: Any and all funds remaining in escrow three (3) years after the close of escrow or cancellation of this escrow transaction will be escheated to the State of California pursuant to the Unclaimed Property Law codified in California Code of Civil Procedure Section 1518.

44. AUTHORIZATION TO INTERPLEAD FUNDS: The Parties acknowledge that Escrow Holder has an absolute legal right to file a court action in interpleader. In the event such an action is filed, the Parties herein jointly and severally agree to pay all escrow fees, title fees, court costs, and litigation expenses, including attorney's fees, incurred in connection therewith, the amount thereof to be fixed and judgment to be reached by the court. Upon filing of such action, Escrow Holder is fully released and discharged from any further performance of duties under the terms of this Escrow.

45. PROHIBITION UPON GIVING LEGAL OR FINANCIAL ADVICE: The Parties acknowledge and understand that Escrow Holder is not authorized to practice the law nor does Escrow Holder give financial advice. The Parties are advised to seek legal and financial counsel and advice concerning the effect of this escrow transaction. The Parties acknowledge that no representations have been made by Escrow Holder about the legal sufficiency, legal consequences, financial effects, or tax consequences of the within escrow transaction.

46. ERRORS OR OMISSIONS: In the event Escrow Holder disburses more funds than are properly due to a party or Escrow Holder disburses funds for the benefit of any party other than the one who is entitled to receive said funds, whether by omission or by error of calculation, the party in this escrow transaction who received benefit from said disbursement hereby agrees to repay and/or reimburse Escrow Holder the amount of overpayment immediately upon demand. If repayment and/or reimbursement is not made, interest in the amount of 10% per annum shall commence on the sixth (6th) day after such written demand is made. If said party refuses or neglects to pay said funds and interest due thereon to Escrow Holder, legal proceedings to collect said funds with accrued interest will immediately ensue. The receiving party agrees to pay all charges, court costs, and attorneys' fees that may be incurred. Escrow Holder shall not be liable for any acts of omissions done in good faith nor for any claims, demands, losses or damages made or suffered by any party to this escrow by omission or error in calculation. All parties, jointly and severally, promise to pay promptly on demand, any cost and/or charge which should have been paid at the close of escrow.

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47. **GENDER REFERENCES:** In these Escrow Instructions, wherever the context so requires, the masculine gender includes the feminine and/or neuter and the singular number includes the plural.

48. **AGREEMENT TO MEDIATE:** The parties to this escrow transaction agree to submit all disputes with Escrow Holder, whether founded on contract, tort or otherwise, to Mediation prior to submitting such claim to arbitration or litigation. However, in the event Escrow Holder elects, at Escrow Holder's sole option, to bring an Interpleader or Small Claims action or elects to resign in Escrow Holder's capacity as Escrow Holder, this Mediation provision shall not apply to such action.

49. **STATUTE OF LIMITATIONS:** These instructions are to be construed and interpreted according to California Law. NO ACTION SHALL LIE AGAINST ESCROW HOLDER FOR ANY CLAIM, LOSS, LIABILITY OR ALLEGED CAUSE OF ACTION OF ANY KIND OR NATURE WHATSOEVER, HOWEVER CAUSED OR OCCURRED, IN THIS ESCROW TRANSACTION OR IN CONNECTION WITH THE HANDLING OR PROCESSING OF THIS ESCROW TRANSACTION, UNLESS BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE CLOSE OF ESCROW OR ANY CANCELLATION OR TERMINATION OF ESCROW FOR ANY REASON WHATSOEVER.

50. **SEVERABILITY:** In the event any escrow instruction or supplemental instruction in this escrow transaction, including these general provisions, is held invalid by judicial proceedings, the remaining shall continue to be operative and enforceable.

51. **ACCEPTABILITY OF COUNTERPARTS:** These instructions may be executed in counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All such counterparts together shall constitute one and same document.

52. **PRIVACY NOTICE:** This notification is in compliance with our obligations to comply with federal and state law to safeguard your non-public personal information. Escrow Holder collects non-public personal information about the parties from the following sources; (a) Information received from the parties on applications or other forms; (b) Information about the parties transactions with Escrow Holder, affiliates of Escrow Holder, or other involved in the processing of this transaction; and (c) Information received from a consumer reporting agency. Escrow Holder not disclose any non-public personal information about Escrow Holder's customers or former customer to anyone, except as permitted by law. Escrow Holder restricts access to non-public information about the parties to those employees who need to know that information to provide products or services to the parties. Escrow Holder maintains physical, electronic and procedural safeguards that comply with federal and state regulations to guard the parties' non-public personal information. By signing below, the parties acknowledge that they have read and received a copy of this notification. Escrow Holder acknowledges the importance of protecting the confidentiality of non-public information in Escrow Holder's possession. One of Escrow Holder's highest priorities is assuring parties that their non-public personal customer information gathered in the rendering of services will be held secure. Escrow Holder maintains physical, electronic and procedural safeguards to guard non-public personal consumer information to an external non-affiliated organization unless Escrow Holder has authorization or is required by law to do so. Escrow Holder requires organizations that provide support services on Escrow Holder's behalf to conform to Escrow Holder's privacy standards.

53. **TIME IS OF THE ESSENCE:** Time is of the essence in these instructions. In the event that the conditions of this escrow transaction have not been complied with at the expiration of the time provided for herein, or any extension thereof, Escrow Holder is instructed to complete the same at the earliest possible date thereafter, unless written demand upon Escrow Holder to cancel this Escrow or for the return of the money and/or instruments is deposited by one or more Parties. If the date by which the parties' performances are due shall be other than Escrow Holder's regular business day, such performances shall be due on Escrow Holder's next succeeding business day.

54. **GOVERNING LAW:** These instructions are governed by the laws of the State of California.

55. **COOPERATION BY THE PARTIES:** The parties shall cooperate with Escrow Holder in carrying out the terms of the mutually executed Escrow Instructions as deposited, and shall cooperate with Escrow Holder in completing the escrow transaction. The parties shall deposit into this escrow transaction, upon request, any additional funds, instruments, documents, instructions, authorizations, or other items that are necessary to enable Escrow Holder to comply with demands made on it by third parties, to secure policies of title insurance, or to otherwise carry out the terms of their instructions and close this escrow transaction.

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56. **CONSTRUCTION OF AGREEMENT:** In construing these instructions, all paragraph headings and captions are for the convenience of the parties only and shall not be considered as part hereof.

57. **DEFINITIONS:** The definition of "Escrow Holder" shall mean Blue Water Escrow, Inc., a California corporation and any and all of its Directors, Officers, employees, representatives and agents. "Parties" as used in this escrow transactions includes the Buyer and Seller, collectively.

RESIDENTIAL BROKERAGE COMPANY WHO MAY BE SERVING AS A BROKER IN CONNECTION WITH THIS ESCROW TRANSACTION IS OWNED BY A COMPANY WHICH ALSO OWNS BLUE WATER ESCROW, INC.

BY SIGNATURE BELOW, AND BY INITIALING EVERY PAGE OF THE 'SUPPLEMENTAL ESCROW INSTRUCTIONS AND ADDITIONAL ESCROW INSTRUCTIONS AND GENERAL PROVISIONS', EACH PARTY TO THIS ESCROW ACKNOWLEDGES RECEIPT OF A COPY OF SAME AND AGREES THAT THEIR SIGNATURE THEREON CONFIRMS THEIR FULL ACCEPTANCE AND APPROVAL OF, CONCURRENCE IN, AND AGREEMENT TO BE BOUND BY ALL OF THE TERMS, PROVISIONS, CONDITIONS, INSTRUCTIONS AND AGREEMENTS, IN THEIR ENTIRETY, AS CONTAINED HEREIN.

Buyer's Signature:

Dinny Frasier

Seller's Signature:

Frasier Surviving Spouse Trust

the Molina Lehnert Trust dated January 20, 2012

Dinny Frasier
By: Dinny Frasier, Trustee

By: Kevin L. Lehnert, Trustee

α By: Premier Trust By: Nicole Shrive, Co-Trustee

By: Patricia A. Molina, Trustee

Blue Water Escrow, Inc.
1400 Newport Center Drive, Suite 125
Newport Beach, CA 92660
Phone: (949) 478-7900 • Fax: (949) 478-7999

Complete sign & return

SUPPLEMENTAL ESCROW INSTRUCTIONS/GENERAL PROVISIONS

TO: Blue Water Escrow, Inc.

Date: July 27, 2016
Escrow Officer: Jason Miller
Escrow Number: 16-5027-JM

BLUE WATER ESCROW, INC. IS LICENSED AS AN ESCROW AGENT BY THE DEPARTMENT OF BUSINESS OVERSIGHT OF THE STATE OF CALIFORNIA, LICENSE # 963-2567.

Terms of Transaction		
Buyer has deposited with escrow	\$	50,000.00
Balance of down payment prior to close of escrow	\$	1,329,000.00
TOTAL CONSIDERATION:	\$	1,379,000.00

You are authorized to use and/or deliver the funds and documents deposited by the parties in this escrow on the scheduled closing date of **August 17, 2016**, provided you are in a position to order a Policy of title Insurance through **Ticor Title Company**, with a liability of **1,379,000.00**, covering the following described property in the City of **San Juan Capistrano**, in the County of **Orange**, State of **California**:

Parcel No. 1: Lot 34 (the "Lot") of Tract No. 16221, as shown on the Subdivision Map ("Map") filed in Book 861, at Pages 6 to 20, inclusive, of Miscellaneous Maps in the Office of the Orange County Recorder. For complete legal description see Exhibit "A" attached hereto and made apart hereof.

COMMONLY KNOWN AS **31521 Paseo Campeon, San Juan Capistrano, CA 92675-1828**

SHOWING TITLE VESTED IN **Frasier Surviving Spouse Trust, as Trustee**

(Escrow Holder is hereby authorized and instructed to affix Buyer's complete vesting to the Grant Deed upon written authorization from the Buyer without further approval of the Seller.)

SUBJECT TO:

1. General and Special County and City (if any) Taxes, Covenants, Conditions and Restrictions, easements reservations, rights, rights of way, and exceptions of gas, water, oil, minerals, carbons and hydrocarbons on or under said land, now of record, and in deed to file, if any, affecting the use and occupancy of said land, and Assessments and bonds of record, for the current fiscal year, not due or delinquent, including any special levies, payments for which are included therein and collected therewith.
2. Lien of Supplemental Taxes, if any, assessed pursuant to the provisions of Chapter 3.5 (commencing with Section 75) of the Revenue and Taxation Code of the State of California.
3. Covenants, Conditions and Restrictions, reservations easements for public utilities, districts, water companies, alleys and streets, rights and rights of way of record, if any; also exceptions of oil, gas, minerals and hydrocarbons, and/or lease, if any, without the right of surface entry.
4. This is an "All Cash" transaction and no financing will be secured on the subject property. Additionally, Escrow Holder is instructed to close this escrow without regard or concern about fire insurance coverage for the subject property (Unless property is a Condominium/Townhouse, in which case, Escrow Holder's only concern is to transfer the Seller's interest in the master policy to Buyer at close of escrow). Buyer is to obtain their own insurance coverage outside of escrow and release Escrow Holder from any responsibility in connection therewith.

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INSTRUCTIONS TO ESCROW:

PURCHASE AGREEMENT: BLUE WATER ESCROW, INC., acknowledges receipt of that certain Purchase Agreement and Joint Escrow Instructions (Agreement) dated July 25, 2016, between Frasier Surviving Spouse Trust (Buyer) and the Molina Lehnert Trust dated January 20, 2012 (Seller), together with the related Counter Offer(s) Numbered N/A, addenda and any other mutual instructions. Duties of the Escrow Holder as set forth in said Agreement are made a part hereof. Buyer and Seller acknowledge that the Acceptance Date of the transaction is July 27, 2016.

Escrow Holder shall only be concerned with those items as specifically set forth in Paragraph number 20 of said Purchase Agreement and Joint Escrow Instructions. These Supplemental Escrow Instructions may include matters required to close this escrow which are not covered by the Purchase Agreement. The omission from Supplemental Escrow Instructions of any provision in the Purchase Agreement shall not constitute a waiver of the provisions or the contractual rights or obligations of any party. Escrow Holder is not responsible for the delivery of any California Association of Realtors (CAR) disclosures, as these documents contain no instructions to Escrow Holder and are intended for use between the parties and the Real Estate Brokers. Any change in the terms or provisions of this escrow requires the mutual written consent of Buyer and Seller.

CLARIFICATION TO ESCROW: For the purpose of clarification to escrow, the following are restated from the parties' original Residential Purchase Agreement together with Counter Offers and Addenda thereto:

Buyer contingencies, including but not limited to, review of the Preliminary Title Report and Homeowner Association documents and inspections, shall remain in effect until August 13, 2016 (17 days from date of final acceptance), per the complete agreement of Buyer and Seller regarding contingency removal as provided in Paragraphs 14A through 14G of their Residential Purchase Agreement and Joint Escrow Instructions. There is no appraisal contingency per the complete agreement of Buyer and Seller regarding contingency removal as provided in Paragraph 31. In the event the time period for approval of contingencies falls on Saturday, Sunday or a holiday, the date shall be moved to the next business date.

HOME PROTECTION PLAN: Seller agrees to provide Buyer with a one-year Home Protection Plan, issued by American Home Shield. Escrow Holder's only responsibility is to pay for said Home Protection Plan from proceeds due Seller at the close of escrow, at a cost not to exceed \$450.00. In the event the cost for said Plan exceeds said amount, any difference is to be paid by Buyer at the close of escrow.

NATURAL HAZARD DISCLOSURE: Buyer shall be provided with a report which furnishes "Mandatory Disclosure" information. The cost of said report is to be paid from Seller's proceeds at close of escrow. Escrow Holder is authorized and instructed to order said report and upon receipt of same, furnish a copy to Buyer for informational purposes.

HOMEOWNER ASSOCIATION(S): Seller advises Buyer that there is 1 Homeowner Association(s) which affect the subject property. Escrow Holder is relieved of any responsibility and/or liability for non-disclosure by Seller of any additional Homeowner Associations. Unless immediately advised otherwise in writing by Seller, Escrow Holder is authorized and instructed, on behalf of Seller, to request from the Homeowner Association, or its Management Company, the following documents: Statement of Account reflecting all assessments, including any pending approved charges or special assessments, Covenants, Conditions and Restrictions, Articles of Incorporation (or Articles of Association if not incorporated), By-Laws, current operating Budget and Assessment Enforcement Policy, most current Financial Statement, Rules and Regulations, summary of any pending Litigation, and the most current 12 months of Association Board Minutes. Buyer and Seller acknowledge that Escrow Holder is ordering said documents as an accommodation to the parties only. Immediately upon receipt of said documents, escrow will forward same to Buyer. Escrow Holder shall have no responsibility or liability as to the accuracy or completeness of any documents furnished by the Association or its property manager, and no responsibility or liability with regard to Seller's disclosure requirements as set forth in Paragraph 10F of the parties Residential Purchase Agreement and Joint Escrow Instructions.

PRORATIONS OF PROPERTY TAXES AND OTHER ITEMS: Unless otherwise agreed in writing, the following items shall be paid current and prorated between Buyer and Seller at close of escrow: General Real Property Taxes and Assessments, Supplemental Real Property Taxes assessed for the current year only, interest on loans assumed by Buyer, rents, Homeowner Association regular, special and emergency dues and assessments imposed prior to the close of escrow, premiums on insurance assumed by Buyer, and payments on Mello-Roos and other Special Assessment District bonds and assessments that are now a lien. Seller understands that all

open Supplemental tax bills must be paid in full at close to meet title insurance requirements, and Escrow Holder is instructed to charge Seller's account accordingly at close of escrow.

COSTS INCURRED: Escrow Holder is authorized and instructed to disburse from Buyer's funds on deposit, any amounts necessary to the payment of expenses which must be paid prior to the close of escrow, including but not limited to: demand request fees, city report fees, and courier/overnight mail services. The parties acknowledge that though such disbursements are made from Buyer's funds on deposit, these payments may be made for the benefit of either the Seller or the Buyer to facilitate the closing of this transaction. These payments are not refundable whether this escrow closes or cancels, and all parties acknowledge Blue Water Escrow, Inc. shall have no responsibility or liability in connection with the recovery of Buyer's funds should a dispute arise between Buyer and Seller. At close of escrow, Escrow Holder is instructed to charge the party for whom the expense was incurred and is released from any and all liability in connection with compliance with this instruction.

BUYER'S SETTLEMENT: The Buyer will pay on demand, whether or not this escrow closes, all expenses and charges incurred on Buyer's behalf, including but not limited to: Buyer's customary escrow fees, document preparation fees, email document printing, notary fees, wire fees, messenger and overnight delivery fees, new loan charges and loan document sign-up service fees, if any, existing loan assumption transfer fees, if any, Lender's policy of title insurance, Buyer's portion of the sub-escrow fee, recording charges and fire insurance premiums and/or insurance certificate fees, as necessary. Deposit by Buyer of funds sufficient to close escrow shall be deemed Escrow Holder's authorization to proceed with the close of escrow in accordance with the agreements and instructions handed you.

SELLER'S SETTLEMENT: From funds due Seller at close of escrow, deduct any pay encumbrances of record, plus accrued interest, charges and prepayment penalty, if any, bonds and/or assessments, and any delinquent monthly installment(s) on existing encumbrance(s) as disclosed by beneficiary statement(s) and county and/or city transfer fees, as necessary to comply with these instructions, without any additional written instruction from Seller. Escrow Holder is authorized to deduct from funds due Seller at the close of escrow, or Seller agrees to pay on demand, whether or not this escrow closes, all expenses and charges incurred on Seller's behalf, including, but not limited to: Seller's customary escrow fees, email document printing, fees for preparation, notarizing and recording of documents as necessary on Seller's behalf, charged for preliminary title report, title commitment, policy of title insurance, Seller's portion of the sub-escrow fee, and fees for obtaining beneficiary statement(s), as necessary, and Broker compensation as per separate agreement, if any.

ADDITIONAL INSTRUCTIONS AND GENERAL PROVISIONS

All parties are aware that Blue Water Escrow, Inc. is affiliated with Surterre Properties, Inc. acting as a neutral third party in all escrow transactions.

1. **AGREEMENT TO BE BOUND BY GENERAL PROVISIONS:** The Parties agree to execute these instructions and any supplemental instructions presented by Escrow Holder confirming their agreement to be bound to any additional terms and conditions of Escrow Holder, including Escrow Holder's general provisions, and authorize Escrow Holder to resign from processing this escrow transaction if mutual agreement cannot be reached between the Parties and Escrow Holder relative to the terms and conditions of Escrow Holder's duty. THESE ESCROW INSTRUCTIONS ARE NOT INTENDED TO SUPERSEDE THE REAL ESTATE PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS, BUT TO CARRY OUT ITS TERMS AND CONDITIONS IN CONSUMMATING THIS PURCHASE AND SALE, EXCEPT AS MAY BE AMENDED OR MODIFIED BY THE MUTUAL WRITTEN INSTRUCTIONS OF THE PARTIES.
2. **OPENING OF ESCROW:** This escrow transaction is deemed open, and Escrow Holder's duty commences, upon receipt of mutual or matching escrow instructions, signed by all Parties and the initial, good faith deposit are deposited with Escrow Holder. Said escrow instructions shall be incorporated in the purchase agreement or, if the purchase agreement does not include escrow instructions or no purchase agreement is entered into by the Parties, shall be drafted by Escrow Holder at the direction of the Parties.
3. **ESCROW HOLDER'S DUTIES:** The Parties agree that Escrow Holder has only those responsibilities inherent of an escrow service provider and that there are no other legal relationships established between Escrow Holder and the Parties by way of this escrow transaction. Those duties are limited to the safekeeping of such money and documents received by Escrow Holder and for the disposition and/or disbursement of same in accordance with the written instructions accepted by Escrow Holder in this Escrow. Escrow Holder shall not be liable for any damages, losses, costs, or expenses incurred by any Party in the handling and processing of this escrow transaction as a result of any act or failure to act made or omitted in good faith or for any action taken that Escrow Holder shall in good faith believe to be genuine, excepting such as may arise through or be caused by Escrow Holder's willful neglect or gross misconduct.
4. **ACCEPTANCE AND VERACITY OF SIGNATURES:** Escrow Holder shall not be responsible or liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any document deposited with Escrow Holder relative to the identity, authority, or rights of any person executing the same. All signatures submitted into this escrow transaction shall be construed as unconditional approval of the within document as to form, content, terms, and conditions. Escrow Holder shall have no obligation to verify, and will not verify, the authenticity of any signature on any document made relative to this escrow transaction. Escrow Holder shall not be liable or responsible for any loss that may occur because of forgeries, fraud, or false representations made or involving the Parties to this escrow transaction, any third Parties, the agents or any other person or entity.
5. **WRITTEN INSTRUCTIONS REQUIRED:** Pursuant to California Civil Code Section 1624, no notice, demand, supplemental escrow instruction, or amendment of the escrow instructions (hereinafter collectively "supplemental instructions") shall be effective unless given in writing by the parties affected thereby. Escrow Holder shall not act upon or consider such supplemental instruction to have any validity until same is fully executed and delivered to Escrow Holder by all parties concerned.
6. **STANDARDIZED FORMS:** Escrow Holder is to use Escrow Holder's usual document forms or the usual forms of any reliable forms company or any title company and in the instructions insert dates and terms on the instruments if incomplete when executed. Excepting Escrow Holder's own form, Escrow Holder shall not be liable for the correctness or sufficiency of such standardized preprinted forms.
7. **ACTS OUTSIDE OF ESCROW AND MEMORANDA ITEMS:** Whenever provision is made herein for the payment of any sum, the delivery of any document, or the performance of any act "outside of escrow", Escrow Holder shall have no responsibility therefor, shall not be concerned therewith, and is specifically relieved of any obligation relative thereto. Escrow Holder is expressly instructed not to act upon or be concerned with or liable for those items designated in the purchase agreement, escrow instructions, or supplemental instructions as memoranda items between the Parties, nor any other agreement between the Parties not expressly addressed to Escrow Holder in the form of a supplemental instruction.

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8. **PROPRIETARY INFORMATION:** Escrow Holder is relieved of any duty, responsibility, and/or liability relative to disclosure of the proprietary information of the Parties and/or agents to this or any other escrow transaction. Such propriety information includes, but is not limited to, any (A) sale, resale, loan, exchange, or other transaction involving the real property and/or personal property that is the subject of this escrow transaction or (B) benefit, including but not limited to financial gain or profit, involving the real property and/or personal property that is the subject of this escrow transaction. Escrow Holder shall be relieved of any and all liability if such proprietary information is disclosed as necessary for Escrow Holder to comply with the instructions of the Parties or if requested by a lender, agent, governmental agency, or any other entity entitled to such propriety information. Escrow Holder is specifically authorized to furnish copies of all escrow instructions, amendments thereto, preliminary title reports, closing statements and/or related documentation to the agents and/or attorneys representing any party to this escrow transaction, as may be requested by them, without obtaining any further authorization from Buyer or Seller.
9. **NOTIFICATION OF DISHONORED CHECKS:** If any check submitted to Escrow Holder is dishonored upon presentment for payment, Escrow Holder is authorized to notify all Parties and/or their respective agents of such nonpayment. The Party receiving credit for the deposit agrees to pay a reasonable fee to Escrow Holder for the returned check.
10. **CLOSE OF ESCROW AND PRORATIONS:** All prorations and adjustments are to be made on the basis of a thirty (30) day month unless otherwise instructed in writing by all parties. Escrow Holder is to use information contained on latest available tax statement, rental statement, beneficiary's statement, insurance statement, or other statement as delivered to Escrow Holder for the prorations provided for herein. The close of escrow with reference to prorations, adjustments, and all other purposes in this escrow transaction shall be the day the instruments of conveyance are recorded with the County Recorder. For proration purposes, unless otherwise agreed upon by the parties, the Buyer will have ownership of the real property which is the subject of this escrow transaction for the entire close of escrow day, regardless of the hour of recording. If the date by which the parties' performances are due shall be other than Escrow Holder's regular business day, such performances shall be due on Escrow Holder's next succeeding business day.
11. **RECORDING OF DOCUMENTS:** The Parties authorize the recordation of any instrument delivered through this escrow transaction if necessary or proper for the issuance of the required policies of title insurance or as necessary for close of escrow. Recording fees shall be charged to the account of the benefited Party unless instructed otherwise by the Parties in writing.
12. **DELIVERY OF DEED:** Regardless of the date of execution or transmission to Escrow Holder of the deed, same shall be deemed delivered ONLY upon recordation through this escrow transaction. The phrase "close of escrow" as used in this escrow transaction shall mean the date on which documents are recorded, unless otherwise specified.
13. **CLOSING STATEMENT:** If within five (5) days after the delivery of a closing statement by Escrow Holder to any principal hereto, said principal fails to notify Escrow Holder of any objections to said statement, the statement shall be deemed to be correct and agreed to by the principal receiving same.
14. **DISBURSEMENT OF FUNDS AND DELIVERY OF DOCUMENTS:** All disbursements are to be made by the Escrow Holder's trust account check unless instructed otherwise in writing. Escrow Holder will not indemnify any payee or guarantee signatures of any person or entity at any financial institution. Generally, Escrow Holder or its sub-escrow agent will disburse funds, including net proceeds and payment for encumbrances of record, on the date the escrow closes; however, there are circumstances which may arise wherein said disbursements could be delayed by one or two business days. Any funds disbursed during or at the close of escrow will be issued jointly to the Parties designated as payee unless Escrow Holder is instructed otherwise in writing by all designated payees. The funds representing loan and/or sale proceeds will be disbursed jointly to all persons who were the record owners of the subject property. All disbursements of funds and/or delivery of other documents or instruments concerning this escrow transaction will be mailed to the entitled Party by regular first class mail, postage prepaid, at the last address provided to Escrow Holder. However, at Escrow Holder's discretion, Escrow Holder may send funds and/or other documents by certified or registered mail, overnight delivery, or messenger, in which case the Party for whom the delivery was made agrees to pay the costs.
15. **ASSIGNMENT OF PROCEEDS:** If a party unilaterally assigns or orders its proceeds from this escrow transaction to be paid to a person or entity other than the original parties to this escrow transaction, such assignment or order shall be subordinate to the expenses of this escrow transaction and liens of record on the subject property. If there are not sufficient proceeds at the close of escrow to pay such assignment or order, Escrow Holder is nevertheless directed to close this escrow. In such an event, Escrow Holder shall pay such assignment or order up to the net proceeds and is not to be concerned with the balance remaining unpaid, if any.

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Furthermore, if there are insufficient proceeds to pay fully the assignment or if the assignment is revoked, Escrow Holder shall have no responsibility or liability for providing such information to the assignee.

16. PAYMENT OF EXPENSES AND FEES: Unless otherwise agreed upon in writing, the parties, and each of them, shall pay on demand, whether or not this escrow transaction closes, all expenses and charges incurred by Escrow Holder on their behalf. Escrow Holder is authorized to charge, and the parties agree to pay, additional escrow fees or extraordinary services not within the range or customary escrow processing, including an administrative fee for bank wiring charges for the party for whom the bank wire was processed, overnight mail, messenger service or other expedited delivery service. At the discretion of the Escrow Holder and without further instructions, the escrow fee may be reduced for one or both of the parties.

17. DEPOSIT OF FUNDS: Escrow Holder is authorized and directed to deposit all funds received by Escrow Holder with any state or national bank in a trust account in the name of Escrow Holder, without liability for the payment of interest. The funds may be withdrawn by Escrow Holder and disbursed in accordance with the written instructions of the parties. All deposits made by personal check, cashier's check, certified check or official check are subject to clearance and payment by the financial institution on which drawn and will be identified as collected funds when Escrow Holder's financial institutions confirms the funds are available for disbursement. Escrow Holder does not accept money orders, cash, foreign currency or Automatic Clearing House transactions for deposit. **BE ADVISED THAT CYBER CRIMINALS ARE USING PHISHING TECHNIQUES (AKA USING THE INTERNET TO ACQUIRE SENSITIVE INFORMATION SUCH AS USERNAME, PASSWORDS, AND CREDIT CARD DETAILS AND SOMETIMES, INDIRECTLY, MONEY, OFTEN FOR MALICIOUS REASONS, BY MASQUERADING AS A TRUSTWORTHY ENTITY IN AN ELECTRONIC COMMUNICATION) TO TRY AND DIVERT WIRES COMING INTO AND GOING OUT OF ESCROW COMPANIES. TO AVOID SUCH SCAMS, PRIOR TO SENDING ANY WIRE TO ESCROW HOLDER, THE WIRING PARTY MUST CONTACT ESCROW HOLDER TO CONFIRM THE APPROPRIATE WIRING INSTRUCTIONS.**

18. TITLE INSURANCE: Escrow Holder shall order title insurance from the title company designated by the Parties. If requested in writing by the mutual instructions of the Parties or upon the request of any lender, Escrow Holder shall provide copies of the preliminary report of title to them without liability as to its contents. The Parties acknowledge that the title insurance policies to be issued by the title company shall be delivered directly from the designated title company to the appropriate Parties after the close of escrow. The Parties agree that matters regarding that title insurance are between the title company and the insured Party and not Escrow Holder.

19. AUTHORIZATION TO USE SUB-ESCROW AGENT: Escrow Holder is authorized to use the title company as a sub-escrow agent for the handling of funds and documents in this escrow transaction. Escrow Holder is to comply with all sub-escrow agent's instructions and requirements, and Escrow Holder is authorized to deliver funds or documents to said sub-escrow agent at any time during the course of this escrow transaction as Escrow Holder deems appropriate. The Parties agree to pay the fee for such sub-escrow service as charged by the title company.

20. AUTHORIZATION TO ACCEPT ELECTRONIC SIGNATURES AND DOCUMENTS: In accordance with California's Uniform Electronic Transactions Act (the "Act"), the Parties hereby authorize Escrow Holder to accept electronic and/or digital signatures and records, transmitted via facsimile or other electronic means (collectively "electronic signatures") into this escrow as originals. The Parties expressly agree that this transaction can be conducted electronically, at the option of the Parties, to the fullest extent possible under the Act and recording laws. The Parties agree to transmit original, wet signatures on (1) all documents to be recorded, (2) all documents excluded from being enforceable under the Act, and (3) all documents required to be in original form by any regulatory agency. The Parties agree to verify any and all electronic signatures upon request of Escrow Holder.

21. MUTUAL CANCELLATION INSTRUCTION REQUIREMENTS: The Parties acknowledge that they are on notice that Escrow Holder shall exercise its discretion to require mutual or matching cancellation instructions instructing Escrow Holder on how the deposit is to be released, signed by all Parties and deposited with Escrow Holder prior to releasing any deposit held by Escrow Holder relative to this escrow transaction.

22. CANCELLATION FEES: In the event of cancellation or any other termination of this escrow transaction, the Parties agree to pay Escrow Holder for any costs or expenses which Escrow Holder may have incurred or become obligated for pursuant to this escrow transaction and a reasonable escrow fee for the services performed to date. Such costs and expenses, if any, and Escrow Holder's fee shall be deposited with Escrow Holder before any cancellation or other termination is effective. The Parties agree that

said charges for costs, expenses and fees may be apportioned between the Parties in a manner which Escrow Holder, in Escrow Holder's sole discretion, considers equitable, and that Escrow Holder's decision in that regard will be binding and conclusive upon the Parties unless specifically agreed to or determined by a court of competent jurisdiction. In the event of failure to pay costs, expenses, and fees due hereunder, on demand, the Parties agree to pay reasonable fees for any attorney services which may be required to collect such fees or expenses. Upon payment of such cancellation fees, Escrow Holder is authorized to return documents and funds to the respective Parties depositing same, or for whose benefit an unconditional deposit was made; or to void executed instruments as appropriate.

23. ABANDONMENT OF ESCROW TRANSACTION: Escrow Holder duties and functions related to this escrow transaction shall terminate six (6) months following the date last set for close of escrow unless the escrow transaction has closed or cancelled. At such time, Escrow Holder shall have no further obligations as Escrow Holder except to disburse funds and documents pursuant to written instructions and to interplead or otherwise dispose of funds and documents in accordance with a validly issued and validly served order from a court of competent jurisdiction.

24. CLOSING FUNDS/GOOD FUNDS NOTICE: Section 12413.1 of the California Insurance Code requires that any title company handling funds in an escrow or sub-escrow capacity wait a specified number of days after depositing funds before recording any documents and disbursing funds. Due to this title company requirement, Escrow Holder requires one of the following before recording will be authorized:

(A) If funds required to close escrow are less than \$500,000.00, Escrow Holder will accept payment in the form of a Cashier's Check drawn on California bank or savings and loan or wired funds payable to Escrow Holder. Said funds must be deposited in escrow seven (7) days prior to authorization of recordation with the title company. Funds received in a form other than as set forth may delay the closing of this escrow transaction anywhere between one (1) and ten (10) business days, due to the check clearance processing.

(B) If funds required to close escrow are \$500,000.00 or more or the remitter prefers to wire, said funds MUST be wire transferred to Escrow Holder at least two (2) days prior to authorization of recordation with the title company. In this event, Escrow Holder shall provide to the appropriate parties Escrow Holder's wiring instructions. Escrow Holder shall not authorize recording until (a) Escrow Holder receives written confirmation of collected funds on any checks deposited, or (b) Escrow Holder receives written confirmation from its bank that all funds are available for disbursement.

NOTE: FUNDS TO BE WIRED OUT ON ANY TRANSACTION WILL BE WIRED OUT ON THE NEXT BUSINESS DAY AFTER RECEIVING WRITTEN CONFIRMATION FROM ESCROW HOLDER'S BANK THAT ALL FUNDS ARE AVAILABLE FOR DISBURSEMENT.

25. PRELIMINARY CHANGE OF OWNERSHIP REPORT: California Revenue and Taxation Code Section 480.3 requires that a Preliminary Change of Ownership Report be completed and certified by the transferee and filed concurrently with the recording of any document that reflects a change of ownership in real property. The Parties herein agree to complete and sign said report and deliver same to Escrow Holder for filing, as necessary. The Parties understands and acknowledges that the recorder's office may charge a non-refundable fee of twenty dollars (\$20.00) should the fully completed/certified report not accompany the conveyance document. If the recorder's office charges such a fee, the Party benefitted by the recording of the transfer document shall be charged the fee at close of escrow. In such event, a Standard Change of Ownership Statement will be mailed to the transferee by the office of the county assessor. Further, if Buyer fails to file said form upon the request of the county assessor after the close of escrow, severe penalties may be assessed against the Buyer.

26. SUPPLEMENTAL PROPERTY TAXES: PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1102.6C, THE FOLLOWING DISCLOSURE IS HEREBY PROVIDED: "CALIFORNIA PROPERTY TAX LAW REQUIRES THE ASSESSOR TO REVALUE REAL PROPERTY AT THE TIME THE OWNERSHIP OF THE PROPERTY CHANGES. BECAUSE OF THIS LAW, YOU MAY RECEIVE ONE OR TWO SUPPLEMENTAL TAX BILLS, DEPENDING ON WHEN YOUR LOAN CLOSSES. THE SUPPLEMENTAL TAX BILLS ARE NOT MAILED TO YOUR LENDER. IF YOU HAVE ARRANGED FOR YOUR PROPERTY TAX PAYMENTS TO BE PAID THROUGH AN IMPOUND ACCOUNT, THE SUPPLEMENTAL TAX BILLS WILL NOT BE PAID BY YOUR LENDER. IT IS YOUR RESPONSIBILITY TO PAY THESE SUPPLEMENTAL BILLS DIRECTLY TO THE TAX COLLECTOR. IF YOU HAVE ANY QUESTIONS CONCERNING THIS MATTER, PLEASE CALL YOUR LOCAL TAX COLLECTOR'S OFFICE."

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If there is an impound account for taxes, the borrower is advised to inquire with the lender to determine if the supplemental tax bill will be paid by the lender from the impound account. Tax bills issued AFTER the close of escrow shall be handled or prorated directly between the Parties outside of escrow. Escrow Holder shall prorate taxes at the close of escrow based on the latest available tax statement and is relieved of any and all liability for taxes and/or prorations necessary after close of escrow as a result of supplemental tax bills issued by the tax assessor.

27. PERSONAL PROPERTY TAXES: Escrow Holder is not to be held responsible in any way whatsoever for any personal property taxes which may be assessed against any former or present owner of the property that is the subject of this escrow transaction, nor for the corporation or license tax of any corporation as a former or present owner.

28. FEDERAL TAX WITHHOLDING: The sale of a U.S. real property interest by a foreign person is subject to the Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA") income tax withholding. This law authorizes the United States to tax foreign persons on the sale of U.S. real property interests. Persons purchasing U.S. real property interests from foreign persons, certain purchasers' agents, and settlement officers may be required to withhold a portion of the amount realized. Withholding is intended to ensure U.S. taxation of gains realized on disposition of such interests. The purchaser is liable if the withholding is not made when required. The Parties agree to execute and deliver to Escrow Holder any instrument, affidavit and statement or to perform any act reasonably necessary to carry out the provisions of FIRPTA and regulations promulgated thereunder.

29. STATE TAX WITHHOLDING: The following disclosure is being provided pursuant to California law for all escrow transactions wherein a transfer of title is being completed as part of the escrow transaction. In accordance with Section 18662 of the Revenue and Taxation Code, a buyer may be required to withhold an amount equal to 3 1/4 percent of the sales price, or an optional gain on sale withholding amount certified by the seller in the case of a disposition of California real property interest by either: (a) A seller who is an individual, trust, estate, or when the disbursement instructions authorize the proceeds to be sent to a financial intermediary of the sellers; or (b) A corporate seller that has no permanent place of business in California immediately after the transfer of title to the California property. The buyer may become subject to penalty for failure to withhold an amount equal to the greater of 10 percent of the amount required to be withheld or five hundred dollars (\$500). However, notwithstanding any other provision included in the California statutes referenced above, no buyer will be required to withhold any amount or be subject to penalty for failure to withhold if any of the following apply: (a) The sale price of the California real property conveyed does not exceed one hundred thousand dollars (\$100,000); (b) The seller executes a written certificate, under the penalty of perjury, certifying that the seller is a corporation with a permanent place of business in California; (c) The seller, who is an individual, trust, estate, or a corporation without a permanent place of business in California, executes a written certificate, under the penalty of perjury, of any of the following: (i) The California real property being conveyed is the seller's or decedent's principal residence (within the meaning of Section 121 of the Internal Revenue Code (IRC)); (ii) The last use of the property being conveyed was use by the transferor as the transferor's principal residence (within the meaning of IRC Section 121); (iii) The California real property being conveyed is, or will be, exchanged for property of like kind (within the meaning of IRC Section 1031), but only to the extent of the amount of gain not required to be recognized for California income tax purposes under IRC Section 1031; (iv) The California real property has been compulsorily or involuntarily converted (within the meaning of IRC Section 1033) and the seller intends to acquire property similar or related in service or use so as to be eligible for nonrecognition of gain for California income tax purposes under IRC Section 1033; or (v) The California real property transaction will result in a loss or net gain not required to be recognized for California income tax purposes. The seller is subject to penalty for knowingly filing a fraudulent certificate for the purpose of avoiding the withholding requirement.

30. 1099 REPORTING DISCLOSURE: The Parties acknowledge their awareness of the fact that, upon transfer of property, Escrow Holder must provide information pertaining to the escrow transaction to the Internal Revenue Service as required by Internal Revenue Code Section 6045(e) relative to the production of 1099 forms. The Parties agree to provide Escrow Holder all information necessary to produce the tax reporting documentation in compliance with Federal Law.

31. DESTRUCTION OF DOCUMENTS: Escrow Holder is authorized to destroy or otherwise dispose of any and all documents, papers, escrow instructions, correspondence, records or other material pertaining to this escrow, at any time after five (5) years from the date of close of escrow, cancellation of this transaction, or the date of the last activity (whichever comes first), without liability and without further notice to the Parties.

32. ACTION AGAINST ESCROW HOLDER: No action shall lie against Escrow Holder and Escrow Holder shall be held harmless and completely and fully indemnified, for any claim, loss, liability or alleged cause of action of any kind or nature

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whatsoever, however caused or incurred under this escrow transaction or in connection with the handling or processing of this escrow transaction, except for gross negligence or willful misconduct.

33. CONFLICTING DEMANDS: If conflicting demands or notices are made or served upon Escrow Holder or any controversy arises between the Parties or with any third person arising out of or relating to this escrow transaction, Escrow Holder shall have the absolute right to withhold and stop all further proceedings in, and in performance of, this escrow transaction until Escrow Holder receives written notification satisfactory to Escrow Holder of the settlement of the controversy by written agreement of the Parties, or by the final order or judgment of a court of competent jurisdiction.

34. THIRD PARTY CLAIMS: The parties, jointly and severally, indemnify and hold you harmless against third party claims for any loss, damages, claims, attorneys' fees, and related costs and expenses.

35. ATTORNEYS' FEES/LEGAL COSTS: IF ANY LEGAL ACTION OR OTHER PROCEEDING, INCLUDING MEDIATION OR ATTENDANCE AT ARBITRATION PROCEEDINGS INVOLVING THE PARTIES AND/OR OTHER PERSONS OR ENTITIES, ARE BROUGHT FOR THE ENFORCEMENT OR INTERPRETATION OF THESE ESCROW INSTRUCTIONS, OR IF ESCROW HOLDER IS REQUIRED TO RESPOND TO ANY LEGAL SUMMONS OR PROCEEDING, OR IF ANY ACTION, IN INTERPLEADER OR FOR DECLARATORY RELIEF IS BROUGHT BY OR AGAINST ESCROW HOLDER, THE PARTIES, JOINTLY AND SEVERALLY, SHALL PAY ALL COSTS, EXPENSES, AND/OR ATTORNEYS' FEES EXPENDED OR INCURRED BY ESCROW HOLDER INCLUDING, BUT NOT LIMITED TO, A FEE FOR ESCROW SERVICES RENDERED, EXPENSES TO THE LAWSUIT, COSTS TO APPEAR AT MEDIATION OR ARBITRATION PROCEEDINGS, EXPENSES ON APPEAL OF ANY JUDGMENT AWARDED TO IT, AND IN THE COLLECTION OF ANY JUDGMENT ENTERED FOR ESCROW HOLDER ["ESCROW HOLDER'S COSTS"].

36. PROMISE TO PAY AND INDEMNIFY: The Parties hereby jointly and severally promise and agree to pay promptly on demand, as well as to indemnify Escrow Holder and hold Escrow Holder harmless from and against all litigation and interpleader costs, damages, judgments, attorneys' fees, expenses, obligations, and liability of every kind which in good faith Escrow Holder may incur or suffer in connection with or arising out of this escrow transaction, whether said litigation, interpleader, obligation, liability or expense arises during the performance of this escrow transaction or subsequent thereto, directly or indirectly. The Parties agree to pay Escrow Holder a reasonable fee for all time spent by officers or employees of Escrow Holder in connection with any dispute resolution action taken relative to this escrow transaction including but not limited to time spent researching, reviewing and/or testifying relative thereto.

37. NO DUTY TO DISCLOSE OR INSPECT: Escrow Holder's sole duty relative to disclosures shall be the payment of invoices presented to Escrow Holder. Escrow Holder is not to be concerned with the giving of any disclosures except as expressly required to be given by an escrow service provider pursuant to Federal or State law, including but not limited to those disclosures related to lending, zoning, land division, property condition, or usury. Neither will Escrow Holder conduct any lien search or title searches relative to personal property in connection with the sale or transfer of personal property through this escrow transaction, if any. Escrow Holder urges the Parties to seek appropriate counsel from an attorney or licensed broker to ascertain what disclosures and/or laws, if any, need to be complied with prior to close of escrow. The Parties jointly and severally agree to indemnify and hold harmless Escrow Holder by reason of any misrepresentation or omission by a Party or agents or failure of the Parties to this escrow transaction to comply with the rules and/or regulations of any governmental agency, whether state, federal, county, municipal, or otherwise and Escrow Holder is not to be concerned with enforcement of same. If presented with an invoice in connection with any disclosure Escrow Holder is authorized to pay same without further instructions. Escrow Holder will make no physical inspection of the real property and/or personal property that is the subject of this escrow transaction, and Escrow Holder is not to be concerned with or liable for the condition of same.

38. LIEN HOLDER STATEMENTS DEPOSITED INTO ESCROW: Escrow Holder is not responsible for the contents or accuracy of any beneficiary demand and/or beneficiary statement delivered to Escrow Holder by the existing lien holder. Escrow Holder is not required to submit any such beneficiary statement and/or beneficiary demand to any party for an approval before the close of escrow. Should any party desire to pre-approve any such beneficiary statement and/or beneficiary demand, the party requesting same shall deliver separate the specific written Escrow Instructions to Escrow Holder.

39. LOAN DOCUMENTS: Escrow Holder is not responsible nor concerned with the terms of any new loan(s) or the contents of any loan documents obtained by any party in connection with this escrow transaction except to order such loan documents into the escrow

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Buyer Initials US

Seller Initials _____

file, transmit the loan documents to the Buyer or Borrower for execution and transmit the executed loan documents to Lender. Buyer (Borrower) acknowledges that a sub-agent, including, but not limited to, a notary public or document sign-up service, may be required to temporarily take possession of the loan documents and various escrow documents to facilitate such delivery, and Escrow Holder is authorized to make arrangements as Escrow Holder deems necessary without incurring liability. The parties understand and agree that Escrow Holder is neither involved nor concerned with the approval and/or processing of any loan or the contents and effect of loan documents prepared by a Lender. Escrow Holder is not responsible for any portion of the Lender's instructions which requires their performance or obligation or duties exceeding those imposed by California statutory authority or which requires Escrow Holder to assume liability for the Lender's regulatory responsibilities.

40. **MASTER/DUAL CLOSING STATEMENT:** The Parties are hereby made aware that certain lenders may require a copy of the Master/Dual Closing Statement, Seller Closing Disclosure and/or records showing all deposits and disbursements occurring as part of this escrow transaction. Escrow Holder is hereby authorized and instructed by the Parties to release the Master/Dual Closing Statement as required. Said information may be disclosed to the Buyer as part of the Buyer's Closing Disclosure by the lender.

41. **RESPA GUIDELINES:** The undersigned Parties acknowledge that in order for Escrow Holder to comply with the Real Estate Settlement Procedures Act ("RESPA") some of the costs and charges may need to be itemized on the lending disclosures in a fashion that differs from the terms agreed to by the parties. Said costs and charges may include, but are not limited to, the title policy fees and documentary transfer taxes. Escrow Holder is hereby authorized and instructed to comply with these RESPA guidelines, as necessary. Said charges and credits shall not change the amount of any other credits between the Parties.

42. **RIGHT TO RESIGN:** At any time prior to the close of escrow, Escrow Holder, at its sole and absolute discretion and without liability to the Parties to this escrow transaction, may withdraw and resign from acting as Escrow Holder by providing ten (10) days prior written notice to the Parties at their last known addresses. In such event, Escrow Holder shall be entitled to reasonable compensation for its escrow services performed and for all costs and expenses incurred in the resignation, including, but not limited to, attorneys' fees. Upon resignation, Escrow Holder shall return to the Parties who deposited the same, the balance of any funds it holds, along with any property or documents in its possession. Alternatively, at the mutual instruction of the Parties, Escrow Holder shall deliver the funds, property, and documents to a new Escrow Holder.

43. **ESCHEATMENT:** Any and all funds remaining in escrow three (3) years after the close of escrow or cancellation of this escrow transaction will be escheated to the State of California pursuant to the Unclaimed Property Law codified in California Code of Civil Procedure Section 1518.

44. **AUTHORIZATION TO INTERPLEAD FUNDS:** The Parties acknowledge that Escrow Holder has an absolute legal right to file a court action in interpleader. In the event such an action is filed, the Parties herein jointly and severally agree to pay all escrow fees, title fees, court costs, and litigation expenses, including attorney's fees, incurred in connection therewith, the amount thereof to be fixed and judgment to be reached by the court. Upon filing of such action, Escrow Holder is fully released and discharged from any further performance of duties under the terms of this Escrow.

45. **PROHIBITION UPON GIVING LEGAL OR FINANCIAL ADVICE:** The Parties acknowledge and understand that Escrow Holder is not authorized to practice the law nor does Escrow Holder give financial advice. The Parties are advised to seek legal and financial counsel and advice concerning the effect of this escrow transaction. The Parties acknowledge that no representations have been made by Escrow Holder about the legal sufficiency, legal consequences, financial effects, or tax consequences of the within escrow transaction.

46. **ERRORS OR OMISSIONS:** In the event Escrow Holder disburses more funds than are properly due to a party or Escrow Holder disburses funds for the benefit of any party other than the one who is entitled to receive said funds, whether by omission or by error of calculation, the party in this escrow transaction who received benefit from said disbursement hereby agrees to repay and/or reimburse Escrow Holder the amount of overpayment immediately upon demand. If repayment and/or reimbursement is not made, interest in the amount of 10% per annum shall commence on the sixth (6th) day after such written demand is made. If said party refuses or neglects to pay said funds and interest due thereon to Escrow Holder, legal proceedings to collect said funds with accrued interest will immediately ensue. The receiving party agrees to pay all charges, court costs, and attorneys' fees that may be incurred. Escrow Holder shall not be liable for any acts of omissions done in good faith nor for any claims, demands, losses or damages made or suffered by any party to this escrow by omission or error in calculation. All parties, jointly and severally, promise to pay promptly on demand, any cost and/or charge which should have been paid at the close of escrow.

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Buyer Initials MS

Seller Initials _____

47. **GENDER REFERENCES:** In these Escrow Instructions, wherever the context so requires, the masculine gender includes the feminine and/or neuter and the singular number includes the plural.

48. **AGREEMENT TO MEDIATE:** The parties to this escrow transaction agree to submit all disputes with Escrow Holder, whether founded on contract, tort or otherwise, to Mediation prior to submitting such claim to arbitration or litigation. However, in the event Escrow Holder elects, at Escrow Holder's sole option, to bring an Interpleader or Small Claims action or elects to resign in Escrow Holder's capacity as Escrow Holder, this Mediation provision shall not apply to such action.

49. **STATUTE OF LIMITATIONS:** These instructions are to be construed and interpreted according to California Law. NO ACTION SHALL LIE AGAINST ESCROW HOLDER FOR ANY CLAIM, LOSS, LIABILITY OR ALLEGED CAUSE OF ACTION OF ANY KIND OR NATURE WHATSOEVER, HOWEVER CAUSED OR OCCURRED, IN THIS ESCROW TRANSACTION OR IN CONNECTION WITH THE HANDLING OR PROCESSING OF THIS ESCROW TRANSACTION, UNLESS BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE CLOSE OF ESCROW OR ANY CANCELLATION OR TERMINATION OF ESCROW FOR ANY REASON WHATSOEVER.

50. **SEVERABILITY:** In the event any escrow instruction or supplemental instruction in this escrow transaction, including these general provisions, is held invalid by judicial proceedings, the remaining shall continue to be operative and enforceable.

51. **ACCEPTABILITY OF COUNTERPARTS:** These instructions may be executed in counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery. All such counterparts together shall constitute one and same document.

52. **PRIVACY NOTICE:** This notification is in compliance with our obligations to comply with federal and state law to safeguard your non-public personal information. Escrow Holder collects non-public personal information about the parties from the following sources; (a) Information received from the parties on applications or other forms; (b) Information about the parties transactions with Escrow Holder, affiliates of Escrow Holder, or other involved in the processing of this transaction; and (c) Information received from a consumer reporting agency. Escrow Holder not disclose any non-public personal information about Escrow Holder's customers or former customer to anyone, except as permitted by law. Escrow Holder restricts access to non-public information about the parties to those employees who need to know that information to provide products or services to the parties. Escrow Holder maintains physical, electronic and procedural safeguards that comply with federal and state regulations to guard the parties' non-public personal information. By signing below, the parties acknowledge that they have read and received a copy of this notification. Escrow Holder acknowledges the importance of protecting the confidentiality of non-public information in Escrow Holder's possession. One of Escrow Holder's highest priorities is assuring parties that their non-public personal customer information gathered in the rendering of services will be held secure. Escrow Holder maintains physical, electronic and procedural safeguards to guard non-public personal consumer information to an external non-affiliated organization unless Escrow Holder has authorization or is required by law to do so. Escrow Holder requires organizations that provide support services on Escrow Holder's behalf to conform to Escrow Holder's privacy standards.

53. **TIME IS OF THE ESSENCE:** Time is of the essence in these instructions. In the event that the conditions of this escrow transaction have not been complied with at the expiration of the time provided for herein, or any extension thereof, Escrow Holder is instructed to complete the same at the earliest possible date thereafter, unless written demand upon Escrow Holder to cancel this Escrow or for the return of the money and/or instruments is deposited by one or more Parties. If the date by which the parties' performances are due shall be other than Escrow Holder's regular business day, such performances shall be due on Escrow Holder's next succeeding business day.

54. **GOVERNING LAW:** These instructions are governed by the laws of the State of California.

55. **COOPERATION BY THE PARTIES:** The parties shall cooperate with Escrow Holder in carrying out the terms of the mutually executed Escrow Instructions as deposited, and shall cooperate with Escrow Holder in completing the escrow transaction. The parties shall deposit into this escrow transaction, upon request, any additional funds, instruments, documents, instructions, authorizations, or other items that are necessary to enable Escrow Holder to comply with demands made on it by third parties, to secure policies of title insurance, or to otherwise carry out the terms of their instructions and close this escrow transaction.

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Buyer Initials WS

Seller Initials _____

56. **CONSTRUCTION OF AGREEMENT:** In construing these instructions, all paragraph headings and captions are for the convenience of the parties only and shall not be considered as part hereof.

57. **DEFINITIONS:** The definition of "Escrow Holder" shall mean Blue Water Escrow, Inc., a California corporation and any and all of its Directors, Officers, employees, representatives and agents. "Parties" as used in this escrow transactions includes the Buyer and Seller, collectively.

RESIDENTIAL BROKERAGE COMPANY WHO MAY BE SERVING AS A BROKER IN CONNECTION WITH THIS ESCROW TRANSACTION IS OWNED BY A COMPANY WHICH ALSO OWNS BLUE WATER ESCROW, INC.

BY SIGNATURE BELOW, AND BY INITIALING EVERY PAGE OF THE 'SUPPLEMENTAL ESCROW INSTRUCTIONS AND ADDITIONAL ESCROW INSTRUCTIONS AND GENERAL PROVISIONS', EACH PARTY TO THIS ESCROW ACKNOWLEDGES RECEIPT OF A COPY OF SAME AND AGREES THAT THEIR SIGNATURE THEREON CONFIRMS THEIR FULL ACCEPTANCE AND APPROVAL OF, CONCURRENCE IN, AND AGREEMENT TO BE BOUND BY ALL OF THE TERMS, PROVISIONS, CONDITIONS, INSTRUCTIONS AND AGREEMENTS, IN THEIR ENTIRETY, AS CONTAINED HEREIN.

Buyer's Signature:

Seller's Signature:

Frasier Surviving Spouse Trust

the Molina Lehnert Trust dated January 20, 2012

By: Dinny Frasier, Co-Trustee

By: Kevin L. Lehnert, Trustee

Nicole Shrive, Trust Officer, Premier Trust
By: Premier Trust By: Nicole Shrive, Co-Trustee

By: Patricia A. Molina, Trustee

Co-Trustee

Blue Water Escrow, Inc.
1400 Newport Center Drive, Suite 125
Newport Beach, CA 92660
Phone: (949) 478-7900 • Fax: (949) 478-7999

AMENDED ESCROW INSTRUCTIONS

Date: August 8, 2016

Escrow No. 16-5027-JM

Re: 31521 Paseo Campeon, San Juan Capistrano, CA 92675-1828

To: **Blue Water Escrow, Inc. - Jason Miller**

My previous instructions in the above numbered escrow are hereby modified – supplemented in the following particulars only.

Borrower's vesting through the above referenced escrow is hereby amended as follows:

Dinny G. Frasier and Premier Trust Inc., a Nevada Charter Trust Company, Trustees of The Survivor's Trust Created Under The Jordan Dana Frasier Family Trust dated December 29, 1980, and any amendments hereto

Escrow Holder is authorized and instructed to change any and all documentation as necessary to reflect said vesting change over signatures thereon, if applicable.

Borrower agrees to indemnify, defend and hold Escrow Holder, its employees and officer of the corporation, and brokers harmless from any liability or loss in connection with this instruction.

All other terms and conditions of this escrow shall remain the same. All parties signing this instruction acknowledge receipt of a copy of same.

END OF AMENDMENT

Buyer's Signature

The Jordan Dana Frasier Family Trust

By: Dinny Frasier, Trustee

DocuSigned by:
Premier Trust Inc., By Nicole Shrive
By: Premier Trust Inc. By: Nicole Shrive, Trustee

Blue Water Escrow, Inc.
1400 Newport Center Drive, Suite 125
Newport Beach, CA 92660
Phone: (949) 478-7900 • Fax: (949) 478-7999

**SIGN &
RETURN**

AMENDED ESCROW INSTRUCTIONS

Date: August 8, 2016

Escrow No. 16-5027-JM

Re: 31521 Paseo Campeon, San Juan Capistrano, CA 92675-1828

To: Blue Water Escrow, Inc. - Jason Miller

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END OF AMENDMENT

Buyer's Signature

The Jordan Dana Frasier Family Trust


By: Dinny Frasier, Trustee

By: Premier Trust Inc. By: Nicole Shrive, Trustee

Sign & Return

NOTICE OF CALIFORNIA WITHHOLDING & REPORTING

Property: 31521 Paseo Campeon, San Juan Capistrano, CA 92675-1828

Escrow No.: 16-5027-JM

Under California law (Rev & Tax Code §18662), a buyer may be required to withhold and deliver to the Franchise Tax Board (FTB) an amount equal to 3.33% of the sales price ("Basic Withholding") in the case of disposition of California real property interest ("Real Property") by either:

1. a seller who is an individual, trust or estate or when the disbursement instructions authorize the proceeds to be sent to a financial intermediary of seller; OR
2. a corporate seller that has no permanent place of business in California immediately after the transfer of title to the Real Property.

Buyer may be subject to a penalty (equal to the greater of 10% of the amount required to be withheld or \$500) for failing to withhold and transmit the funds to FTB in the time required by law.

Buyer is not required to withhold any amount and will not be subject to penalty for failure to withhold if:

- a. the sales price of the Real Property does not exceed \$100,000; OR
- b. the seller executes a written certificate under penalty of perjury certifying that the seller is a corporation with a permanent place of business in California; OR
- c. the seller, who is an individual, trust, estate or a corporation without a permanent place of business in California, executes a written certificate under penalty of perjury certifying one of the following:
 - i. the Real Property was the seller's or decedent's principal residence (within the meaning of Internal Revenue Code (IRC) §121);
 - ii. the Real Property being conveyed was last used by the transferor as transferor's principal residence within the meaning of IRC §121;
 - iii. the Real Property is or will be exchanged for property of like-kind (within the meaning of IRC §1031) but only to the extent of the amount of gain not required to be recognized for California income tax purposes under IRC §1031;
 - iv. the Real Property has been compulsorily or involuntarily converted (within the meaning of IRC §1033) and the seller intends to acquire property similar or related in service or use so as to be eligible for non-recognition of gain for California income tax purposes under IRC §1033; or
 - v. the Real Property sale will result in a loss or net gain not required to be recognized for California income tax purposes.

SELLER IS SUBJECT TO PENALTIES FOR KNOWINGLY FILING A FRAUDULENT CERTIFICATE FOR THE PURPOSE OF AVOIDING THE WITHHOLDING LAWS.

Effective January 1, 2007, Seller may elect an alternative to Basic Withholding by certifying the amount to withhold which must be equal to the applicable maximum tax rate on the actual gain of the Real Property ("Alternative Withholding").

Contact FTB: For additional information regarding California withholding or for the Alternative Withholding, contact the Franchise Tax Board at (toll free) 888-792-4900, by e-mail arws@ftb.ca.gov or visit their website at www.ftb.ca.gov.

For tax advice, please consult your own legal advisor or tax professional.

SELLER:

the Molina Lehnert Trust dated January 20, 2012

By: Kevin L. Lehnert, Trustee

By: Patricia A. Molina, Trustee

BUYER:

Frasier Surviving Spouse Trust

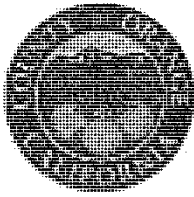
Danny Frasier
By: Danny Frasier, Co-Trustee

Nicole Shrive, Trust Officer, Premier Trust;
By: Premier Trust By: Nicole Shrive, Co-Trustee
Co-Trustee

FILED
Electronically
PR16-00128
2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “28”

EXHIBIT “28”



**County of Orange
SOCIAL SERVICE AGENCY**

ADULT PROTECTIVE SERVICES

PO Box 5687
Orange, CA 92863
(714)704-8048

MICHAEL RYAN
DIRECTOR

WENDY AQUIN
DIVISION DIRECTOR
ADULT SERVICES &
ASSISTANCE PROGRAMS

December 27, 2016

Janie Mulrain
Licensed Professional Fiduciary
PO Box 61282
IRVINE, CA 92602

Re: Frasier, Dinny

Dear Janie Mulrain,

Thank you for contacting Adult Protective Services regarding your concerns. A report has been taken and will be investigated by Senior Social Worker, Anna Fedorovsky, (714) 714-330-4402.

The Welfare and Institutions Code requires that your name remain confidential as well as any information obtained during our investigation.

We appreciate your continued cooperation with APS and your concern for adults in the community.

EXHIBIT “29”

EXHIBIT “29”

DUPLICATE
ORIGINAL

THIRD AMENDMENT AND RESTATEMENT OF
THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA FRASIER
FAMILY TRUST DATED DECEMBER 29, 1980

ARTICLE ONE. CREATION OF TRUST

1.1 Preamble

Dinny G. Frasier is one of the settlors and co-trustees of the Jordan Dana Frasier Family Trust dated December 29, 1980, as amended and restated on September 21, 1999, as amended on March 15, 2000, and as amended on June 7, 2000, by Jordan Dana Frasier and Dinny G. Frasier as settlors and as trustees. Jordan Dana Frasier died on October 22, 2014, and pursuant to the terms of the trust agreement, the trust was thereupon divided into the Tax Exemption Trust and the Survivor's Trust.

On May 29, 2015, Dinny G. Frasier exercised her power to amend and restate the Survivor's Trust created under the Jordan Dana Frasier Family Trust and executed the First Amendment and Restatement of the Survivor's Trust created under the Jordan Dana Frasier Family Trust dated December 29, 1980, as the surviving settlor and co-trustee. On June 24, 2016, Dinny G. Frasier again exercised her power to amend the Survivor's Trust and executed the Second Amendment to the Jordan Dana Frasier Family Trust, as the surviving settlor and co-trustee.

In Section 3(a) of the Survivor's Trust, Dinny G. Frasier reserved the right to amend the Survivor's Trust, in the following language:

"a. Power to Revoke and Amend. While I am alive, I may at any time or times amend any provision of my Trust Agreement or revoke my Trust in whole or in part."

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

The surviving settlor now wishes to exercise her right of amendment and, to that end, does hereby amend the trust pertaining to the Survivor's Trust in the terms set forth in this amended and restated trust. The trustees hereby consent to the terms of this amended and restated agreement. The parties agree that upon execution of this instrument, that trust agreement shall be replaced in whole, and the terms of this amended and restated trust agreement shall supersede the terms of that trust agreement for all purposes. The settlor and the trustees confirm that all assets currently titled in the name of the trustees of the Survivor's Trust created under the Jordan Dana Frasier Family Trust shall continue to be held by the trustees as trust assets of the amended and restated trust.

1.2 Name of Trust

The name of the trust created by this instrument shall be the Survivor's Trust created under the Jordan Dana Frasier Family Trust dated December 29, 1980.

1.3 Effective Date

This agreement shall be effective immediately on execution by all the parties.

1.4 Marital Status

The settlor is not currently married.

1.5 Identification of Living Children

The settlor has three (3) living children, as follows:

<u>Name</u>	<u>Date of Birth</u>	<u>Child's Father</u>
Bradley Frasier		Jordan Dana Frasier
Amy Frasier Wilson		Jordan Dana Frasier
Nori Frasier Cady		Jordan Dana Frasier

1.6 No Deceased Children

The settlor has no deceased children.

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

ARTICLE TWO. TRUST ESTATE

2.1 Definition of Trust Estate

All property subject to this instrument from time to time is referred to as the "trust estate" and shall be held, administered, and distributed as provided in this instrument. The trustee shall hold, administer, and distribute the property described in any schedules of property (which are attached hereto and made a part of this trust instrument), any other property that may be hereafter subject to this trust, and the income and proceeds attributable to all such property, in accordance with the provisions of this instrument.

2.2 Additions to Trust

From time to time, the trustee may accept additions to this trust from any source. All such additions shall become a part of the trust estate and shall be held, administered, and distributed in accordance with the terms of this instrument. That additional property shall become part of the trust estate upon written acceptance of it by the trustee. Any additions to the trust shall be made by designating in writing the property to be added. However, the titling of any account, deed, or similar asset in the name of the trustee, as trustee of this trust, or any alternate or successor trustee acting under this instrument, shall be deemed to be a transfer to this trust. Any designation by a third party, whether by will, deed, account title designation, or similar transfer, shall also be a transfer to the trust estate.

ARTICLE THREE. RIGHTS AND POWERS OF SETTLOR

3.1 Power of Revocation and Amendment

This trust may be amended, revoked, or terminated by the settlor, in whole or in part, at any time during her lifetime. After the settlor's death, this trust shall become irrevocable and shall not be subject to amendment after the death of the settlor.

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

3.2 Method of Revocation or Amendment

Any amendment, revocation, or termination of this trust shall be made by written instrument signed by the settlor and delivered (in person or by certified mail) to the trustee. An exercise of the power of amendment substantially affecting the duties, rights, and liabilities of the trustee shall be effective only if agreed to by the trustee in writing. The method of amendment and revocation provided in this section is the exclusive method of such amendment or revocation.

3.3 Delivery of Property After Revocation

After any revocation or termination, the trustee shall promptly deliver the designated property to the settlor.

3.4 Trustee's Retention of Assets on Revocation

In the event of any revocation of all or part of the trust, the trustee shall be entitled to retain sufficient assets to reasonably secure the payment of liabilities the trustee has lawfully incurred in administering the trust and any fees that have been earned by the trustee, until such time as those liabilities have been discharged and fees paid, unless the settlor indemnifies the trustee against loss or expense.

3.5 Settlor's Power to Approve Trust Investments

Notwithstanding any other provision in this instrument, during the settlor's lifetime, the trustee shall not sell, exchange, or invest trust property without obtaining the settlor's prior written approval. After the settlor's death, the trustee need not obtain any person's prior approval of sales, exchanges, or investments of trust property.

3.6 Exercise of Rights and Powers of Settlor By Others

Any right or power that the settlor could exercise personally under the terms of this instrument, excluding any power to amend, revoke, or terminate this trust, may be exercised for

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

and on behalf of the settlor by any attorney in fact who, at the time of the exercise, is duly appointed and acting for the settlor under a valid and enforceable durable power of attorney executed by the settlor under the Uniform Durable Power of Attorney Act, or any successor statute, or, if there is no such attorney in fact, by a duly appointed and acting conservator of the settlor, after petition to the court in accordance with California Probate Code Section 2580, or any successor statute. The power to amend, revoke, or terminate this trust is personal to the settlor and may not be exercised by any other person or entity.

ARTICLE FOUR. DISTRIBUTIONS DURING SETTLOR'S LIFE

4.1 Payment of Income During Settlor's Life

So long as the settlor is living, the trustee shall pay to or apply for the benefit of the settlor all of the net income of the trust, in monthly or other convenient installments (but not less often than annually) as the settlor and the trustee may agree on from time to time.

4.2 Distributions of Principal During Settlor's Lifetime

From time to time during the settlor's lifetime, the trustee shall distribute to or apply for the benefit of the settlor as much of the principal of the trust as the trustee, in the trustee's discretion, deems proper for the settlor's comfort, welfare, and happiness. In exercising discretion, the trustee shall give the consideration that the trustee deems proper to all other income and resources then readily available to the settlor for use for these purposes and that are then known to the trustee. All decisions of the trustee regarding payments under this section, if any, are within the trustee's discretion.

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**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

4.3 Distributions of Principal at Request of Settlor

During the settlor's lifetime, the trustee shall distribute to the settlor such amounts from the principal of the trust, up to the whole thereof, as the settlor may from time to time request of the trustee in writing.

4.4 Requests on Behalf of the Settlor Unable to Do So Personally

If, at any time, the settlor is unable personally to make a request of the trustee to withdraw principal of the trust, the settlor's right to make the request may be exercised for or in her behalf by an attorney in fact who, at the time of the exercise, is duly appointed and acting for the settlor under a valid and enforceable durable power of attorney executed by the settlor under the Uniform Durable Power of Attorney Act, or any successor statute. If there is no such attorney in fact, then the trustee shall have the discretion to make any principal distribution to or for the benefit of the settlor that the settlor could have requested personally if she were able to do so. In making any principal distribution under this section (whether pursuant to a request by an attorney in fact or not), the trustee shall pay as much of the principal as the trustee, in the trustee's discretion, deems necessary for the settlor's health, education, support, and maintenance. The trustee shall have discretion to determine when the settlor is unable personally to request principal payments from the trustee for purposes of this section.

4.5 Trustee's Power to Make Gifts at Direction of Settlor

During the settlor's lifetime, the trustee shall distribute such sums of trust principal to such person or persons who are the natural objects of the settlor's bounty, as the settlor may direct in writing. In the event that the settlor is unable to direct the trustee in writing under this section due to incapacity, such direction may be made on the settlor's behalf by a duly authorized attorney in fact acting under a valid durable power of attorney executed by the settlor under the Uniform Durable Power of Attorney Act (or successor statute); provided, however, that the

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**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

amount of such gifts pursuant to the direction of an attorney in fact to any one person in any one year shall not exceed the amounts excluded from gift tax under Sections 2503(b) and (e) of the Internal Revenue Code (or successor statute).

ARTICLE FIVE. DISTRIBUTIONS AFTER SETTLOR'S DEATH

5.1 Payment of Death Taxes, Debts, and Expenses on Statement From Personal Representative

After the settlor's death, on receipt by the trustee of a written statement from the personal representative of the settlor's estate requesting that the trustee pay death taxes, debts, and expenses (as defined in Article Seven), with respect to any property in the settlor's estate, the trustee shall pay, either directly or to the personal representative, any amounts requested by the personal representative for those purposes, in the manner specified below. The trustee may rely on the personal representative's statement and shall not be liable for any act or omission by the personal representative in protesting or failing to protest the legality, propriety, or amount of the death taxes, debts, or expenses. If there is no personal representative, the trustee shall make the payments directly. Payments of debts and expenses shall be made by the trustee from the trust estate. All death taxes payable by reason of the settlor's death shall be prorated and apportioned among the persons interested in the settlor's estate as provided in the California Probate Code. The trustee shall not pay death taxes, debts, and expenses or other obligations of the settlor or the settlor's estate from proceeds of insurance policies on the settlor's life if making those payments would be the sole cause of the proceeds being includable in the settlor's gross estate for federal estate tax purposes.

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**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

5.2 Trustee's Power to Defer Division or Distribution

Whenever the trustee is directed to divide any part of the trust estate or distribute trust assets on the death of the settlor, the trustee may, in the trustee's discretion, defer actual division or distribution for such reasonable period of time as is needed to effectively identify, take possession of, value, divide, and distribute the assets of the trust. During this time of deferral, the trustee may manage the trust assets through a single administrative trust. The ability of the trustee to delay division or distribution shall not affect the vesting of interests, which shall be as of the date of death.

5.3 Disposition of Trust Estate

On the death of the settlor, the remaining trust property (including all income then accrued but uncollected and all income then remaining in the hands of the trustee) shall be disposed of as follows:

(a) One-third (1/3) to the Irvine Community Alliance Fund – Designation: Animal Care Center (EIN: 33-0258368), for the city animal shelter located at 6443 Oak Canyon, Irvine, California 92618, to be used to facilitate the training of dogs by certified dog trainers, such as, for example and not by way of limitation, to establish a schedule of classes to certify dog trainers, in recognition of Dinny G. Frasier.

(b) One-third (1/3) to Chapman University (EIN: 95-1643992), located at 1 University Dr., Orange, California 92866, to be used to set up an endowment fund to provide scholarships to students and prospective students based on financial need and scholastic merit. The name of the endowment shall be the "Dinny G. Frasier Endowment for Deserving Students." The endowment fund and scholarship process shall be overseen by a committee to be comprised of the following individuals and/or entities:

- (i) Bruce Schwartz, or his designee;
- (ii) Then-current Dean of Students at Chapman University, or its designee; and
- (iii) Chris Lombardo or the then-current Executive Director of Business Services of the Orange County Department of Education, or his designee.

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(c) One-ninth (1/9) to the American Society for Prevention of Cruelty to Animals ("ASPCA") (EIN: 13-1623829), located at 424 East 92nd St., New York, New York 10128, to be used for its general funds, in recognition of Dinny G. Frasier.

(d) One-ninth (1/9) to Temple Beth Shalom of Orange County, Inc. (EIN: 95-2263896), located at 2625 N. Tustin Ave., Irvine, California 92705, to be used to fund maintenance and capital improvements, in recognition of Dinny G. Frasier.

(e) One-ninth (1/9) to the St. Jude Children's Research Hospital, Inc. (EIN: 62-0646012), located at 262 Danny Thomas Place, Memphis, Tennessee 38105, to be used for its general funds, in recognition of Dinny G. Frasier.

If any of the above entities is unable or unwilling to receive the gift for any reason, the share otherwise allocable to that entity shall instead be distributed to the remaining entities, in proportion to their respective interests.

If the remaining trust property is not completely disposed of by the preceding provision, the undisposed-of portion shall be distributed to those entity(ies) chosen by the trustee at its sole and absolute discretion.

ARTICLE SIX. TRUSTEE

6.1 Settlor's Power to Designate Successor Cotrustees

While Dinny G. Frasier is alive and competent, she shall have the right to add a trustee, or to remove and replace any other trustee at any time without cause. Written notice of removal shall be effective immediately when signed by the person or persons authorized to make the removal and delivered to the trustee being removed personally, or within three business days after mailing by certified mail, return receipt requested. The written notice removing a trustee shall identify the successor trustee appointed.

6.2 Successor Corporate Co-Trustee

Dinny G. Frasier appoints Farmers and Merchants Trust Company, Laguna Hills Branch, as corporate co-trustee.

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6.3 Definition of Trustee

Reference in this instrument to "the trustee" shall be deemed a reference to whoever is serving as trustee or cotrustees, and shall include alternate or successor trustees or cotrustees, unless the context requires otherwise.

6.4 Prohibited Trustee

Notwithstanding any other provision in this instrument, in no event shall the settlor's issue be appointed to serve as trustee.

6.5 Waiver of Bond

No bond or undertaking shall be required of any individual who serves as a trustee under this instrument.

6.6 Compensation of Individual Trustees

Each individual who is a trustee under this instrument shall be entitled to reasonable compensation for services rendered, payable without court order.

6.7 Compensation of Corporate Trustee

Any corporate trustee serving under this trust instrument shall be entitled to reasonable compensation for its services in accordance with its standard schedule of trust fees, as existing from time to time.

6.8 Procedure for Resignation

Any trustee may resign at any time, without giving a reason for the resignation, by giving written notice, at least thirty (30) days before the time the resignation is to take effect, to the settlor, if living, to any other trustee then acting, to any persons authorized to designate a successor trustee, to all trust beneficiaries known to the trustee (or, in the case of a minor beneficiary, to the parent or guardian of that beneficiary) and to the successor trustee. A resignation shall be effective on written acceptance of the trust by the successor trustee.

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6.9 General Powers of Trustee

To carry out the purposes of the trust created under this instrument, and subject to any limitations stated elsewhere in this instrument, the trustee shall have all of the following powers, in addition to all of the powers now or hereafter conferred on trustees by law:

- (a) With or without court authorization, sell (for cash or on deferred payments, and with or without security), convey, exchange, partition, and divide trust property; grant options for the sale or exchange of trust property for any purpose, whether the contract is to be performed or the option is to be exercised within or beyond the term of the trust; and lease trust property for any purpose, for terms within or extending beyond the expiration of the trust, regardless of whether the leased property is commercial or residential and regardless of the number of units leased.
- (b) Engage in any transactions with the personal representative of the estate of the settlor that are in the best interest of any trusts created in this instrument.
- (c) Manage, control, improve, and maintain all real and personal trust property.
- (d) Subdivide or develop land; make or obtain the vacation of plats and adjust boundaries, or adjust differences in valuation on exchange or partition by giving or receiving consideration; and dedicate land or easements to public use with or without consideration.
- (e) Make ordinary or extraordinary repairs or alterations in buildings or other trust property, demolish any improvements, raze existing party walls or buildings, and erect new party walls or buildings, as the trustee deems advisable.
- (f) Employ and discharge agents and employees, including but not limited to attorneys, accountants, investment and other advisers, custodians of assets, property managers, real estate agents and brokers, and appraisers, to advise and assist the trustee in the management of any trusts created under this trust instrument, and compensate them from the trust property.
- (g) With respect to securities held in trust, exercise all the rights, powers, and privileges of an owner, including, but not limited to, the power to vote, give proxies, and pay assessments and other sums deemed by the trustee necessary for the protection of the trust property; participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and, in connection therewith, deposit securities with and transfer title to any protective or other committee under such terms as the trustee deems advisable; exercise or sell stock subscription or conversion rights; and accept and retain as investments of the trust any securities or other property received through the exercise of any of the foregoing powers.

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(h) Hold securities or other trust property in the trustee's own name or in the name of a nominee, with or without disclosure of the trust, or in unregistered form, so that title may pass by delivery.

(i) Deposit securities in a securities depository that is either licensed or exempt from licensing.

(j) Borrow money for any trust purpose from any person or entity, including one acting as trustee hereunder, on such terms and conditions as the trustee deems advisable, and obligate the trust for repayment; encumber any trust property by mortgage, deed of trust, pledge, or otherwise, whether for terms within or extending beyond the term of the trust, as the trustee deems advisable, to secure repayment of any such loan; replace, renew, and extend any such loan or encumbrance; and pay loans or other obligations of the trust deemed advisable by the trustee.

(k) Procure and carry, at the expense of the trust, insurance in such forms and in such amounts as the trustee deems advisable to protect the trust property against damage or loss, and to protect the trustee against liability with respect to third persons.

(l) Enforce any obligation owing to the trust, including any obligation secured by a deed of trust, mortgage, or pledge held as trust property, and purchase any property subject to a security instrument held as trust property at any sale under the instrument.

(m) Extend the time for payment of any note or other obligation held as an asset of, and owing to, the trust, including accrued or future interest, and extend the time for repayment beyond the term of the trust.

(n) Pay or contest any claim against the trust; release or prosecute any claim in favor of the trust; or, in lieu of payment, contest, release, or prosecution, adjust, compromise, or settle any such claim, in whole or in part, and with or without consideration.

(o) At trust expense, prosecute or defend actions, claims, or proceedings of whatever kind for the protection of the trust property and of the trustee in the performance of the trustee's duties, and employ and compensate attorneys, advisers, and other agents as the trustee deems advisable.

6.10 Power to Retain Trust Property

The trustee shall have the power to retain property received into the trust at its inception or later added to the trust, as long as the trustee considers that retention in the best interests of the trust or in furtherance of the goals of the settlor in creating the trust, as determined from this trust

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instrument, but subject to the standards of the prudent investor rule as set forth in the California Uniform Prudent Investor Act, as amended from time to time.

6.11 Trustee's Power to Invest Property

Subject to the standards of the prudent investor rule as stated in the California Uniform Prudent Investor Act, as amended from time to time, the trustee shall have the power to invest and manage the trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust.

6.12 Power Over Unproductive Property

The trustee shall have the power to retain or acquire unproductive or underproductive property.

6.13 Power to Operate Business

The trustee shall have the power to hold and operate any business or enterprise that is or becomes trust property, on such terms and for such a time as the trustee, in the trustee's discretion, deems advisable; to purchase, acquire, invest in, or otherwise participate in, any business or other enterprise on behalf of the trust; or to sell, dissolve, liquidate, or terminate any such business. The trustee shall also have the power to incorporate, reorganize, or otherwise change the form of a business or enterprise that is part of the trust, through merger or consolidation of two or more enterprises or otherwise, and to participate in that business or enterprise as a sole proprietor, as a general or limited partner, as a shareholder, or in any other capacity. Any operation, sale, purchase, acquisition, investment in, or dissolution or liquidation of a business interest, in good faith, shall be at the risk of the trust, and without liability on the part of the trustee for any resulting losses. The trustee shall also have the power to contribute capital or loan money to the business or enterprise on such terms and conditions as the trustee deems advisable.

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6.14 Power to Operate Farm or Ranch

The trustee shall have the power to continue to hold, operate, sell, purchase, acquire, invest in, or liquidate any farming or ranch property, or any interest in farming or ranching property, whether organized as a sole proprietorship, general or limited partnership, corporation, or otherwise, on such terms and for such time as the trustee, in the trustee's discretion, deems advisable. Any such operation, sale, purchase, acquisition, investment, or liquidation, in good faith, shall be at the risk of the trust and without liability on the part of the trustee for any resulting losses. The trustee shall have all powers necessary or appropriate to carry out the management of such farming and ranching property. The trustee shall also have the power to incorporate any farming or ranching property, or any interest therein, and to hold the stock as a trust asset; to borrow money for any purpose related to the operation, or the acquisition or disposition, of any such farming or ranching interests; and to employ agents in the management and operation of that property. The net profits and losses from the farming and ranching operations conducted by the trust shall be computed in accordance with recognized methods of accounting for comparable activities. The net profits from these activities shall become trust income. The net losses from these activities shall not reduce other trust income for the fiscal or calendar year during which they occur, but shall be carried into subsequent fiscal or calendar years and reduce the net profits of the business for those years.

6.15 Power to Self-Deal

The trustee, acting as an individual or as a trustee of another trust not created by this trust instrument, shall have the power to perform the following acts with respect to the property of any trust under this trust instrument: purchase property from or sell property to the trust at fair market value; exchange property for trust property of equal value; lease property from or to the trust at fair rental value; lend or advance funds to the trust, with interest at then-prevailing rates, and

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receive security for the loans in any commercially reasonable form; and receive from any business in which the trust has an interest a reasonable salary and reimbursement of expenses while performing duties as a trustee. The trustee, acting as trustee of another trust established by the settlor or another trust established for the benefit of any one or more of the beneficiaries of the trust, shall have the power to borrow funds from the trust with interest at then-prevailing rates, and give security for the loans in any commercially reasonable form.

6.16 Powers Regarding Subchapter S Stock

If at any time the trust estate includes shares of stock in any corporations that have elected to be governed by the provisions of Subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code (IRC Section 1361 et seq., or any successor sections), then notwithstanding any other provision of this instrument, the trustee shall at all times manage those shares, and administer the trust estate, in a manner that will maintain the S corporation status. To satisfy this obligation, but without limiting the discretion of the trustee to take any action to protect the S corporation status, the trustee shall act as follows:

(a) Allocation or Distribution to Permitted Shareholders

The trustee shall allocate or distribute shares of S corporation stock only to those trusts or those beneficiaries that are permitted to be shareholders of an S corporation.

(b) Qualified Subchapter S Trust Provisions

If shares of S corporation stock are allocated to any trust created under this instrument and that trust does not otherwise qualify as a permitted shareholder under Internal Revenue Code Section 1361, or any successor section, then notwithstanding any other provision of this instrument, that trust (or any portion of that trust containing S corporation stock) shall be administered so as to ensure that it is a Qualified Subchapter S Trust (QSST), an Electing Small Business Trust (ESBT), or some other form of trust that qualifies as a permitted shareholder under Internal Revenue Code Section 1361, or any successor section. The S corporation stock in each such trust shall be held in separate share trusts (within the meaning of Internal Revenue Code Section 663(c), or any successor section) for each beneficiary; and all other property in each trust shall be held in a separate trust, which shall continue to be

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administered in accordance with the terms of this instrument. With respect to the separate share trusts holding S corporation stock, the trustee shall make distributions of income and principal, and otherwise administer the trusts, to ensure that those trusts do not become ineligible shareholders of an S corporation. To the extent that the terms of this instrument are inconsistent with those separate share trusts qualifying as permitted shareholders of an S corporation, those terms shall be disregarded.

(c) Other Trustee Administrative Powers

The trustee shall have the power (1) to enter into agreements with other shareholders or with the corporation relating to transfers of S corporation stock or the management of the S corporation; and (2) to allocate amounts received, and the tax on undistributed income, between income and principal. During the administration of a trust holding S corporation stock, the trustee may allocate tax deductions and credits arising from ownership of S corporation stock between income and principal. In making those allocations, the trustee shall consider that the beneficiary is to have the enjoyment of the property at least equal to that ordinarily associated with an income interest.

(d) Beneficiary Agreement

The trustee shall not distribute any S corporation stock to any beneficiary unless, prior to that distribution, the beneficiary enters into a written agreement with the S corporation stating the following: (1) that the beneficiary will consent to any election to qualify the corporation as an S corporation; (2) that the beneficiary will not interfere with the S corporation maintaining its S corporation status; (3) that the beneficiary will not transfer the S corporation stock to any transferee who does not agree to execute a similar consent; (4) that the beneficiary will not transfer the stock in a manner that will cause a termination of S corporation status under the then applicable federal and state tax law and regulations; and (5) that the beneficiary will join in any attempt to obtain a waiver from the Internal Revenue Service of a terminating event on the grounds of inadvertence if S corporation status is inadvertently terminated and the S corporation or any shareholder desires that S corporation status should continue.

(e) Certificate to Bear Legend

If the trustee receives any shares of S corporation stock whose stock certificates bear a legend stating that the transfer, pledge, assignment, hypothecation, or other disposition of the stock is subject to the terms set forth in the preceding subsection, then the stock certificates shall also bear that legend when the trustee distributes those shares of S corporation stock to a beneficiary.

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6.17 No Duty to Segregate

Each trust created under this instrument shall constitute a separate trust and be administered accordingly; however, the assets of all of the trusts may be combined for bookkeeping purposes and held for the trust beneficiaries without physical division into separate trusts until time of distribution.

6.18 Power to Divide or Combine Trusts

The trustee shall have the power to divide a single trust into separate shares, each to be administered in accordance with the terms and conditions of the single trust from which they were created, when the trustee, in the trustee's discretion, determines that division is desirable or advisable in view of tax considerations (including considerations related to the income tax, the gift tax, the estate tax, or the generation-skipping transfer tax) or other objectives of the trusts and their beneficiaries. The trustee shall not be required to make a physical segregation or division of the various trust shares created under this trust instrument, except as segregation or division may be required by reason of the termination and distribution of any of the trusts, but the trustee shall keep separate accounts and records for different undivided interests. The trustee, in the trustee's discretion, shall have the further power to combine two or more trusts having substantially the same terms into a single trust for purposes of administration, when tax or other factors indicate that such combination would be desirable or advisable.

6.19 Trustee's Power to Determine Income and Principal

Unless otherwise specifically provided in this instrument, the determination of all matters with respect to what is principal and income of any trust under this instrument and the apportionment and allocation of receipts, expenses, and other charges between principal and income shall be governed by the provisions of the California Uniform Principal and Income Act

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from time to time existing. The trustee in the trustee's discretion shall determine any matter not provided for either in this instrument or in the California Uniform Principal and Income Act.

6.20 Early Termination of Trusts

The trustee shall have the power, in the trustee's discretion, to terminate any trust created under this trust instrument whenever the fair market value of the trust falls below one hundred thousand dollars (\$100,000.00), or becomes so small in relation to the costs of administration as to make continuing administration uneconomical, or contrary to the purposes of the trust. Continuing administration shall be uneconomical if the trustee determines that, with reference to the trust fee schedules then in effect for corporate fiduciaries in the area in which the trust is being administered, the trust would be subject to the minimum trust administration fees of those fiduciaries, regardless of the value of the trust. On termination, the trustee shall distribute the principal and any accrued or undistributed net income to the income beneficiaries in proportion to their shares of the income. If no fixed amount of income is payable to specific beneficiaries, the trustee shall distribute the principal and any accrued or undistributed net income in equal shares to those beneficiaries who would then be entitled to income payments from the trust.

6.21 Division or Distribution in Cash or Kind

In order to satisfy a pecuniary gift or to distribute or divide trust assets into shares or partial shares, the trustee may distribute or divide those assets in kind, or divide undivided interests in those assets, or sell all or any part of those assets and distribute or divide the property in cash, in kind, or partly in cash and partly in kind. Property distributed to satisfy a pecuniary gift under this instrument shall be valued at its fair market value at the time of distribution.

6.22 Payments to Legally Incapacitated Persons

If at any time any trust beneficiary is a minor, or it appears to the trustee that any trust beneficiary is incapacitated, incompetent, or for any other reason not able to receive payments or

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make intelligent or responsible use of the payments, then the trustee, in lieu of making direct payments to the trust beneficiary, may make payments to the beneficiary's conservator or guardian; to the beneficiary's custodian under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any state; to the beneficiary's custodian under the California Uniform Transfers to Minors Act until the beneficiary reaches the age of twenty-five (25); to one or more suitable persons as the trustee deems proper, such as a relative of or a person residing with the beneficiary, to be used for the beneficiary's benefit; to any other person, firm, or agency for services rendered or to be rendered for the beneficiary's assistance or benefit; or to accounts in the beneficiary's name with financial institutions. If there is no custodian then-serving or nominated to serve by the settlor for a beneficiary, the personal representative or trustee, as the case may be, shall designate the custodian. The receipt of payments by any of the foregoing shall constitute a sufficient acquittance of the trustee for all purposes.

6.23 Trustee's Liability

No trustee shall be liable to any interested party for acts or omissions of that trustee, except those resulting from that trustee's willful misconduct or gross negligence. This standard shall also apply regarding a trustee's liability for the acts or omissions of any cotrustee, predecessor trustee, or agent employed by the trustee.

6.24 Written Notice to Trustee

Until the trustee receives written notice of any death or other event on which the right to payments from any trust may depend, the trustee shall incur no liability for disbursements made in good faith to persons whose interests may have been affected by that event.

6.25 Duty to Account

The trustee shall render accounts at least annually, at the termination of a trust, and on a change of trustees to the persons and in the manner required by law. When a predecessor trustee

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has failed to render accounts as required under this provision, the successor trustee may, but need not, render accounts for such period with reasonable efforts without incurring any additional liability for acts of a predecessor trustee, other than as already provided under California law. This provision is intended to permit the successor trustee to render accounts for the predecessor without creating any additional duty to investigate or to account. Nonetheless, if in the course of rendering accounts left undone by the predecessor trustee, the successor trustee obtains knowledge of a situation that may constitute a breach of trust committed by the predecessor trustee; the successor trustee shall deal with such knowledge in accordance with the successor trustee's fiduciary duties and powers.

6.26 Time Period For Objecting to Account

Upon receipt of an account by the trustee, a beneficiary has 180 days to make any objection to such account or to make any claim against the trustee for matters adequately disclosed in such account. The existence of this time period for objecting to an account shall be stated in the accounts rendered by the trustee in a separate paragraph on the face of the account in not less than 12-point boldface type as follows:

NOTICE TO BENEFICIARIES

YOU HAVE ONE HUNDRED EIGHTY (180) DAYS FROM YOUR RECEIPT OF THIS ACCOUNT OR REPORT TO MAKE AN OBJECTION OR OBJECTIONS TO ANY ITEM SET FORTH IN THIS ACCOUNT OR REPORT. ANY OBJECTION YOU MAKE MUST BE IN WRITING; IT MUST BE DELIVERED TO THE TRUSTEE WITHIN THE PERIOD STATED ABOVE; AND IT MUST STATE YOUR OBJECTION. YOUR FAILURE TO DELIVER A WRITTEN OBJECTION TO THE TRUSTEE WITHIN THE TIME PERIOD STATED ABOVE WILL PERMANENTLY PREVENT YOU FROM LATER ASSERTING

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**THIS OBJECTION AGAINST THE TRUSTEE. IF YOU DO MAKE AN
OBJECTION TO THE TRUSTEE, THE THREE YEAR PERIOD PROVIDED IN
SECTION 16460 OF THE PROBATE CODE FOR COMMENCEMENT OF
LITIGATION WILL APPLY TO CLAIMS BASED ON YOUR OBJECTION AND
WILL BEGIN TO RUN ON THE DATE THAT YOU RECEIVE THIS ACCOUNT
OR REPORT.**

6.27 Cotrustee May Delegate Acts to Other Cotrustee

Any cotrustee may, from time to time, delegate to the other cotrustee routine acts of trust administration and may establish bank or other accounts for the trust that will honor the signature of one or of either cotrustee.

ARTICLE SEVEN. CONCLUDING PROVISIONS

7.1 Perpetuities Savings Clause

Notwithstanding any other provision of this instrument, every trust created by this instrument shall terminate no later than twenty-one (21) years after the death of the last survivor of all beneficiaries who are alive at the creation of the trust. For purposes of this perpetuities savings clause, a trust shall be deemed to have been created on the date the trust becomes irrevocable or the date of the death of the settlor, whichever occurs first. If a trust is terminated under this section, the trustee shall distribute all of the principal and undistributed income of the trust to the income beneficiaries of the trust in the proportion in which they are entitled (or eligible, in the case of discretionary payments) to receive income immediately before the termination. If that proportion is not fixed by the terms of the trust, the trustee shall distribute all of the trust property to the persons then entitled or eligible to receive income from the trust

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outright in a manner that, in the trustee's opinion, will give effect to the intent of the settlor in creating the trust. The trustee's decision is to be final and incontestable by anyone.

7.2 Simultaneous Death

If any beneficiary under this instrument and the settlor die under circumstances in which the order of their deaths cannot be established by clear and convincing evidence, the settlor shall be deemed to have survived the beneficiary, and this instrument shall be construed accordingly.

7.3 Survivorship Requirement

For purposes of this instrument, a beneficiary shall be deemed not to have survived the settlor if that beneficiary dies within thirty (30) days after the death of the settlor.

7.4 No-Contest Clause

If any beneficiary under this instrument, singularly or in combination with any other person or persons, directly or indirectly does any of the following acts, then the right of that person to take any interest given to him or her by this instrument shall be void, and any gift or other interest in the trust property to which the beneficiary would otherwise have been entitled shall pass as if he or she had predeceased the settlor without issue.

(a) Without probable cause challenges the validity of this instrument on any of the following grounds:

- (i) Forgery;
- (ii) Lack of due execution;
- (iii) Lack of capacity;
- (iv) Menace, duress, fraud, or undue influence;
- (v) Revocation pursuant to the terms of this instrument or applicable law;
- (vi) Disqualification of a beneficiary who is a "disqualified person" as described in California Probate Code section 21350 or applicable successor statute.

(b) Without probable cause files a pleading to challenge the transfer of property on the grounds that it was not the transferor's property at the time of the transfer;

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- (c) Without probable cause files a creditor's claim or prosecutes any action against the trust for any debt alleged to be owed to the beneficiary-claimant.

7.5 Definitions of Death Taxes, Debts, and Expenses

As used in this instrument, the following definitions apply:

- (a) The term "death taxes" shall mean all inheritance, estate, succession, and other similar taxes that are payable by any person on account of that person's interest in the estate of the settlor or by reason of the settlor's death, including penalties and interest, but excluding the following:
 - (i) any additional tax that may be assessed under Internal Revenue Code Section 2032A; and
 - (ii) any federal or state tax imposed on any generation-skipping transfer, as that term is defined in the federal tax laws, unless that generation-skipping transfer tax is payable directly out of the assets of a trust created by this instrument.
- (b) The term "debts and expenses" shall include the following:
 - (i) all costs, expenses of litigation, counsel fees, or other charges that the trustee incurs in connection with the determination of the amount of the death taxes, interest, or penalties referred to in subsection (a) of this section; and
 - (ii) legally enforceable debts, funeral expenses, expenses of last illness, and administration and property expenses.

7.6 Disinheritance of Settlor's Children

The settlor is intentionally not providing for the settlor's children or their issue in this instrument. The settlor intends that her children and their issue shall not take any part of the trust estate passing under this instrument, under any circumstances, such as pursuant to contingent beneficiary provisions or due to disclaimers by other beneficiaries. The settlor's children and their issue shall be deemed to have predeceased the settlor.

7.7 Definition of Incapacity

- (a) For purposes of this instrument, a person is deemed "incapacitated" or deemed to suffer from "incapacity" if any of the following circumstances apply:
 - (i) The person is unable to provide properly for that person's own needs for physical health, food, clothing, or shelter; to manage substantially that person's own financial resources; or to resist fraud or undue influence.

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- (ii) Either a medical doctor, board-certified neuropsychologist, or a board-certified psychiatrist, not related by blood or marriage to any trustee or beneficiary, examines such person and declares under penalty of perjury that such person is either temporarily or permanently incapacitated, according to generally accepted medical definitions.
 - (iii) The person is operating under a legal disability, such as a duly established conservatorship.
 - (iv) The court makes a finding that the person is either temporarily or permanently incapacitated under the criteria set forth in Prob. Code Section 810 et seq.
- (b) In case of temporary incapacity of a sole trustee, the successor trustee designated under this instrument shall serve during the period of temporary incapacity as though he or she were the only trustee. In case of temporary incapacity of a cotrustee, the other cotrustee shall make any and all decisions during the period of temporary incapacity as though that cotrustee were the only trustee.
- (c) Any trustee deemed to be temporarily incapacitated shall be deemed to be permanently incapacitated ninety (90) days after the determination of temporary incapacity unless a determination of capacity is made within that 90-day period. If a determination of capacity is made, the trustee may resume serving as trustee. If there is a subsequent determination of incapacity, the trustee has another 90-day period to obtain a determination of capacity.
- (d) Any successor trustee or cotrustee serving in place of a temporarily incapacitated trustee shall not be relieved of liability until that trustee's account has been settled or an account has been waived by a majority of all current beneficiaries of the trust.
- (e) If any trustee or any beneficiary whose capacity is in question disputes the determination of incapacity under any of the standards listed above, such person may petition the court for a finding regarding that person's capacity. The court's finding shall be conclusive. If the court determines that the trustee or other person whose capacity is in question has capacity, the trust property shall bear all expenses associated with the examination or court proceeding. If the court sustains the determination of incapacity, the individual challenging the determination of incapacity shall bear all expenses of the examination or court proceeding.
- (f) Each individual trustee agrees to cooperate in any examination reasonably necessary for the purpose of determining capacity, agrees to waive the doctor-patient privilege in respect to the results of such examination, and agrees to provide written authorization in compliance with the privacy regulations under the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d) and the provisions of California Civil Code Section 56.10 for the disclosure and use of that trustee's health information and medical records to the extent that such disclosure and

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UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

use are necessary to make a determination of the trustee's capacity. Refusal to submit to the examination, to provide the waiver, or to provide the written authorization when requested by the successor trustee shall be deemed a resignation by that trustee.

7.8 Definition of Education

As used in this instrument, the term "education" refers to the following:

- (a) Education at public or private elementary, junior high, middle, or high schools, including boarding schools;
- (b) Undergraduate, graduate, and postgraduate study in any field, whether or not of a professional character, in colleges, universities, or other institutions of higher learning;
- (c) Specialized formal or informal training in music, the stage, the handicrafts, or the arts, whether by private instruction or otherwise; and
- (d) Formal or informal vocational or technical training, whether through programs or institutions devoted solely to vocational or technical training, or otherwise.

7.9 Number and Gender

As used in this instrument, references in the masculine gender shall be deemed to include the feminine and neuter genders, and vice versa, and references to the singular shall be deemed to include the plural, and vice versa, wherever the context so permits.

7.10 Captions

The captions appearing in this instrument are for convenience of reference only, and shall be disregarded in determining the meaning and effect of the provisions of this instrument.

7.11 Severability Clause

If any provision of this instrument is invalid, that provision shall be disregarded, and the remainder of this instrument shall be construed as if the invalid provision had not been included.

7.12 California Law to Apply

All questions concerning the validity, interpretation, and administration of this instrument, including any trusts created under this instrument, shall be governed by the laws of the State of California, regardless of the domicile of any trustee or beneficiary.

THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980

7.13 Gifts to Heirs

For any gift to "heirs" of the settlor that is made in this instrument, those heirs shall be determined as if the settlor had died intestate at the time for distribution prescribed in this instrument, and the identity and shares of those heirs shall be determined according to the California laws of succession that concern separate property not acquired from a previously deceased spouse and that are in effect at the time the settlor is deemed to have died.

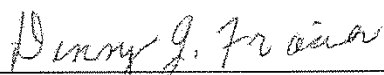
ARTICLE EIGHT. SIGNATURE AND EXECUTION

8.1 Execution

I certify that I have read the foregoing trust agreement and that it correctly states the terms and conditions under which the trust estate is to be held, administered, and distributed. As settlor of the trust created by this trust agreement, I approve this trust agreement in all particulars, and agree to be bound by its terms and conditions. The trustees approve and accept the trust provided for in this trust agreement.

Executed on April 27, 2017, at Newport Beach, California.


SETTLOR-TRUSTEE


Dinny G. Frasier

TRUSTEE


Farmers and Merchants Trust
Company of Long Beach

By:


Lydia Rojas,
Vice President and Trust Officer

**THIRD AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED
UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

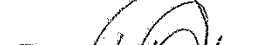
READ & APPROVED BY:
VOGT, RESNICK & SHERAK, LLP
Attorneys at Law



Barnet Resnick
Attorneys for Settlor-Cotrustee

● 1999
● 2000

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.



(Seal)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

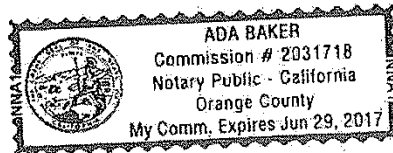
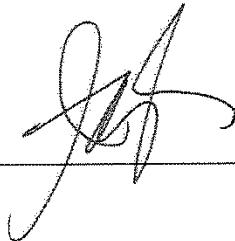
STATE OF CALIFORNIA

COUNTY OF ORANGE

On May 1, 2017 before me, Ada Baker, Notary Public, personally appeared Lydia Rojas, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(seal)

EXHIBIT “30”

EXHIBIT “30”

Janie Mulrain

From: Janie Mulrain
Sent: Thursday, June 01, 2017 4:12 PM
To: Nicole Shrive
Cc: Leah Gregory
Subject: RE: Frasier

Hi Nicole,

I just spoke with Dinny in between my conference sessions. Dinny have no use for the heavy machinery or the tools and she would like them to be sold if possible. Your contact may also want to take a look at the smaller tools and machinery that was moved from the Irvine and stored at the SJC home.

Those large machinery (and the various tools in the garage) was documented back in December 2016 when the SJC and Irvine house was rekeyed by a local locksmith to avoid further unauthorized access by the Frasier kids. That action was taken after Nori continued in her attempt to get a hold of keys to the house in order to access paperwork and documents at the home office. As you recall, I received calls to intervene during Christmas holiday because Nori claimed that she needed the SJC house key to gain access to the rest of the house. When the locksmith was changing the locks, I took pictures of the Irvine home contents and mailed the CD with the pictures to your office.

You had informed me in the past that all household content is trust asset, so I gave instructions to Zuni Movers to box up EVERYTHING and move it to SJC house. That is why it took 2 separate moving days since there was a lot of items at the Irvine house. The two large machinery are the only items remaining as Zuni was not equipped or wanted to be liable for removal and transport.

So far, the only items Dinny had voiced to me about gifting to her kids were certain model planes/trains (I can't remember which) that is located at the Palm Desert home. Dinny mentioned this when she last visited in April. She said she wanted Brad to have those items because she thought that he might like those items of his dad's.

Janie L. Mulrain
California Licensed Professional Fiduciary #768
National Certified Guardian

ETHOS FIDUCIARY SERVICES
15615 Alton Pkwy, Ste. 450, Irvine, CA 92618
Mailing: P.O. Box 61282, Irvine, CA 92602
Tel 949.229.6193 Fax 949.393.2293
Janie@ethosfiduciary.com

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From: Nicole Shrive [mailto:nshrive@premiertrust.com]
Sent: Thursday, June 1, 2017 9:26 AM
To: Janie Mulrain <janie@ethosfiduciary.com>
Cc: Leah Gregory <lgregory@premiertrust.com>
Subject: Frasier

Hi Janie,

I hope you are enjoying PFAC. Too bad you don't have some time to head over the hill and visit with Leah and me. Anyway, I wanted to follow up with you on your thoughts with Joe's machinery that was left in the Pinewood home. I had no idea those items were in there. Obviously it would be a waste to move them to the SJC house because I'm sure Dinny isn't going to be doing any wood work. (I think that one big green machine is a lathe.) What are Dinny's thoughts on those machines? Would she like the kids to have them, or would she like them sold? I have a contact that could take care of getting those out of the house and sold if that is Dinny's wish. Please advise when you have an opportunity.

Thank you,

Nicole Shrive, CIFA, NCG, MBA
Trust Officer



"It's A Matter Of Trust"™

1 East Liberty Street, Suite 600
Reno, Nevada 89501
Direct Phone: (775) 473-2202
Main Phone (775) 473-2200 - Fax (775) 562-4710
Direct Marketing Line (702) 577-1777
nshrive@premiertrust.com

FOLLOW US ON.....



6/1/2017

USPS.com® - USPS Tracking® Results

USPS Tracking® Results

FAQs > (<http://faq.usps.com/?articleid=220900>)

Track Another Package +

Remove X

Tracking Number: 9507100028006358000437

Delivered

On Time

Updated Delivery Day: Tuesday, December 27, 2016 ④

Product & Tracking Information

Postal Product:
First-Class Mail®

Features:
Certified Mail™

See Available Actions

*1/3 size
Home Pictures*

DATE & TIME	STATUS OF ITEM	LOCATION
December 27, 2016, 12:33 pm	Delivered, Left with Individual	RENO, NV 89501
Your item was delivered to an individual at the address at 12:33 pm on December 27, 2016 in RENO, NV 89501.		
December 27, 2016, 8:27 am	Out for Delivery	RENO, NV 89501
December 27, 2016, 8:17 am	Sorting Complete	RENO, NV 89501
December 27, 2016, 5:49 am	Arrived at Unit	RENO, NV 89503
December 27, 2016, 5:23 am	Arrived at USPS Facility	RENO, NV 89503
December 27, 2016, 4:33 am	Departed USPS Facility	RENO, NV 89510
December 24, 2016, 3:10 pm	Arrived at USPS Facility	RENO, NV 89510
December 24, 2016, 4:14 am	Departed USPS Facility	ANAHEIM, CA 92899
December 23, 2016, 8:56 pm	Arrived at USPS Origin Facility	ANAHEIM, CA 92899
December 23, 2016, 3:17 pm	Acceptance (SSK)	IRVINE, CA 92602

See Less ^

Available Actions

See Less ^

<https://tools.usps.com/go/TrackConfirmAction?iLabels=9507100028006358000437>

1/3

3 AA 707

FILED
Electronically
PR16-00128
2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “31”

EXHIBIT “31”

Janie Mulrain

From: Janie Mulrain
Sent: Tuesday, April 04, 2017 7:29 PM
To: Nicole Shrive
Cc: lgregory@premiertrust.com
Subject: Frasier - Palm Desert Gardner
Attachments: 2017-0403 to Elias and Son.pdf; 2017-0403 from Brad Ramos re Palm Desert property condition.pdf

For your reference, please see email from my helper documenting the condition of the yard upon accessing the property on 3/30 (his email had incorrect Thursday – for the week prior on 3/23) and my subsequent correspondence to the gardner.

Once you've received my CD with pictures of the yard, you can tell for yourself that the yard is clearly neglected.

Once tax season is over, I will work w/Brad (my local contact) to get a gardner and housekeeping in place as Dinny plans on returning on a regular basis.

Janie L. Mulrain
CLPF #768, NCG
ETHOS FIDUCIARY SERVICES
P.O. Box 61282, Irvine, CA 92602
Tel 949.229.6193 Fax 949.393.2293
janie@ethosfiduciary.com

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Janie Mulrain

From: Brad Ramos <bradramos@gmail.com>
Sent: Monday, April 3, 2017 9:36 PM
To: Janie Mulrain
Subject: Frasier Residence Appearance

Ms. Mulrain,

On March 23, 2017 I arrived at the Frasier Residence 78985 Lavender Circle, Palm Desert, Ca 92211 (Del Webb Sun City)

As I parked in front of the residence I saw that the front yard area which is owner maintained, was overgrown with smaller weeds, and several plants were dead (rose bushes), the residence front yard is considered to be Xeriscape landscaping. Most of the pathway lights were knocked over or broken, the walkway to the front door was overgrown with a large bougenvilla which ran from the entire length of the walkway to the first step to the front door landing. This would make it difficult for a person without mobility issues to navigate to the front door.

On the West side yard there were (2) trees that were dead. This is non-HOA maintained.

The backyard was in a worse state of condition than the front yard as most the weeds had overgrown to 12-40 inches in height, and the patio was full of debris and sand which had not been cleaned in several months or longer, there was an overgrown tree branches laying on the lattice patio cover that with their weight could cause damage.

Brad Ramos

USPS Tracking® Results

FAQs > (<http://faq.usps.com/?articleId=220900>)

Track Another Package +

Remove X

Tracking Number: 9507100028007094000880

Delivered

Updated Delivery Day: Friday, April 7, 2017 ⓘ
Product & Tracking Information

See Available Actions

Postal Product:
First-Class Mail®

Features:
Certified Mail™

*Palm
Desert
Home
Pictures*

DATE & TIME

STATUS OF ITEM

LOCATION

April 7, 2017, 11:28 am

Delivered, Left with Individual

RENO, NV 89501

Your item was delivered to an individual at the address at 11:28 am on April 7, 2017 in RENO, NV 89501.

April 7, 2017, 9:15 am

Out for Delivery

RENO, NV 89501

April 7, 2017, 8:45 am

Sorting Complete

RENO, NV 89501

April 7, 2017, 7:15 am

Arrived at Unit

RENO, NV 89503

See More ∨

Available Actions

See Less ^

Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

FAQs (<http://faq.usps.com/?articleId=220900>)

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Doyle Law Office, PLLC and that on the 11th day of June, 2019, a true and correct copy of the above **APPELLANT'S APPENDIX** was e-filed and e-served on all registered parties to the Nevada Supreme Court's electronic filing system as listed below:

Patrick Millsap
Wallace & Millsap LLC
510 W. Plumb Lane, Ste. A
Reno, NV 89509

G. David Robertson, Esq.
Robertson, Johnson, Miller, & Williamson
50 West Liberty Street, Suite 600
Reno, NV 89501

Michael A. Rosenauer
Michael A. Rosenauer, Ltd.
510 West Plumb Lane, Suite A
Reno NV 89509

And by depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; to all participants not registered for electronic filing:

Nori Frasier
4372 Pacifica Way, Unit 3
Oceanside, CA 92056

Bradley L. Frasier, M.D.
3609 Vista Way
Oceanside, CA 92056

DATED this 11th day of June, 2019.

_____/s Kerry S. Doyle
Kerry S. Doyle

Kerry S. Doyle, Esq.
Nevada Bar No. 10866
DOYLE LAW OFFICE, PLLC
4600 Kietzke Lane, Ste. I-207
Reno, NV 89502
(775) 525-0889
kerry@rdoylelaw.com

Attorneys for Appellant

IN THE SUPREME COURT FOR THE STATE OF NEVADA

IN THE MATTER OF THE JORDAN
DANA FRASIER FAMILY TRUST

AMY FRASIER WILSON,

Appellant,

v.

DINNY FRASIER; PREMIER TRUST,
INC.; JANIE L. MULRAIN; NORI
FRASIER; and BRADLEY L. FRASIER,
M.D.;

Respondents.

Case No. 77981

APPELLANT'S APPENDIX

VOL. 3

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3880

Barnet Resnick, Esq. [admitted pro hac vice]
Gina H. Kim, Esq.
VOGT/RESNICK/SHERAK, LLP
4400 MacArthur Boulevard, Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849
Ph: 949-851-9001
Fax: 949-833-3445
Lead Counsel for Mrs. Dinny Frasier

IN THE SECOND JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

In the Matter of the

JORDAN DANA FRASIER FAMILY TRUST

Case No: PR16-00128

Dept. No.: 15 [PR]

MRS. DINNY FRASIER'S RESPONSE AND OBJECTION TO PREMIER
TRUST'S SECOND SUPPLEMENTAL PETITION FOR INSTRUCTIONS

COMES NOW, Mrs. Dinny Frasier ("Mrs. Frasier"), in her individual capacity,
by and through her counsel of record, the law firms of Vogt, Resnick & Sherak, LLP
("VRS"), lead counsel, and Wallace & Millsap, LLC ("Wallace & Millsap"), local
counsel, and hereby submit the following response and objections to the Second
Supplemental Petition for Instructions filed in this Court by Premier Trust, Inc.
("Premier") on or about June 1, 2017 ("Second Supplemental Petition") and Amy
Frasier-Wilson's Joinder to the Second Supplemental Petition filed by Amy Frasier-
Wilson on or about June 19, 2017.

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1 **I. INTRODUCTION/FACTUAL BACKGROUND**

2 An evidentiary hearing in the Jordan Dana Frasier Family Trust (“Trust”) was
3 held in this Court on May 9, 2017. At said hearing, the Court approved the settlement
4 agreement that resulted from the court-ordered mediation held on January 27, 2017
5 (“Settlement Agreement”). One of the terms of the Settlement Agreement was a
6 qualified gerontologist assess Mrs. Frasier’s capacity to contract and to make
7 testamentary disposition of her estate. See **Exhibit 1**, Order, and **Exhibit 2**,
8 Settlement Agreement. This Court also ordered Premier shall not be removed as a
9 co-trustee of the Trust without order of this Court. See **Exhibit 3**, May 9, 2017
10 Hearing Partial Transcript.

11 To address the concerns of those who continued to question Mrs. Frasier’s
12 capacity after a capacity assessment meeting with James E. Spar, M.D. (“Dr. Spar”)
13 on February 28, 2017, Mrs. Frasier voluntarily subjected herself to a second
14 assessment meeting with Dr. Spar on May 19, 2017. See **Exhibit 4** Dr. Spar’s
15 Assessment Letter. After the May 19, 2017 assessment, Dr. Spar concluded in his
16 letter dated May 22, 2017 (“Dr. Spar’s May 22nd Letter”) that although Mrs. Frasier
17 has slight to moderate memory impairment, she is competent to make trust-related
18 decisions, such as to hire and fire her attorneys. See **Exhibit 4**.

19 Following Mrs. Frasier’s second assessment with Dr. Spar, a meeting was
20 scheduled for trust counsel David Robertson (“Mr. Robertson”) and Nicole Shrive,
21 trust officer at Premier Trust (“Ms. Shrive”), to meet with Mrs. Frasier on May 25,
22 2017. On or about May 24, 2017, Mrs. Frasier informed her personal attorney, Barnet
23 Resnick (“Mr. Resnick”), and Janie Mulrain (“Ms. Mulrain”), a California licensed
24 private professional fiduciary, who is Mrs. Frasier’s attorney-in-fact under her
25 Durable Power of Attorney, she wanted to cancel the May 25th meeting. Mr. Resnick
26 relayed this message to Mr. Robertson. See **Exhibit 5**, May 24, 2017 E-mail to
27 Robertson. On that same day, Mr. Resnick and Ms. Mulrain asked Mrs. Frasier to
28 reconsider holding the meeting, but Mrs. Frasier was adamant she did not wish to

1 see either Mr. Robertson or Ms. Shrive. Mrs. Frasier was concerned about the
2 expenditure of trust assets that would result from Mr. Robertson and Ms. Shrive
3 needlessly traveling from Reno to Orange County.

4 On the same day, Bradley Richardson of Fennemore Craig, who is the former
5 Nevada local counsel for Mrs. Frasier individually, called Mr. Robertson to inform
6 him of Mrs. Frasier's intent to replace Premier with another corporate co-trustee and
7 to disengage David Robertson as her attorneys in her capacity as co-trustee. See
8 **Exhibit 6**, May 24, 2017 E-mail from Richardson. Mr. Robertson indicated he would
9 resist any efforts to have his firm and Premier replaced. See **Exhibit 6**. On or about
10 May 25, 2017, Mr. Resnick sent a letter to Mr. Robertson ("May 25th Letter") to
11 confirm Mr. Robertson's stated intent to resist any removal efforts and to provide Mr.
12 Robertson and Premier another opportunity to acquiesce in Mrs. Frasier's plans for
13 replacement. See **Exhibit 7**, May 25th Letter to Robertson. The May 25th Letter
14 further stated if Premier and Mr. Robertson continued to resist removal, Mrs. Frasier
15 would seek court approval to remove and replace Premier and to disengage Robertson
16 & Johnson. See **Exhibit 7**. To date, Mr. Robertson has not responded to the May
17 25th letter. Instead, Premier filed its Second Supplemental Petition for Instructions
18 in which it seeks court instruction with respect to whether Premier should continue
19 serving as co-trustee, which the instant Response and Objections addresses. See
20 **Exhibit 8**, Second Supplemental Petition.

21 On or about June 2, 2017, Mr. Millsap (new local counsel for Mrs. Frasier,
22 individually) called Mr. Robertson to inform him that Wallace & Millsap LLC would
23 be substituting in as local counsel for Mrs. Frasier in place of Fennemore Craig. Mr.
24 Robertson voiced his and Premier's concern that Mrs. Frasier may be unduly
25 influenced. Mr. Robertson requested an in-person meeting with Mrs. Frasier to
26 determine whether her decision to terminate Premier was free of undue influence.
27 To alleviate any concerns of undue influence, Mr. Millsap offered to arrange a video
28 conference with Mrs. Frasier, Mr. Resnick, Mr. Robertson, and Ms. Shrive so they

1 could directly converse with Mrs. Frasier about her decision to terminate Premier
2 and Mr. Robertson's firm. Mr. Robertson indicated he would relay this offer to
3 Premier but that he suspected an in-person meeting would be required. To date,
4 neither Premier nor Mr. Robertson has formally responded as to whether Premier
5 would agree to a video conference with Mrs. Frasier instead of an in-person meeting.
6 Following the phone call, Mr. Millsap sent a letter to Mr. Robertson to propose retired
7 Appellate Justice Jeffrey King, who served as the mediator at the aforementioned
8 January 27, 2017 mediation, serve as an independent third party to interview Mrs.
9 Frasier, as a means to ensure her decision to replace Premier and Mr. Robertson's
10 firm was not the product of undue influence. See **Exhibit 9**, Millsap Letter.

11 Justice King was offered because he is a neutral third party who, as a
12 consequence of mediating the case on January 27, 2017, has sufficient knowledge of
13 the facts surrounding the trust, the family dynamics, and the litigation, and would
14 therefore be the best option to assess whether Mrs. Frasier was acting under undue
15 influence. Despite these factors, Mr. Robertson rejected this proposal. There is no
16 sound basis for his rejection of Retired Appellate Justice King because Justice King
17 has only met and spoken to Mrs. Frasier and Mr. Resnick at the mediation, and has
18 no preconceived notions of capacity or undue influence. Rather, Justice King was a
19 neutral third party who could evaluate Mrs. Frasier's capacity based on his
20 knowledge of the law, the facts of this case, and the dynamics of the family.
21 Accordingly, Mr. Robertson's rejection of Appellate Justice King was without
22 foundation.

23 Mr. Robertson and Ms. Shrive countered the proposal of Retired Appellate
24 Justice King evaluating Mrs. Frasier with his offer to have attorney H. Brooks Travis
25 meet with Mrs. Frasier to assess whether she is acting under undue influence.
26 However, Mr. Travis' impartiality was in doubt, which stems from his drafting of
27 documents related to the Survivor's Trust in or about May of 2015, which amendment
28 provided that Amy Frasier-Wilson receives all of the trust assets, thereby

1 disinheriting her two siblings, Bradley Frasier and Nori Frasier. *See Exhibit 10*,
2 First Amendment and Restatement of the Survivor's Trust. As such, Mr. Travis was
3 not a proper party to evaluate Mrs. Frasier based on his questionable involvement in
4 a proposed Trust Amendment.

5 On or about June 6, 2017, Mrs. Frasier sent a letter of termination of Mr.
6 Robertson's firm as her attorneys as co-trustee of the Trusts via certified mail and
7 therein requested that the firm return all of Mrs. Frasier's client files by or before
8 June 12, 2017. *See Exhibit 11*, Letter of Termination. Mrs. Frasier also requested
9 Mr. Robertson send a letter of acknowledgment of receipt to her through Mr. Resnick.
10 *See Exhibit 11*. Mr. Robertson did not comply with Mrs. Frasier's request for
11 confirmation, nor has his firm returned her client files.

12 On or about June 12, 2017, Mr. Resnick sent a letter via certified mail and via
13 electronic mail to Premier Trust in care of Mr. Robertson's firm to demand an
14 accounting of the Survivor's Trust and the Tax Exemption Trust, to be provided to
15 Mrs. Frasier. *See Exhibit 12*, Letter Demanding Accounting. The letter pointed out
16 Premier Trust was required by the terms of the Trust to provide an accounting of
17 both Subtrusts to Mrs. Frasier at least annually, but that no accounting had been
18 provided in over two years since Premier Trust assumed trusteeship of the Trust in
19 May of 2015. *See Exhibit 12*. This failure evidences Premier's noncompliance with
20 the terms of Trust and validated Mrs. Frasier's decision to terminate Premier Trust.

21 On June 16, 2017 Mr. Resnick attended by phone and Mr. Millsap attended in
22 person a meeting with Mr. Robertson and Ms. Shrive to discuss resolution of
23 Premier's Second Supplemental Petition for Instructions. Mr. Robertson presented
24 six terms as conditions for Premier Trust's voluntary resignation as trustee. First,
25 Ms. Shrive will meet with Mrs. Frasier to review the accounting of the trust. Second,
26 Ms. Shrive will talk to Lydia Rojas, trust officer at Farmers and Merchants Trust
27 Company, who Mrs. Frasier nominated to replace Premier Trust as corporate trustee.
28 Third, Mrs. Frasier must be made aware that Premier did not choose the San Juan

1 Capistrano ("SJC") House. Fourth, Premier Trust must "understand" Mrs. Frasier's
2 situation. Fifth, Mrs. Frasier must be made aware that her daughter, Amy Frasier-
3 Wilson, and her husband Bill Wilson, were willing to move in with Mrs. Frasier and
4 care for her. Sixth, Premier's accounting must be approved by the court. Also during
5 the meeting, Mr. Robertson stated he sent via certified mail a letter in response to
6 Mrs. Frasier's letter to terminate his firm, and that he would email a copy of that
7 letter to Mrs. Frasier's email address.

8 After the June 16, 2017 meeting/call, Mr. Resnick presented the six terms to
9 Mrs. Frasier, and Mr. Resnick's letter to Mr. Robertson advising him of Mrs. Frasier's
10 responses was sent to Mr. Robertson on or about June 19, 2017. *See Exhibit 13*,
11 Resnick to Robertson Letter. The letter addressed each of the six conditions proposed
12 by Premier Trust.

13 With respect to the first term, Mr. Resnick informed Mr. Robertson Mrs.
14 Frasier did not want to meet with Ms. Shrive in person to review the trust accounting.
15 *See Exhibit 13*. In fact, there is no requirement under the terms of the Trust or by
16 order of this Court that Premier meet with Mrs. Frasier to review the accounting
17 together in person. *See Exhibit 13*. Mr. Resnick proposed that Premier send the
18 accounting by mail for Mrs. Frasier's review. *See Exhibit 13*.

19 With respect to the second term, Mr. Resnick informed Mr. Robertson that Mrs.
20 Frasier consents to Ms. Shrive calling Ms. Rojas. *See Exhibit 13*. Mr. Resnick's
21 associate, Gina Kim, provided Ms. Rojas' contact information to Ms. Shrive and Mr.
22 Robertson on June 16, 2017.

23 With respect to the third term, Mr. Resnick informed Mr. Robertson that he
24 would make Mrs. Frasier aware Premier did not choose the SJC House, and have
25 Mrs. Frasier sign an acknowledgment of the same. *See Exhibit 13*. Mr. Resnick
26 pointed out in his letter, however, that while Premier may have not chosen the
27 particular house, Premier Trust did agree to the purchase of the house, as no sale
28 could have occurred without Premier's signature. *See Exhibit 13*.

1 With respect to the fourth term, Mr. Resnick proposed to address Premier's/Mr.
2 Robertson's concerns of undue influence by having an independent third party meet
3 with Mrs. Frasier alone to ensure that she is not acting under outside influence. *See*
4 **Exhibit 13**. To date, Mrs. Frasier, by and through her attorneys of record, have
5 proposed to Mr. Robertson several alternatives to an in-person meeting with Mrs.
6 Frasier, all of which Mr. Robertson has either rejected or refused to affirmatively
7 agree to. Mrs. Frasier has offered to speak to Mr. Robertson via video conference so
8 that he can see for himself whether she was acting under undue influence, but Mr.
9 Robertson rejected this proposal. Mrs. Frasier offered to meet with Retired Appellate
10 Justice Jeffrey King, which was rejected by Premier Trust. It appeared Premier
11 Trust was only willing to remove itself as Trustee after traveling to Southern
12 California to meet with Mrs. Frasier at the expense of the Trust and more
13 importantly, against Mrs. Frasier's wishes.

14 With respect to the fifth term, Mr. Resnick informed Mr. Robertson that Mrs.
15 Frasier is against her daughter, Amy Frasier-Wilson, and son-in-law, Bill Wilson,
16 moving in with her. *See Exhibit 13*. Mrs. Frasier's disappointment with her children
17 have been clearly relayed to them, as well as to Premier Trust. Furthermore, Mrs.
18 Frasier has been told by her primary care physician, Michael Haga, M.D. ("Dr.
19 Haga"), that unwanted contact such as those with her children and trustee has been
20 a great source of stress to Mrs. Frasier and that many of her medical issues are
21 worsened by this ongoing stress. *See Exhibit 14*, June 23, 2017 Dr. Haga Letter.

22 With respect to the sixth term, Mr. Resnick requested that the long overdue
23 accounting be immediately provided to Mrs. Frasier and that it be submitted to this
24 Court for approval, and that Mrs. Frasier would make objections to the accounting, if
25 any, through this Court. *See Exhibit 13*.

26 Premier Trust responded to Mr. Resnick's letter through its Counsel by email
27 to Ms. Gina Kim on July 6, 2017, wherein Premier Trust claimed the substantive
28 issues in Mr. Resnick's letter were not moot based on the Court's July 6, 2017 Order

1 Regarding Hearing. See **Exhibit 15**, July 6, 2017 E-mail from Robertson to Kim.
2 Contrary to Premier's assertion, the issues are not moot.

3 First, the issue of holding a meeting between Mrs. Frasier and Ms. Shrive to
4 review Premier's accounting was not made moot by this Court's Order after Hearing.
5 As noted above, Premier has not provided an accounting in over two years. In the
6 June 19th Letter, Mrs. Frasier requested Premier provide the accounting and send it
7 to Mrs. Frasier for her review as soon as possible. To date, the accounting issue has
8 not been resolved, nor has Premier provided a date on which Mrs. Frasier may expect
9 to receive the long over-due accounting. Instead of providing an accounting or even
10 responding to Mrs. Frasier's request for an accounting, Premier is refusing to address
11 this issue by inaccurately claiming this Court's Order made the accounting issue a
12 moot point, although this Court's order did not address the accounting issue in any
13 shape or form.

14 Secondly, Ms. Kim sent the contact information of Lydia Rojas, senior trust
15 officer at Farmers and Merchants Trust Company, who Mrs. Frasier wishes to
16 appoint as the successor corporate trustee. Mrs. Frasier is unaware of the reason
17 why Premier chose not to reach out to Ms. Rojas as discussed at the June 16th
18 meeting/call. Furthermore, Mrs. Frasier is unaware of any events that occurred since
19 the June 16th meeting/call which led to Mr. Robertson's July 6, 2017 email in which
20 he stated, "It is unfortunate that we were unable to use that meeting and telephone
21 conference to productively discuss options and solutions - with Barry instead taking
22 a contentious stand and refusing to engage in meaningful resolution discussions." See
23 **Exhibit 15**. Since sending the June 19th Letter to Mr. Robertson, Mr. Resnick had
24 been waiting for a response to the six items in the letter. Now, Mr. Robertson claims
25 it is Mr. Resnick who is "refusing to engage in meaningful resolution discussions,"
26 without providing any reason as to why he now feels that resolution discussions
27 would be futile. See **Exhibit 15**.

1 **II. OBJECTIONS AND RESPONSES TO SECOND SUPPLEMENTAL**
2 **PETITION FOR INSTRUCTIONS**

3 In its Second Supplemental Petition, Premier Trust makes numerous
4 misrepresentations and omits crucial facts regarding Mrs. Frasier's capacity. Mrs.
5 Frasier's response and objections to Premier's allegations in the Second
6 Supplemental Petition for Instructions which require clarification and/or correction
7 are hereby addressed in turn.

8 A. Paragraph 17

9 Contrary to Premier Trust's inaccurate statement at Lines 14-16 of Paragraph
10 17 of its Petition, this Court did not "observe" (nor comment or rule), that this
11 situation is unworkable (that Premier Trust and Trust Counsel cannot just pick up
12 the phone and talk to their client). Rather, the Court was repeating what Premier
13 Trust had represented to the Court but there was legal or factual finding in this
14 regard made by the Court. See **Exhibit 3**, page 4, lines 6:13.

15 B. Paragraph 19-23

16 Mrs. Frasier does not wish to have any contact with Trust Counsel and Premier
17 Trust due to the stress it causes her and her frustration with Premier's perceived lack
18 of performance. As Mr. Resnick informed the Court at the May 9, 2017 hearing, it is
19 Mrs. Frasier who does not wish to communicate with Premier Trust or with Mr.
20 Robertson outside the presence of Mr. Resnick. Premier Trust makes several
21 misrepresentations in its petition, such as at Lines 20-22, Paragraph 19 wherein it
22 states, "Mr. Resnick now indicates that Dinny Frasier refuses to speak with either
23 Premier Trust or trust counsel at all, even if Mr. Resnick is present, and that she
24 wants to terminate both Premier Trust and trust counsel. Mr. Resnick has also now
25 written a letter requesting such termination." (emphasis added).

26 Such statements suggest Premier Trust assumes it is Mr. Resnick who is
27 orchestrating the removal and replacement of Premier Trust and the termination of
28 Mr. Robertson's firm as Mrs. Frasier's trust counsel. To the contrary, in almost every

1 meeting and phone call between Mrs. Frasier and Mr. Resnick, Mrs. Frasier has
2 requested Mr. Resnick's assistance in removing Premier Trust and disengaging Mr.
3 Robertson's firm. The letter that Mr. Resnick wrote to Mr. Robertson as referenced
4 in Line 22, Paragraph 19 of its Petition was sent by Mr. Resnick on behalf of Mrs.
5 Frasier to relay Mrs. Frasier's desire to remove and replace Premier Trust. Mrs.
6 Frasier has expressed her clear desire to "fire" Premier Trust and to terminate Mr.
7 Robertson's representation of her as co-trustee to not only Mr. Resnick but to
8 numerous others.

9 In paragraphs 21-24, Premier claims that "all communications between Dinny
10 and her children and grandchildren were severed – allegedly at Dinny's request" and
11 implied that such action was due to "...shortly after Mr. Resnick arranged for a
12 fiduciary, Janie Mulrain, to take over Dinny's personal finances."

13 By making this claim, Premier is attempting to mislead this Court by
14 purposely omitting critical background information that it has full knowledge of.
15 What Premier has self-servingly failed to mention is that the restrictions and the
16 severing of Mrs. Frasier's contact with her children and certain third parties were all
17 plans in which Premier and Mr. Robertson were involved as members of "Dinny's
18 Team" as explained in detail below.

19 C. Paragraph 23:

20 Premier again attempts to mislead this Court by taking an email that Nori
21 Frasier had sent to Mr. Resnick out of context. Soon after Mr. Resnick was engaged
22 by Mrs. Frasier, Mrs. Frasier told Mr. Resnick that she did not want to see or talk to
23 her children, but nobody had helped her effectuate this intent. Soon after Nori was
24 informed of her mother's desire not to see her, she sent an email to Mr. Resnick and
25 Ms. Mulrain that "[Mr. Resnick] and Janie are destroying my mother day by day."
26 See **Exhibit 16**, December 27, 2016 E-mail from Nori. Nori's sentiments toward Mr.
27 Resnick and Ms. Mulrain have changed drastically since the outdated December 27,
28 2016 – e-mail that Premier presents in its Second Supplemental Petition. As

1 evidenced by Nori's emails which were written subsequent to the December 2016 e-
2 mail cited by Premier Trust, Nori feels gratitude toward Mr. Resnick that he is
3 helping her mother. *See Exhibit 17*, January 24, 2017 E-mail from Nori to Resnick
4 and Schwartz. In fact, Nori has expressed mistrust and apprehension toward
5 Premier Trust and Mr. Robertson's firm and observed, "For as much money as this
6 has cost and the Reno lawyers have received, it cancels out what could have been."
7 *See Exhibit 17*.

8 D. Paragraph 25-28:

9 Mrs. Frasier objects to allegations made by Premier Trust in Paragraphs 25-
10 28 with respect to the circumstances surrounding the May 25, 2017 meeting. As
11 explained above in detail, the May 25th meeting was canceled at the request of Mrs.
12 Frasier because she was not feeling well and because she did not want to meet Mr.
13 Robertson and Ms. Shrive in person, due to concerns over trust expenditures and
14 feelings of hostility toward them. Furthermore, the May 25th meeting was not
15 "confirmed on May 9, 2017," but rather, it was tentatively set for May 25th, contrary
16 to what Premier alleges in Paragraph 26. Mr. Resnick and Ms. Mulrain did
17 everything they could for the May 25th meeting to take place as scheduled, but the
18 situation was beyond their control, as the health and well-being, as well as the strong
19 opinions, of Mrs. Frasier were factors to be considered. Mrs. Frasier decision to cancel
20 the meeting with Premier Trust and Mr. Robertson was purely her own choice and
21 not the product of undue influence or coercion.

22 Premier Trust inaccurately states in Paragraph 28 that "...both Premier Trust
23 and trust counsel now apparently have no ability to communicate with Dinny at all,
24 even with Mr. Resnick present." Quite to the contrary, Mrs. Frasier and her
25 California and Nevada counsel have made many efforts to propose a resolution to the
26 situation, through letters and telephone calls, as described above in detail. For
27 instance, the telephone and/or video conference that Mr. Millsap proposed to Mr.
28 Robertson to alleviate Premier's concerns of undue influence was rejected by Mr.

1 Robertson. When making the proposal, Mr. Millsap even relayed Mrs. Frasier's
2 reasons for not wanting to meet with him and Ms. Shrive in person, based on her
3 personal physician Dr. Haga's recommendation that she be as stress free as possible
4 and concerns over increased expenses to the Trust. *See Exhibit 14*. Despite these
5 valid concerns, Mr. Robertson rejects and continues to insist on an in-person meeting
6 with Mrs. Frasier, directly contrary to her stated intent. Mrs. Frasier is baffled as to
7 Mr. Robertson's continuing insistence on traveling to southern California to meet
8 with her in person, especially since there is nothing in this Court's orders that
9 requires him or Ms. Shrive to meet with Mrs. Frasier in person. *See Court Docket*.

10 It is quite apparent that Mrs. Frasier wishes to have no contact with Ms.
11 Shrive, Mr. Robertson or any of the attorneys at his firm, and as a result, Premier
12 Trust should no longer serve as corporate trustee of the Trusts. Given Mrs. Frasier's
13 reluctance to use a trustee who has mismanaged trust assets and has failed to fulfill
14 its fiduciary duties, it seems imperative that another corporate trustee of her
15 choosing, namely, Farmers and Merchants Trust Company, replace Premier Trust to
16 avoid further conflict and stress upon Mrs. Frasier.

17 E. Paragraphs 29:

18 Premier Trust makes a misrepresentation in Paragraph 29, wherein it states:
19 "At no point in time has Dinny herself ever personally advised either Premier Trust
20 or trust counsel that she does not want to communicate with them." Mrs. Frasier
21 handwrote a letter which was delivered by VRS to Mr. Robertson via electronic mail
22 at her request. The letter stated Mrs. Frasier's desire and request that she does not
23 want to communicate with him or Premier without her personal attorney, Mr.
24 Resnick, present in all communications. *See Exhibit 18*, Handwritten Letter.

25 F. Paragraph 30-33:

26 Premier Trust's and Mr. Robertson's insistence on an in-person meeting with
27 Mrs. Frasier appears to hinge on their suspicions of third-party manipulation,
28 coercion, and undue influence over Mrs. Frasier. In Paragraphs 30-31, Premier Trust

1 cites a brief telephone call that took place between Mr. Robertson and Mrs. Frasier
2 on or about April 18, 2017, as evidence to support its claim that Mrs. Frasier has no
3 ill feeling toward Mr. Robertson or Premier Trust and that any claims by third parties
4 of such ill feeling are completely fabricated as a result of their desire to unduly
5 influence Mrs. Frasier.

6 As Desarae Boyles, who was one of Mrs. Frasier's caregivers, can testify at the
7 hearing, Mr. Robertson called for Mrs. Frasier on or about April 18, 2017 during Ms.
8 Boyles' shift. Mrs. Frasier took the call on speaker, as is customary for all calls that
9 she takes at home. Mr. Robertson asked Mrs. Frasier how her day was. They also
10 spoke about the weather for a few minutes. Then Mr. Robertson asked Mrs. Frasier
11 if she wanted something that was fair for her children. Mrs. Frasier seemed confused
12 but responded "yes." Ms. Boyles is informed and believes that Mrs. Frasier would not
13 have wanted to speak to Mr. Robertson had she known who was calling her. Mrs.
14 Frasier is 88 years old and has some memory problems according to Dr. Spar, due at
15 least in part to her advanced age. See **Exhibit 4**. Naturally, she has trouble
16 remembering names, especially those of trust attorneys recently retained. See
17 **Exhibit 4**.

18 Moreover, Premier Trust alleges at paragraph 33 that Mrs. Frasier "allegedly
19 wrote a statement that she did not wish to further speak with either Premier Trust
20 or trust counsel without Mr. Resnick present...This written statement is quite
21 strange in that two identical phrases are accidentally and incorrectly repeated in the
22 same sentence, suggesting that Dinny was trying to copy down what someone else
23 was dictating to her." Mrs. Frasier expressly denies that her handwritten letter
24 contains anything other than her own wishes. It is unreasonable for Premier Trust
25 to presume that the repetition of a few words in a letter written by an 88-year old
26 proves the letter was dictated to her by a third party.

27 Furthermore, Premier Trust is attempting to substitute its own opinion of Mrs.
28 Frasier's competency over that of Dr. Spar, who is a highly qualified gerontologist,

1 and who has concluded in his medical opinion, after two capacity assessment
2 meetings with Mrs. Frasier, something that is in direct contradiction to what Premier
3 is claiming – that Mrs. Frasier has testamentary and contractual capacity.
4 Furthermore, it is disconcerting to see that Premier Trust is now raising objections
5 about Dr. Spar’s qualifications, after failing to object to him at any time prior to their
6 Petition, raise it as an issue at the May 9, 2017 hearing, or at the May 16, 2017
7 telephonic hearing. *See Exhibit 4, Exhibit 19*, Dr. Spar Letter Dated April 7, 2017.
8 Accordingly, Premier is estopped from contesting the qualifications and competency
9 of Dr. Spar after failing to do so on two prior occasions. It is not the place of Premier
10 Trust as a cotrustee to provide a medical opinion about Mrs. Frasier’s capacity and
11 susceptibility to undue influence or manipulation. Dr. Spar specifically indicated
12 Mrs. Frasier’s “clear understanding of her circumstances was reflected in her ability
13 to provide a perfectly rational explanation for her decision to fire her current trustee
14 and appoint another. *See Exhibit 4*. To express this in California statutory
15 language, with respect to her decision to replace her trustee, she was able to
16 communicate the decision, and to understand and appreciate, to the extent relevant,
17 the rights, duties, and responsibilities affected by the decision; the probable
18 consequences for herself and the other persons affected by the decision; and the
19 significant risks, benefits, and reasonable alternatives involved in the decision.
20 Therefore, Dr. Spar concluded Mrs. Frasier is equally competent to make other trust-
21 related decisions, such as to hire and fire and work with her attorneys as the need
22 arises. *See Exhibit 4*.

23 G. Paragraph 34-39

24 It is true that Mrs. Frasier’s engagement of Mr. Resnick and Ms. Mulrain
25 coincided with the severance of direct communications between Mrs. Frasier and her
26 children. The reason for this is quite simple. As Mr. Bruce Schwartz will attest to at
27 the hearing, Mrs. Frasier was extremely unhappy with the situation surrounding her
28 children. She felt used by her children and that they cared only about her money and

1 not about their own mother. She could not trust her children, as she suspected one
2 or more stealing money from her, manipulating her to modify her estate plan, and
3 eyeing her money while she is still alive. Whereas Mrs. Frasier had no one to truly
4 advocate for her best interest, Mr. Resnick and Ms. Mulrain were the first ones who
5 actually listened to Mrs. Frasier and made possible everything that Mrs. Frasier had
6 wanted to do but had nobody to ask to implement. Even Mr. Robertson and Premier
7 said they thought Ms. Mulrain was the "best thing" that happened to Mrs. Frasier.

8 With respect to Premier's allegations of Mrs. Frasier's isolation from non-
9 family members, Premier omits crucial facts in this respect. For example, Premier
10 omits the fact that the severance of communications between Mrs. Frasier and her
11 children and certain other individuals, such as Russell Bahktiari, stemmed from
12 numerous incidents involving Dinny, which led to strategy sessions between
13 members of "Dinny's Team," which included Mr. Resnick, Ms. Mulrain, Ms., Shrive,
14 and Mr. Robertson and Mr. Williamson. The need for the strategy sessions arose
15 from numerous incidents since December of 2016 involving Mrs. Frasier's children or
16 third parties whose forceful and unwanted intrusions into Mrs. Frasier's life
17 necessarily led to the isolation efforts that Premier is now accusing Mr. Resnick and
18 Ms. Mulrain of.

19 One such strategy session was a conference call among Dinny's Team that was
20 held on December 13, 2016. One of the results of the strategy session was Dinny's
21 Team tasking Ms. Mulrain with the marshalling of Mrs. Frasier's personal Bank of
22 America account, as Dinny's Team suspected unauthorized access of this account by
23 Nori Frasier, working with Ms. Shrive to move back Mrs. Frasier from the SJC House
24 to her old Irvine neighborhood in an appropriately-sized, single-story house with 24/7
25 care or in an assisted living facility, and to take videos to document contents of Mrs.
26 Frasier's unoccupied homes in Irvine and Palm Desert and to change the locks for all
27 three properties to secure and prevent further access by unauthorized persons. Both
28 Ms. Shrive and Mrs. Frasier consented to obtaining a lockbox so as to avoid future

1 access by unauthorized persons into Mrs. Frasier's properties. Dinny's Team felt that
2 securing the properties and installing lockboxes were necessary because keys had
3 gone missing or were taken by Nori in order to access the SJC house and its contents
4 at her discretion.

5 Two additional conference calls among Dinny's Team were held on December
6 27, 2016 to discuss related issues. The first call took place right after Ms. Mulrain
7 spoke by phone with Senior Social Worker Anna Fedorovsky of Orange County Adult
8 Protective Services, the purpose of which was to report incidents of Nori breaking
9 into the lockbox at Mrs. Frasier's home around Christmas of 2016. Given the
10 circumstances surrounding that time, which coincides with Mrs. Frasier's
11 engagement of Mr. Resnick and Ms. Mulrain, the tone of Nori's unhappy email from
12 December 27, 2017 that Premier cites in paragraph 23 of its Petition is not a surprise.
13 Due to Nori's conduct around that time, it was essential that Mrs. Frasier be
14 protected from her by severing all contact. However, Premier makes a bad faith
15 accusation that Mrs. Frasier was wrongly isolated from her children and others by
16 Mr. Resnick and Ms. Mulrain, when Premier was aware all along what events led to
17 the necessary separation of Mrs. Frasier from certain individuals.

18 With respect to Premier's allegations in paragraphs 36-38, Mrs. Frasier
19 acknowledges that she used to consider Nasser S. Bakhtiari ("Russell") a friend in
20 the past. However, that changed when Mrs. Frasier found out her daughter Amy and
21 son-in-law Bill orchestrated the purchase and closing of her SJC House while Mrs.
22 Frasier was recuperating in a rehabilitation facility after her fall during the summer
23 of 2016, and that Mr. Bakhtiari was the agent in the sales transaction. Mrs. Frasier
24 did not select or authorize the purchase of the house. She did not want to move out
25 of her old Irvine neighborhood. Moreover, evidence shows that no inspections were
26 performed prior to the purchase of the house. The house is fraught with defects that
27 should have been detected had due diligence been performed, such as a broken
28 garbage disposal, broken air conditioner, two non-operative water fountains, broken

1 stove spark/ignitor, and electrical problems with GFI being tripped and outlets going
2 out multiple times a day, along with a defective sprinkler system.

3 Finding out that Russell had been the agent on the sale greatly angered Mrs.
4 Frasier because she had trusted him until that point and, therefore, felt betrayed that
5 he would conspire with Amy and Bill to force her to move out of her beloved Irvine
6 neighborhood and move into the large SJC House, distant from her neighbors and
7 friends of 30 years in the Irvine Neighborhood.

8 No matter what explanations Amy, Bill, or Russell may provide in choosing
9 this house for Mrs. Frasier, none of them were acting in her best interest, but rather,
10 were pursuing their own financial gain. If they were truly acting out of concern for
11 Mrs. Frasier, they should have ensured a proper home inspection was done prior to
12 the purchase. Russell received a large commission from the sale, so it hardly comes
13 as a surprise that he benefited financially from the home that is too big, too dark and
14 too isolated for Mrs. Frasier. Amy and Bill benefited financially from the sale also
15 because the amendment and restatement of the Survivor's Trust drafted by Mr.
16 Travis provides that Amy receives Mrs. Frasier's personal residence (or the
17 equivalent value thereof) upon Mrs. Frasier's death. See **Exhibit 10**. After Mrs.
18 Frasier realized Russell was acting in his own financial interest by conspiring with
19 Amy and Bill to secure a large commission for the purchase of a home Amy and Bill
20 hoped to inherit, Mrs. Frasier no longer wished to speak with Russell.

21 The reason that Russell is now having trouble accessing Ms. Frasier is quite
22 simple – because Ms. Frasier does not wish to see him or talk to him anymore. The
23 severance of ties is a direct result of Mrs. Frasier's desires and not due to forced
24 isolation by her advisors.

25 On March 10, 2017, Ms. Mulrain received a call from Mrs. Frasier's caregiver
26 Rae Lynn Juarez, relaying that Russell had shown up at the house and was arguing
27 with Mrs. Frasier and trying to persuade Mrs. Frasier to allow Amy and Bill Wilson
28 to move in with her. Ms. Mulrain immediately phoned the residence and spoke with

1 Mrs. Frasier. During the call, Ms. Mulrain heard a male voice (presumably Russell,
2 as he was the only male at the house at the time) coaching Mrs. Frasier to ask for
3 financial records pertaining to the purchase of the SJC House. After her call with
4 Mrs. Frasier, Ms. Mulrain reported this incident to Mr. Resnick. *See Exhibit 20*,
5 Email from Mulrain to Resnick.

6 On March 16, 2017, Mrs. Frasier met with Mr. Resnick and Ms. Mulrain to
7 discuss recent third-party intrusions, namely, Shirley Axelrod and Russell. Shirley
8 is another acquaintance of Mrs. Frasier who made numerous recent efforts to intrude
9 into Mrs. Frasier's life, against Mrs. Frasier's will, and yelled at Mrs. Frasier while
10 trying to convince her to talk to her son-in-law Bill Wilson. These incidents upset
11 Mrs. Frasier very much, to the point where two of her caregivers, Desarae Boyles and
12 Rae Lynn Juarez, had to reach out to Ms. Mulrain to intervene. During the March
13 16th meeting, Mrs. Frasier stated that she wishes to have peace in her life and that
14 she does not wish to have any communication with Shirley or Russell. As directed,
15 Ms. Mulrain took steps to block their phone numbers from Mrs. Frasier's home phone.

16 Shirley's and Russell's motives are highly questionable, despite their
17 statements that they have Mrs. Frasier's best interests at heart. For example,
18 Russell has signed a declaration under penalty of perjury that he last visited Mrs.
19 Frasier in April of 2017 and that the "typical" visit had ended pleasantly. The visit
20 may have been "typical," in the sense that all of his recent visits with Mrs. Frasier
21 involved arguments and his telling Mrs. Frasier to fire everyone and to have Amy
22 and Bill come live with her. However, Russell's sworn statement that the visit ended
23 pleasantly is false. On April 7, 2017, Ms. Juarez called Ms. Mulrain to let her know
24 that Russell made another unannounced visit to Mrs. Frasier's house, and that he
25 was upsetting Mrs. Frasier by arguing with her about reconveyance deeds pertaining
26 to the loan he had received from and had paid off to Mrs. Frasier. Ms. Mulrain spoke
27 to Russell on the phone and informed him that Mrs. Frasier had previously stated
28

1 her wishes that he not contact her anymore and that he needs to contact Ms. Shrive
2 or Mr. Resnick regarding the deeds.

3 Other evidence that Russell is acting in bad faith is his attempt to short pay
4 one month's loan payment to Mrs. Frasier (the amount of \$2,000) by lying that Mr.
5 Resnick had authorized him not to pay that amount. Mr. Resnick never granted him
6 such permission, and there is no reason why Mr. Resnick would have told him so. Ms.
7 Shrive at Premier Trust was made aware of all these incidents and knew that Mrs.
8 Frasier did not welcome Russell's and other third parties' intrusions into her life. See
9 **Exhibit 21**, E-mails from Mulrain to Shrive. Therefore, it is illogical for Premier to
10 allege as it did in Paragraph 39 of its Petition that Mrs. Frasier has been completely
11 isolated from her children and grandchildren, her Co-Trustee and her trust counsel,
12 and also at least one of her closest and longest friends – all without any of these
13 people ever hearing directly from Dinny that she does [not] wish to speak with them.
14 Having been a part of "Dinny's Team" which came up with solutions to separate Mrs.
15 Frasier from unwanted intrusions from her children and third parties, it is incorrect
16 for Premier to point to those restrictions and use them as "proof" that Mrs. Frasier is
17 being isolated and unduly influenced by those who are spatially close to her.

18 Mrs. Frasier is competent enough to understand who she wants to and does
19 not want to maintain contact with. For example, Mrs. Frasier is still very good
20 friends with Bruce Schwartz and his wife Zee Schwartz, a former neighbor and close
21 friend of Mrs. Frasier and her late husband Joe for 30 years. Mrs. Frasier talks to
22 her cousin Wendlyn Ehrman ("Wendy") who lives in Seattle, Washington every day,
23 sometimes more than once a day. As Mr. Schwartz and Wendy will attest to at the
24 hearing, Mrs. Frasier directed her advisors, Mr. Resnick and Ms. Mulrain, to block
25 communications from her children and third parties because they cause her great
26 anxiety and distress due to their actions regarding Mrs. Frasier's finances. Mrs.
27 Frasier told Wendy and Mr. Schwartz numerous times that she is very upset with
28 her children because they are greedy and selfish. She also mentioned numerous

1 times to Wendy that she is very upset with the fact that people have not been
2 honoring her wishes to fire her trustee and her “Reno trust lawyers.” In fact, prior to
3 Mrs. Frasier’s engagement of Mr. Resnick, Mrs. Frasier often cried and lamented to
4 her friend, Mr. Schwartz, about how devastated she was that her children turned out
5 to be so greedy and wondered what she and Joe had done to raise “these kinds of
6 people.” Mrs. Frasier also expressed her frustration to Mr. Schwartz about her
7 unhappiness with Premier and the “Reno trust lawyers.” Mr. Schwartz explained to
8 her that if she was that unhappy with the trustee and attorney situation, that she
9 could choose a different trust company and attorney that she could have full
10 confidence in. Mr. Schwartz then recommended Mr. Resnick and his firm VRS
11 because Mr. Schwartz knew from his professional relationship with Mr. Resnick that
12 Mrs. Frasier would be treated fairly, respectfully, her wishes would be honored.

13 Evidently, Premier’s allegation that Mrs. Frasier has been completely isolated
14 from family, the cotrustee, trust counsel, and friends are unfounded and in direct
15 contradiction with evidence that prove otherwise. In addition to Mrs. Frasier’s daily
16 conversations with her cousin Wendy, Mrs. Frasier also agreed to have a visit from
17 some of her grandchildren (Nori’s children) on Mother’s Day this year.

18 H. Paragraph 40:

19 As the Court did not bring a conservatorship or appoint a guardian ad litem
20 over Mrs. Frasier because there was no need to, there is no reason for Premier Trust
21 to be alarmed about Mrs. Frasier’s personal finances or susceptibility. *See Exhibit*
22 **3**. It is true there have been an increased need for funds by Mrs. Frasier, but this is
23 all due to the fact that Mrs. Frasier now has an attorney to represent her individually,
24 to act in her best interest in her individual capacity, whereas she previously did not,
25 and an attorney-in-fact under her durable power of attorney to watch out for her best
26 interest, which she previously did not have. Moreover, there is no doubt that the
27 disputes between Mrs. Frasier and her children, and now between Mrs. Frasier and
28 co-trustee Premier Trust and Mr. Robertson’s firm, have caused increased (lead and

1 local) attorneys' and agent's fees being paid from the Trust. Premier Trust's
2 statement that "the Trusts have provided for virtually all of Dinny's needs and she
3 therefore required only small expenditures of personal funds" overlooks the fact that
4 increased disputes and involvement from attorneys cause increases in the need for
5 money. For example, the dispute between Bradley Frasier and Mrs. Frasier over the
6 Oceanside medical building which was ongoing at the time Mr. Resnick and Ms.
7 Mulrain were retained increased costs to the Trust. Although the resolution of that
8 matter is near completion, Premier's present refusal to allow Farmers and Merchants
9 Trust Company to substitute as corporate trustee of the Trusts only serves to
10 continually increase costs to the Trust and Mrs. Frasier. This matter could be
11 presently resolved if Premier Trust would simply resign in favor of Farmers and
12 Merchants. Premier Trust has not challenged the qualifications and competency of
13 Farmers and Merchants. Therefore, it is Premier Trust's refusal to cooperate and
14 honor the wishes of Mrs. Frasier that has perpetuated this litigation at the continuing
15 expense of the Trust and Mrs. Frasier.

16 I. Paragraph 41-42:

17 Premier Trust's statement in paragraph 41 is factually inaccurate. Mr.
18 Robertson did inquire as to why the check was written out for \$10,000 when the
19 retainer agreement called for a \$5,000 retainer. However, Mr. Resnick was not
20 present when the retainer check was written. After Mrs. Frasier met with Mr.
21 Resnick in or about November 2016, Mrs. Frasier went to Mr. Schwartz's home in
22 Irvine with her caregiver Desarae and daughter Nori with a copy of the engagement
23 letter she had received from VRS to review and sign, because Mrs. Frasier wanted to
24 ask Mr. Schwartz questions about the engagement letter. Mr. Schwartz explained
25 the purpose of the engagement letter and the meaning of the attorney-client
26 relationship to Mrs. Frasier. Nori then proceeded to write out the check at Mrs.
27 Frasier's direction, which Mrs. Frasier then signed. Unbeknownst to all of those
28 present at that time, Nori had mistakenly written out the check for \$10,000, but it

1 was later discovered that the engagement letter required a retainer of \$5,000. This
2 error was discovered after VRS received the retainer check for \$10,000. After finding
3 out about this, Mr. Resnick instructed his staff to credit \$5,000 to Mrs. Frasier's trust
4 account and the remaining \$5,000 to Mrs. Frasier general client account.

5 Mrs. Frasier expressly denies Premier's allegation that her signature on the
6 VRS retainer check was forged. As explained above, Mrs. Frasier signed the check in
7 the presence of Mr. Schwartz, Desarae, and Nori. It is not unrealistic for the
8 signature of an 88-year old to change over the course of multiple signatures, even
9 those of the same day, and certainly not an incident that should raise concern on the
10 part of Premier as Premier states at line 5 of paragraph 42.

11 J. Paragraphs 43-50

12 Premier's accusations of impropriety based on Ms. Shrive's conversation with
13 Mrs. Frasier in early January of 2017 regarding the retainer check and the retainer
14 of Mr. Resnick are easily explained. Mrs. Frasier will be the first person to admit
15 that she now suffers from short-term memory loss due to her fall in the summer of
16 2016 when she hit her head. Her short term memory loss is also noted in Dr. Spar's
17 May 22nd Letter. As she has stated to her cousin Wendy on countless occasions, she
18 understands that her short-term memory loss is a result of her fall last year, and it
19 frustrates her that Premier Trust is using her memory loss to claim she lacks capacity
20 in order to continue serving as Trustee.

21 Based on her short term memory loss, it is completely reasonable for Mrs.
22 Frasier's failure to recall at that moment during her conversation with Ms. Shrive
23 about the retainer check, and particularly the name of Mr. Resnick, whom she had
24 met and hired only about a month prior, before she had the opportunity to commit
25 the information to her long term memory. Therefore, such failure to recollect short
26 term information to Ms. Shrive is not evidence of forging her signature. Rather, such
27 incident aligns with Dr. Spar's observations and conclusions that Mrs. Frasier suffers
28 from memory impairment. Most importantly though, Premier's allegations regarding

1 the check are directly refuted by Mr. Schwartz who will appear and testify at the
2 hearing.

3 It is unclear what accusations Premier is attempting to make by citing the
4 content of Ms. Shrive's conversation with Mrs. Frasier. However, if Premier is
5 accusing any of Mrs. Frasier's attorneys, attorney-in-fact, caregivers, or friends of
6 financial elder abuse, misappropriation of funds, fraud, or any other crimes, then
7 Mrs. Frasier requests that this Court compel Premier to provide direct evidence of
8 such wrongdoings by those professionals who are held to the highest code of ethics,
9 rather than proffering nothing but what may be characterized as thin circumstantial
10 evidence.

11 K. Paragraph 50:

12 There has been an increase in Mrs. Frasier's expenditures due to increased
13 litigation costs, as well as medical bills which have increased, in part, due to the
14 ongoing litigation. However, Mrs. Frasier is unaware of any duty that she or her
15 attorney-in-fact Ms. Mulrain have to disclose the spending of Mrs. Frasier's personal
16 funds to Premier. As the corporate cotrustee of the Trusts, Premier is aware of section
17 1(a) of the Survivor's Trust, which states "My Trustee shall pay to me, or apply for
18 my benefit during my lifetime, all or such part of the income and principal of my Trust
19 Estates as I may direct." See **Exhibit 10**. In light of this authority granted Mrs.
20 Frasier under the Trust, Premier has no reasonable basis for questioning Mrs.
21 Frasier's expenditures or the duty to inquire as to the purpose of the expenditures,
22 especially in light of Dr. Spar's opinion that Mrs. Frasier has contractual and
23 testamentary capacity.

24 L. Paragraphs 51-53:

25 As explained above, Mrs. Frasier canceled the May 25th meeting because she
26 did not want trust funds being spent for Mr. Robertson and Ms. Shrive to fly from
27 Reno to Orange County to meet with her in person, she did not want to meet Mr.
28

1 Robertson and Ms. Shrive because of her growing mistrust that they are not acting
2 in her best interest, and she was not feeling well.

3 Mr. Richardson and Ms. O'Mara of Fennemore Craig, who had previously
4 represented Mrs. Frasier in her individual capacity as local counsel in connection
5 with the dispute over the Oceanside medical building, informed Mr. Resnick that
6 their firm could not represent Mrs. Frasier in her efforts to remove Premier as
7 cotrustee due to a conflict of interest. At Ms. O'Mara's recommendation, Mrs. Frasier
8 retained new Nevada counsel, Wallace & Millsap LLC, in her individual capacity, not
9 because she wanted to replace Fennemore Craig, but because she had no other choice
10 but to substitute counsel and acted upon the recommendation of her prior local
11 counsel to retain Wallace & Millsap LLC.

12 M. PARAGRAPH 54-64

13 Premier Trust misinterprets Dr. Spar's May 22, 2017 Letter and the opinions
14 provided therein. Mrs. Frasier's inability to tell Dr. Spar about the date is not
15 alarming for her advanced age. An 88-year old's failure to recall the current date
16 does not indicate a lack of capacity. Mrs. Frasier's inability to tell Dr. Spar where
17 she was at the time of the consultation, what floor she was on, or what city or county
18 she was in also does not indicate a lack of capacity. Any person, even not of advance
19 age, who was driven to Dr. Spar's office by her caregiver and wheelchaired to his floor
20 by elevator who was not paying attention to her whereabouts would equally have
21 been unable to provide such details. Such inability does not, as Premier alleges,
22 suggest that Mrs. Frasier is "completely disoriented."

23 Premier further states in paragraph 58 that Mrs. Frasier's "current mental
24 state indicates that she does not understand her circumstances and is extremely
25 vulnerable to influence and manipulation." By making such a claim, Premier is
26 attempting to substitute its judgement over that of a renowned gerontologist, Dr.
27 Spar, who would not have been able to make his conclusions in his May 22nd Letter
28 if Premier's allegations are correct. Again, Mrs. Frasier's "current mental state" is

1 that she suffers from short term memory loss, but that she is fully competent to make
2 trust related decisions such as replacing the corporate trustee.

3 Furthermore, Premier's statement in paragraph 59-60 citing Ms. Frasier's
4 statement to Dr. Spar that Brad is fighting her in court means nothing to suggest
5 that she does not understand what is going on with her trust. At the time Mrs.
6 Frasier made the statement to Dr. Spar on May 19, 2017, this Court had just recently
7 approved the settlement agreement at the May 9, 2017 hearing. So on May 19, 2017,
8 the parties were, and still are, in the process of fulfilling the terms of that agreement,
9 such as arranging to have the properties appraised and discounted. Therefore, Mrs.
10 Frasier's statement that her son Brad is fighting her in court reflects her belief that
11 the litigation is still ongoing, which it is.

12 Premier again attempts to mislead this Court by its allegation in paragraphs
13 61 and 62 by taking Mrs. Frasier's statements to Dr. Spar out of context and failing
14 to include pertinent facts that contradict its allegations. It is true that Mrs. Frasier
15 is angry and disappointed with her daughters Amy and Nori and son Brad, but she
16 has perfectly rational explanations. As explained above, Amy played a major role in
17 selecting the current San Juan Capistrano house in which Mrs. Frasier is currently
18 living. Amy's reason for selecting this much larger, more expensive house for her
19 mother was self-serving – so that she would get a bigger share of inheritance when
20 her mother dies. Contrary to Premier's allegation in paragraph 61, Mrs. Frasier is
21 not unhappy with Amy for not communicating with her now, but rather, Mrs. Frasier
22 is unhappy with Amy for not having kept the promise to move in last year. Premier's
23 allegation in lines 4-5 of paragraph 61 is an unfounded conclusion. Mrs. Frasier is
24 aware her caregivers have been preventing Amy from communicating with her,
25 because they have done so at her direction.

26 In paragraph 62, Premier implies that Mrs. Frasier is confused and mistakenly
27 believes Nori owes her money, again without evidence to prove its claims. There is
28 no recorded debt between Nori and Mrs. Frasier. However, this suspicion is well

1 founded and rooted in Mrs. Frasier's belief that Nori may have improperly taken
2 funds from Mrs. Frasier, which Premier Trust did not verify as accurate or not.

3 N. Paragraph 63:

4 Premier Trust insists in paragraph 63 that Ms. Shrive has always been
5 available to Mrs. Frasier and has returned calls promptly. However, there are several
6 witnesses who can attest to the contrary, such as Ms. Mulrain, Desarae, and Rae
7 Lynn, all of whom have nothing to gain by distorting the truth, and who can declare
8 under oath in this Court their observations of Ms. Shrive's lack of accessibility and
9 certain failures as trustee. In fact, Ms. Shrive has stated to Ms. Mulrain on several
10 occasions that she is reluctant to contact Mrs. Frasier because she knows that Mrs.
11 Frasier is displeased with her and the trust litigation. Therefore, Premier Trust
12 cannot allege inability to communicate with Mrs. Frasier when its trust officer has
13 been reluctant to contact Mrs. Frasier. *See Exhibit 22*, April 18, 2017 E-mail to
14 Shrive, *See Exhibit 23*, April 5, 2017 E-mails to Shrive and Gregory.

15 Moreover, Premier misrepresents that it paid all of Mrs. Frasier's bills on time,
16 assuming they were promptly forwarded to Premier by Janie and her support staff.
17 Credit card records show, as well as in-court testimony, that Mrs. Frasier's credit
18 cards got rejected on at least one occasion based on Premier's failure to pay the bills,
19 and that Mrs. Frasier received late notices because they were not paid on time. One
20 such incident was at Costco when Mrs. Frasier went shopping with her caregiver Rae
21 Lynn and was humiliated in front of other customers and the cashier when her credit
22 card was denied for a purchase of approximately \$100. Premier has not paid Mrs.
23 Frasier's bills on time, despite Ms. Mulrain timely forwarding the bills. *See Exhibit*
24 *24*, March 15, 2017 E-mail regarding Bills. Mrs. Frasier also received bills from the
25 homeowners' association indicating payment was delinquent. This evidences another
26 reason Mrs. Frasier legitimately decided upon her own volition to replace Premier
27 Trust with a local trustee in whom she placed more confidence than Premier Trust.

1 An additional failure of Premier Trust that has undermined Mrs. Frasier's
2 confidence in their services includes the failure to timely file tax returns. To make
3 matters worse, Premier Trust misrepresented to Ms. Mulrain the filing the returns
4 even though Premier Trust had not timely filed the returns. Specifically, Ms. Shrive
5 told Ms. Mulrain Premier Trust filed Mrs. Frasier's personal and trust tax returns.
6 Requests for her personal tax returns were verbally made in March of 2017 and in
7 writing on April 4, 2017 and again on May 24, 2017. *See Exhibit 25*, April 4, 2017
8 E-mail Requesting Taxes. To date, Premier Trust has not responded to the three
9 requests. Mrs. Frasier's 2015 income tax returns may not have been filed because
10 Mrs. Frasier received a notice dated April 26, 2017 from the California Franchise Tax
11 Board stating that a 2015 California income tax return was not filed. *See Exhibit*
12 *26*, FTB Letter dated April 26, 2017.

13 Finally, as a point of clarification Mr. Schwartz, although an attorney, does not
14 represent Mrs. Frasier in any capacity, and is a friend and confidante only.

15 O. Paragraph 66:

16 Premier makes defamatory accusations against Dr. Spar (as it did against Mr.
17 Resnick, Mr. Schwartz, Ms. Mulrain, and others), and even questions his professional
18 ethics by suggesting that his reports are for sale. Premier did not object to the
19 selection of Dr. Spar as the gerontologist at any time prior to its Second Supplemental
20 Petition, including, at the May 9, 2017 evidentiary hearing, despite the topic being
21 an issue for discussion at that hearing. *See Exhibit 3*, page 9, lines 16-19. This
22 belated objection to Dr. Spar's assessment of Mrs. Frasier appears to be an objection
23 of convenience to support Premier's position rather than an objection based in fact or
24 law, which could have been asserted at the May 9, 2017 hearing. If Premier Trust
25 had concerns regarding Dr. Spar, then it should have brought the issue to this Court's
26 attention on May 9, 2017, or at the telephonic appearance when Mr. Robertson and
27 Mr. Resnick appeared by telephone on May 16, 2017. Premier Trust never raised any
28 objection to Dr. Spar opining on Mrs. Frasier's capacity until their Second

1 Supplemental Petition when Dr. Spar's opinion did not coincide with Premier Trust's
2 circumstantial allegations.

3 P. PARAGRAPH 67:

4 Premier's concern that unknown persons are trying to influence Mrs. Frasier
5 to replace Premier Trust with a non-corporate trustee are unfounded. Mrs. Frasier
6 seeks to appoint Farmers and Merchants Trust Company as the successor corporate
7 trustee for the reasons outlined herein. In the hope of a faster resolution of this
8 matter, **Mrs. Frasier will resign as cotrustee of the Trusts, on the condition**
9 **that Premier Trust is removed and replaced with Farmers and Merchants**
10 **Trust Company as corporate trustee.**

11 **III. RESPONSE AND OBJECTIONS TO AMY FRASIER-WILSON'S**
12 **JOINDER**

13 In her Joinder to the Second Supplemental Petition ("Joinder"), Amy Frasier-
14 Wilson makes numerous misrepresentations and omits crucial facts regarding the
15 events that have transpired from Mrs. Frasier's perspective. Ms. Frasier's response
16 and objections to Amy's allegations which require clarification and/or corrections are
17 addressed in turn.

18 A. Page 2, Lines 19-26:

19 As stated above, this Court did not find as a matter of fact or law that Premier
20 Trust and trust counsel cannot speak with Mrs. Frasier. On the contrary, Mrs.
21 Frasier offered to conduct a video conference with Premier Trust and trust counsel.
22 That offer was rejected by Premier Trust. So in reality, it is Premier Trust who has
23 placed untenable conditions on communication with Mrs. Frasier.

24 B. Page 3, Lines 1-6:

25 Moreover, Premier Trust's communication with Mrs. Frasier has not "now been
26 cut off." Premier has access to Mrs. Frasier's mailing address, email address, and
27 phone number. Premier Trust can call or facetime Mrs. Frasier at any time, so long
28 as it abides by Mrs. Frasier's wishes to have her personal attorney Mr. Resnick on

1 the call as well. Moreover, Ms. Shrive of Premier Trust has been in frequent
2 communications with Mrs. Frasier's attorney-in-fact, Ms. Mulrain, through whom
3 Ms. Shrive actually prefers to communicate with in lieu of Mrs. Frasier.

4 Amy makes a blanket statement unsupported by evidence wherein she alleges
5 that Mrs. Frasier "is being manipulated and taken advantage of by Mr. Resnick and
6 those associated with him." If Amy is accusing any of Mrs. Frasier's attorneys,
7 attorney-in-fact, caregivers, or friends of financial elder abuse, misappropriation of
8 funds, fraud, or any other crimes or causes of actions, Mrs. Frasier requests that this
9 Court compel Amy to provide direct evidence of such wrongdoings by those
10 professionals who are held to the highest code of ethics, rather than proffering
11 circumstantial evidence echoing Premier Trust.

12 C. Page 3, Lines 9-12:

13 Mrs. Frasier requests that the Court compel Amy to clarify what she means by
14 her statement: "The Supplemental Petition for Instructions filed on November 29,
15 2016 disclosed that a neighbor from Irvine was involved. It is believed that this
16 "neighbor" is an attorney named Bruce Schwartz, who is a criminal defense attorney
17 located in Southern California." Mr. Schwartz is a criminal defense attorney
18 practicing in southern California, but these facts are not relevant to the matters at
19 hand. Mr. Schwartz's limited involvement in the matter arises from his desire to
20 assist his longtime friend and former neighbor of 30 years, Mrs. Frasier. Mr.
21 Schwartz is not acting as Mrs. Frasier's attorney in any capacity and therefore has
22 not charged for any of his time that he has spent on multiple meetings and phone
23 calls. Furthermore, Mr. Schwartz has agreed to fly to Reno to attend the hearing in
24 person, without charging any fees for his time. Rather, Mr. Schwartz is acting out of
25 concern for Mrs. Frasier from a place of friendship and decency to ensure Mrs.
26 Frasier's wishes are honored.

27

28 ///

1 D. Page 3, Lines 13-20:

2 Regarding the incident on or about December 3, 2016 that Amy refers to in
3 lines 13-20 of her Joinder, Mr. Schwartz was ill that day at home when Amy and her
4 husband Bill appeared at his Irvine home unannounced and started asking him
5 questions about Mrs. Frasier and the Nevada litigation. Mr. Schwartz did not tell
6 them that he “had been working on this case all week.” Mr. Schwartz did ask them
7 to leave because he was sick and that he was not the right person to talk to, since he
8 was not the attorney handling the matter. Mr. Schwartz can testify to these facts at
9 the hearing on this matter.

10 E. Page 3, Lines 21-28; Page 4, Lines 1-8:

11 Contrary to Amy’s allegation at lines 21-22, Mr. Resnick did not install himself
12 as Ms. Frasier’s personal attorney, nor did he hire Janie Mulrain as Mrs. Frasier’s
13 “Fiduciary Advisor.” Mrs. Frasier is informed and believes that Amy’s misstatements
14 stem from her lack of knowledge about the formation of an attorney-client
15 relationship and the role of an attorney-in-fact under a principal’s power of attorney.
16 After Mr. Schwartz referred Mr. Resnick’s firm to Mrs. Frasier, Nori Frasier made
17 the initial contact with Mr. Resnick’s firm and set up a consultation meeting.
18 Subsequently, Mrs. Frasier voluntarily made the decision to engage Mr. Resnick’s
19 firm. Thereafter, Mr. Resnick set up a meeting for Mrs. Frasier to meet with and
20 interview Ms. Mulrain as her agent under a durable power of attorney and advance
21 health care directive. After meeting with Ms. Mulrain, Mrs. Frasier decided to
22 engage Ms. Mulrain’s services. At no point in time did Mr. Resnick or Ms. Mulrain
23 ever install himself or herself and force a representation upon Mrs. Frasier against
24 her wishes.

25 Amy is correct in pointing out Ms. Mulrain and Mr. Resnick's involvement
26 coincided with a lack of communication from Mrs. Frasier to Amy. This was explained
27 above in that Mrs. Frasier has stated she feels Amy's motivation is financial rather
28 than acting for Mrs. Frasier out of a place of love or loyalty. This has disappointed

1 Mrs. Frasier, and consequently, she has instructed her caregivers and Mr. Resnick to
2 limit communications with Amy for this reason.

3 After obtaining Ms. Mulrain's cell phone number from Ms. Shrive, Amy and
4 Bill Wilson called Ms. Mulrain on May 12, 2017. Bill spoke the majority of the call
5 discussing his perception of the family dynamics and past dealings with the Trust.
6 Ms. Mulrain asked that they speak to parties involved in the litigation, as she was
7 not the right person to discuss these matters. Bill also raised the issue of family
8 members being separated from Mrs. Frasier. Ms. Mulrain reiterated that it is Mrs.
9 Frasier's wish not to have contact with her three children and that the restriction
10 does not apply to extended family members so long as they respect Mrs. Frasier's
11 wishes and boundaries. Ms. Mulrain gave them examples of recent visits from Nori's
12 children on Mother's Day and routine conversations between Mrs. Frasier and her
13 cousin Wendy. At this point, Bill became angry with Ms. Mulrain and asserted
14 "biased" and "unfair" treatment toward him and Amy. He further indicated it was
15 unfair Nori and Brad receive more money through their children than he and Amy
16 because Mr. and Mrs. Frasier established 529 accounts for their grandchildren. This
17 statement further evidenced Mrs. Frasier's frustration that her children seem to be
18 interested in primarily money from her rather than companionship.

19 Amy and Bill requested a meeting with Ms. Mulrain to discuss Mrs. Frasier.
20 Ms. Shrive agreed with Ms. Mulrain that an agenda prior to a meeting was logical.
21 Ms. Mulrain reviewed the agenda with Mrs. Fraiser prior to the requested meeting,
22 and indicated she did not wish Ms. Mulrain discuss any of the agenda items with
23 Amy and Bill. Therefore, Ms. Mulrain's meeting with Amy and Bill was cancelled at
24 the instruction of Mrs. Frasier.

25 F. Page 4, Lines 8-11:

26 Mrs. Frasier is unable to admit or deny Amy's allegation that Nori's comments
27 may have created a bias toward Amy.

28 ///

1 G. Page 4, Lines 14-22:

2 Lines 14-22 of page 4 of Amy's Joinder consist of hearsay statements and
3 unsupported claims of which Amy has no personal knowledge. As explained in detail
4 in Part II, paragraph G above, Mrs. Frasier wishes not to have any contact with
5 Russell Bahktiari because she can no longer trust him. While Mrs. Frasier was
6 recuperating from a broken hip at a rehabilitation facility in the summer of 2016,
7 Amy and Russell colluded to purchase a new home in San Juan Capistrano for Mrs.
8 Frasier, thereby forcing her to move into the new home upon her release from the
9 facility. The house was purchased without a proper home inspection, which resulted
10 in the discovery of many structural and functional defects which the house is fraught
11 with. Amy selected the house because the amendment and restatement of the
12 Survivor's Trust drafted by Mr. Travis provided that Amy receives Mrs. Frasier's
13 personal residence (or the equivalent value thereof) upon Mrs. Frasier's death, and
14 the value of the SJC House is approximately double that of Mrs. Frasier's former
15 Irvine home. Russell gained financially from the commission on the expensive home,
16 which was purchased for approximately \$1,300,000. See **Exhibit 27**, Escrow
17 Instructions.

18 A. Page 4, Lines 23-28, Page 5, Lines 1-8:

19 Amy attempts to mislead this Court by taking a few lines of Dr. Spar's May
20 22nd Letter out of context. When Mrs. Frasier found out that she was moving into
21 the new SJC house straight from the rehabilitation center, Amy told Mrs. Frasier
22 that she and Bill would move in, and they would have so much fun by going shopping
23 and watching movies together. Amy and Bill ultimately did not move in with Mrs.
24 Frasier. Now, Mrs. Frasier does not want wish to speak with Amy or Bill. Mrs.
25 Frasier denies the statements she made to Dr. Spar mean what Amy is implying in
26 her Joiner – that Mrs. Frasier presently wants to have a relationship with Amy but
27 that she is being isolated from Amy against her will.

28

1 Amy and Bill did come by quite frequently in 2016, against Mrs. Frasier's
2 express wishes not to come by anymore. When Bill showed up at the doorstep
3 unannounced, Mrs. Frasier instructed the caregivers not to let him in, but Bill pushed
4 past the caregiver and forced his way into the house. Bill's unwanted intrusions (eg.
5 throwing away Mrs. Frasier's prescription medication against her will) and visits
6 became so severe that Ms. Mulrain had to report the incidents to the Orange County
7 Adult Protective Services, and an investigator came to meet with Mrs. Frasier. See
8 **Exhibit 28**, Report Confirmation from Adult Protective Services.

9 B. Page 5, Lines 8-10:

10 Amy's statement in Lines 8-10 citing Mrs. Frasier's statement to Dr. Spar that
11 Brad is fighting her in court means nothing to suggest that she does not understand
12 what is going on with her Trust. At the time Mrs. Frasier made the statement to Dr.
13 Spar on May 19, 2017, this Court had just recently approved the settlement
14 agreement at the May 9, 2017 hearing. So on May 19, 2017, the parties were, and
15 still are, in the process of fulfilling the terms of that agreement, such as arranging to
16 have the properties appraised and discounted. Therefore, Mrs. Frasier's statement
17 that her son Brad is fighting her in court reflects her belief that the litigation is still
18 ongoing, which, evidently, it is.

19 C. Page 5, Line 11:

20 Mrs. Frasier is deeply troubled by Amy's statement that "it appears Dinny
21 continues to be a victim of undue influence." Like many of her allegations made
22 throughout the Joinder, Amy makes a blanket allegation that is unsupported by
23 evidence. The Court should disregard such allegations devoid of evidentiary support.

24 D. Page 5, Lines 12-20:

25 Mrs. Frasier is not confused about her legal representation. The three
26 attorneys that Mrs. Frasier was referring to when she made the comment to Dr. Spar
27 are Mr. David Robertson, Mr. Kirk Johnson, and Mr. Richard Williamson of the law
28 firm of Robertson, Johnson, Miller & Williamson. Mrs. Frasier understands that Mr.

1 Resnick, whom she personally hired, is her attorney in her individual capacity. Mrs.
2 Frasier does not think that Mr. Travis is “still her attorney.” Again, there is no
3 evidence supporting this claim and, therefore, the Court should disregard the same.

4 E. Page 5, Lines 21-28; Page 6, 1-5:

5 Amy states “there is also concern regarding the accuracy of what transpired
6 and how Ms. Mulrain was hired to be the Fiduciary for Dinny.” Mrs. Frasier is
7 uncertain about what Amy means by her statement “what transpired.” As explained
8 above, Ms. Mulrain was hired by Mrs. Frasier directly, after a thorough vetting
9 process, which included an interview of Ms. Mulrain by Mrs. Frasier personally.

10 Ms. Shrive communicated to Ms. Mulrain that she (Ms. Shrive) was the one
11 who advocated hiring a fiduciary for Mrs. Frasier. Ms. Shrive further stated that
12 “[Ms. Shrive] had a conference call with [Mr. Resnick]’s partner and our counsel about
13 having a private professional hired. I had a different person in mind, but they wanted
14 you which has been great.” Evidently, Premier Trust supported hiring a fiduciary for
15 Mrs. Frasier.

16 Mrs. Frasier may be a private person, but she has come to terms with the
17 reality that, due to her fall, she now has reduced mobility as well as some problems
18 with short term memory. To ensure that Mrs. Frasier maintains as much control as
19 practicable, Ms. Mulrain runs everything by Mrs. Frasier prior to taking any action
20 and does not act without Mrs. Frasier’s direction. For example, every time Ms.
21 Mulrain prepares to pay a bill, Ms. Mulrain reviews the bill with Mrs. Frasier and
22 Mrs. Frasier initials the invoice to confirm that she has approved the payment. Ms.
23 Mulrain’s services as a fiduciary is not unbridled as Amy’s allegations would imply.
24 There is a systematic procedure in place so that Mrs. Frasier can retain maximum
25 control of her financial and health matters while Ms. Mulrain provides the legwork
26 to accomplish Mrs. Frasier’s intent. Ms. Mulrain will testify to these facts if the
27 hearing is continued to August 24, 2017 to ensure allow for her appearance.
28 Additionally, Mr. Resnick explained the role of the fiduciary and the relationship that

1 Mrs. Frasier would have with Ms. Mulrain. Ms. Mulrain was not presented to Ms.
2 Frasier as her “personal assistant.”

3 Mrs. Frasier denies that she thought Mr. Resnick would be providing legal
4 services for free. Mrs. Frasier again requests this Court to compel Amy to provide
5 evidence when she makes such unfounded allegations. This allegation is directly
6 contradicted by the written engagement letter that was reviewed and signed by Mrs.
7 Frasier at Mr. Schwartz’s house in November of 2016. Mrs. Frasier further denies
8 that she thought Mr. Schwartz would be providing legal services for free. While true
9 that Mr. Schwartz has been spending a lot of time trying to aid his close friend, at no
10 time did Mr. Schwartz or Mrs. Frasier think that Mr. Schwartz would be representing
11 Mrs. Frasier in any capacity.

12 F. Page 6, Lines 6-12:

13 As explained above, there was a misunderstanding about the amount of the
14 retainer that Mr. Resnick’s firm requested under its engagement letter for Mrs.
15 Frasier. After Mrs. Frasier met with Mr. Resnick in or about November 2016, Mrs.
16 Frasier went to Mr. Schwartz’s home in Irvine with her caregiver Desarae and
17 daughter Nori with a copy of the engagement letter she had received from VRS to
18 review and sign, because Mrs. Frasier wanted to ask Mr. Schwartz questions about
19 the engagement letter. Mr. Schwartz explained the purpose of the engagement letter
20 and the meaning of the attorney-client relationship to Mrs. Frasier. Nori then
21 proceeded to write out the check at Mrs. Frasier’s direction, which Mrs. Frasier then
22 signed. Unbeknownst to all of those present at that time, Nori had mistakenly
23 written out the check for \$10,000, but it was later discovered that the engagement
24 letter required a retainer of \$5,000. This error was discovered after VRS received the
25 retainer check for \$10,000. After finding out about this, Mr. Resnick instructed his
26 staff to credit \$5,000 to Mrs. Frasier’s trust account and the remaining \$5,000 to Mrs.
27 Frasier’s general client account. Mrs. Frasier has not been improperly charged or
28 billed by VRS at any point, and any assertion to the contrary is false.

1 Mrs. Frasier admits that she did not write out the \$10,000 check but does
2 expressly deny any implications that she did not sign the check. Mrs. Frasier signed
3 the check in the presence of Mr. Schwartz, Desarae, and Nori. It is not unrealistic
4 for the signature of an 88-year old to change over the course of multiple signatures,
5 even those of the same day, and certainly not an incident that should raise concerns.

6 G. Page 6, Lines 13-20:

7 Again, Amy makes an accusation that is wholly unsupported by any proof.
8 Mrs. Frasier's desire to terminate Premier is not just "alleged;" it reflects Mrs.
9 Frasier's true intent, as she has stated to numerous family, friends, agents, and
10 attorneys, including, but not limited to, Dr. Spar (in the presence of no one else but
11 Dr. Spar), Mrs. Frasier's cousin Wendy with whom she speaks daily by phone,
12 caregivers Desarae Boyles and RaeLynn Juarez, friend Mr. Schwartz, attorneys Mr.
13 Resnick and Ms. Kim, primary care physician Dr. Haga, and attorney-in-fact Ms.
14 Mulrain. Statements that she wanted to fire Premier to some of these individuals
15 predate Mr. Resnick's involvement, which contradicts Amy's allegation that Mr.
16 Resnick is orchestrating the termination of Premier as trustee.

17 Amy's statement in lines 15-16 in which she states, "At this point, the medical
18 building litigation has been settled" is inaccurate and stems from Amy's own lack of
19 knowledge about the case. The litigation over Brad's medical building was not settled
20 at the time Mr. Resnick was engaged as Mrs. Frasier's personal attorney. If the
21 litigation was already "settled," then for what purpose does Amy believe this Court
22 ordered mediation, which was held on January 27, 2017 (Mr. Resnick's involvement
23 began in or about November 2016).

24 Mr. Resnick and Mrs. Frasier and others close to her all believe that it is in
25 Mrs. Frasier's best interest to end the ongoing litigation. This is why Mrs. Frasier's
26 attorneys have made numerous attempts to work with Premier Trust to resign as
27 trustee of the Trusts. Contrary to Amy's unsupported allegation at lines 19-20, it is
28 not Mr. Resnick who wants to continue litigation so that Premier Trust can be

1 terminated. Neither Mrs. Frasier nor Mr. Resnick wish to litigate the issue of
2 trusteeship. As stated in the various correspondences in which Mr. Resnick sent Mr.
3 Robertson, Mrs. Frasier sought a voluntary resignation from Premier Trust so as to
4 avoid this litigation. However, due to the lack of affirmative responses and
5 willingness to cooperate with Mrs. Frasier, the trusteeship issue is presently before
6 this Court. That being said, Premier Trust seemingly resists resignation because it
7 suspects Mrs. Frasier is being unduly influenced, which could negatively impact the
8 Trust if Mrs. Frasier takes action as the trustee pursuant to undue influence. Mrs.
9 Frasier reiterates her willingness to resign as trustee of the Trust in order to alleviate
10 any fear that she will take action as trustee pursuant to undue influence. However,
11 Mrs. Frasier's offer to resign as trustee is conditioned upon the resignation of Premier
12 Trust as corporate trustee for reasons articulated in this Response. This will fairly
13 resolve Premier Trust's Second Supplemental Petition for Instructions and ensure
14 the Trust is properly managed by a corporate trustee (Farmers and Merchants Trust
15 Company) local to Mrs. Frasier that she can rely upon in carrying out the terms of
16 the Trust.

17 H. Page 6, Lines 21-27:

18 Mrs. Frasier reviewed and voluntarily signed the engagement letter from Mr.
19 Resnick's firm and understood that she was entering into an attorney-client
20 relationship. Mrs. Frasier does not understand Amy's repeated allegations that Mrs.
21 Frasier was told she would be receiving free legal services. Mrs. Frasier requests
22 clarification about who allegedly told this to Mrs. Frasier and how Amy has personal
23 knowledge of such alleged conversation. Mrs. Frasier understands a retainer deposit
24 was paid to Mr. Resnick's firm as her attorneys, and she also understands that she is
25 paying the monthly invoices from his firm through Ms. Mulrain (because Mrs. Frasier
26 initials every invoice prior to payment). It is true that Mr. Schwartz has been
27 "helping her for free" without charging her anything for the time he has spent
28 attending meetings, answering questions, preparing declarations, etc. At no time,

1 however, was she led to believe that Mr. Schwartz was acting in her capacity as her
2 attorney.

3 I. Page 7, Lines 1-4:

4 Mr. Schwartz does not share an office space with Mr. Resnick. Criminal
5 defense work obviates the need for a regular office so instead of leasing an office, since
6 about August of 2016, Mr. Schwartz has had an agreement with Mr. Resnick to use
7 the firm's conference room when he needs to meet with clients at an office, and to use
8 the firm's mailing address for business purposes.

9 Mrs. Frasier seeks clarification with respect to Amy's incoherent statement in
10 lines 2-4, wherein she states, "The retainer check written to Resnick does not look
11 like Dinny's handwriting and the high probability exists that whoever wrote the
12 retainer check did not want Dinny to know that Mr. Resnick would be charging for
13 his services." The author of the check was Nori, and there is no reason why Nori
14 would want to mislead her mother to believe that Mr. Resnick's services would be
15 free.

16 J. Page 7, Lines 5-12:

17 Amy's confusion about the nature of Mrs. Frasier's representation by Mr.
18 Travis and by Mr. Resnick becomes apparent in her statements in lines 5-12 of page
19 7. Mr. Resnick and Mr. Travis both represented Mrs. Frasier individually, not as a
20 co-trustee, as Amy seems to believe. Mrs. Frasier also disagrees with Amy's
21 statement that "there could be no dispute that Dinny had capacity to enter into an
22 agreement with Mr. Resnick." Premier Trust is not a gerontologist and certainly in
23 no position to assess whether Mrs. Frasier possesses capacity in any form. Moreover,
24 there is no reason why Premier Trust as a cotrustee should have been present in the
25 process of Mrs. Frasier's firing and hiring of her personal attorneys.

26 K. Page 7, Lines 13-18:

27 Mr. Resnick told Mrs. Frasier that there is a chance the amendment and
28 restatement of the Survivor's Trust may be declared invalid in a court. He also told

1 Mrs. Frasier that she had the power to change the terms of the Survivor's Trust if
2 she so wished.

3 L. Page 7, Lines 19-26:

4 Contrary to Amy's allegation in lines 19-26, the issue is not whether Mr.
5 Resnick or Ms. Mulrain is willing to work with a cotrustee. Rather, what matters is
6 Mrs. Frasier's unwillingness to work with Premier for a myriad of reasons and her
7 desire to appoint Farmers and Merchants as successor corporate trustee in
8 accordance with the powers granted to her under the terms of the Trusts.

9 Mrs. Frasier seeks proof of the "history of undue influence" that Amy is
10 referring to in lines 20-21 of page 7. Amy has been fishing for information about her
11 mother's financial affairs for quite some time, including to Ms. Mulrain. However,
12 due to Mrs. Frasier's instructions not to disclose any information to Amy, Amy has
13 received no information from Ms. Mulrain. It appears that Amy feels a sense of
14 entitlement with respect to confidential information about her mother's personal and
15 trust matters. Other than as a beneficiary of the Trusts, Amy has no right to know
16 anything about the Trusts, and certainly nothing about Mrs. Frasier's personal
17 financial matters.

18 In lines 23-25, Amy accuses Ms. Mulrain of "past isolation of Dinny, lack of
19 personal financial transparency, lack of communications with Dinny's family." Any
20 isolation of Mrs. Frasier from undesired contacts stemmed from Mrs. Frasier's direct
21 orders regarding the same. Ms. Mulrain always has, and continues to, act with full
22 transparency regarding all matters related to services provided to Mrs. Frasier.
23 What Amy fails to realize is that Ms. Mulrain owes a duty to Mrs. Frasier only, and
24 not to anyone else, including her children. Therefore, there is no reason for "personal
25 financial transparency" to Amy or anyone else other than Mrs. Frasier.

26 **IV. TIMELINESS OF RESPONSE/OBJECTION**

27 The Court indicated in its Order Regarding Hearing that this
28 Response/Objection was past due and, therefore, must be filed on July 12, 2017. Out

1 of deference and respect to the Court, Lead Counsel for Mrs. Frasier sought to have
2 this document filed by July 12, 2017 in accordance with the Court's Order. However,
3 Premier Trust filed a Petition for Instructions. NRS 164.030 allows a trustee to
4 petition the court for instructions. NRS 164.005 clarifies that NRS Chapter 155 is
5 applicable to trust matters filed pursuant to NRS Chapter 164. NRS 155.160 allows
6 an interested person to make a response or objection in writing at or before the
7 hearing. Therefore, in response/objection to a petition, the responding party has until
8 at or before the hearing to lodge the objection to the petition pursuant to NRS
9 144.160. That being said, Lead Counsel for Mrs. Frasier respects the Court's desire
10 to review all papers well in advance of the hearing and, therefore, has complied with
11 the Court's Order to file this Response by July 12, 2017.

12 **V. CONCLUSION**

13 It is no secret that Mrs. Frasier has been unhappy with her co-trustee Premier
14 Trust and Mr. Robertson's firm for quite some time, and she valid reasons for her
15 desire to remove Premier Trust. Despite having many reasons for wanting to remove
16 and replace her corporate cotrustee, Mrs. Frasier, in fact, does not need any reason
17 under the terms of the Trusts to exercise her right to remove and replace the
18 corporate trustee. Article Three, Section 3(a) of the Survivor's Trust states that while
19 Mrs. Frasier is "alive and competent," she has "the right to add a Trustee, or to
20 remove or replace any other Trustee appointed under [the] Trust Agreement at any
21 time without cause." (Emphasis added). Article Three, Section 4 of the Survivor's
22 Trust further provides that Mrs. Frasier is "empowered to replace PREMIER TRUST,
23 INC. or any other then serving Commercial Trustee without cause." Article One,
24 Section B of the Tax Exemption Trust states that the current income beneficiary may
25 at any time, from time to time, in writing, change corporate trustees by appointing
26 another corporate trustee as trustee of the Trust. See **Exhibit 29**, Jordan Dana
27 Frasier Family Trust.

1 Mrs. Frasier is the sole current income beneficiary of the Tax Exemption Trust
2 and the Survivor's Trust during her lifetime. The only conditions precedent to Mrs.
3 Frasier's right to remove and replace a trustee under the terms of the Trust are that
4 she be "alive and competent," and both conditions have been satisfied. See **Exhibit**
5 **29**. There is no question that Mrs. Frasier is alive, and she has been declared
6 competent by a qualified gerontologist. See **Exhibit 4**.

7 In Dr. Spar's Letter, Dr. Spar concluded that Mrs. Frasier has the requisite
8 capacity to remove and replace Premier Trust. He stated that Mrs. Frasier's "clear
9 understanding of her circumstances was reflected in her ability to provide a perfectly
10 rational explanation for her decision to fire her current trustee and appoint
11 another..." See **Exhibit 4**.

12 Aside from the reasons stated herein, Mrs. Frasier wishes to have a trustee
13 that is local to her for ease of trust administration, which is why she wants to appoint
14 Farmers and Merchants with an office in Orange County, California close to her
15 residence. Given her advanced age, disharmony with her children, and the situation
16 surrounding the Trust, it is evident that she would benefit tremendously from having
17 a local trustee as opposed to a trustee based in Nevada, not only with respect to
18 efficiency of trust administration, but also with respect to her health and well-being.

19 Another reason that Mrs. Frasier wants to remove and replace Premier is
20 because Premier has not been properly administering the Trust, as described above.
21 For example, conditions of the Irvine house, San Juan Capistrano House, and the
22 Palm Desert Property were documented by Ms. Mulrain pursuant to Ms. Shrive's
23 requests. See **Exhibit 30**, June 1, 2017 E-mail to Shrive, **Exhibit 31**, April 4, 2017
24 E-mail to Shrive. Said documentation was provided to Ms. Shrive verbally, via
25 emails, and on CD. Therefore, Ms. Shrive's statement in paragraph 27 of her
26 declaration that she is not aware of any issues with Mrs. Frasier's homes or gardens
27 is a misrepresentation because she has received documentation, including
28 photographs, from Ms. Mulrain.

1 Premier has also failed to provide the long overdue accounting to Mrs. Frasier.
2 The Trusts require Premier to provide an annual accounting to Mrs. Frasier, but
3 Premier has not provided one single accounting in over two years since it assumed
4 trusteeship of the Trusts. Mr. Resnick sent a letter to Premier to demand an
5 accounting on behalf of Mrs. Frasier. Premier has not complied with this request,
6 and therefore, Mrs. Frasier does not have proper documentation of trust spending
7 since Premier Trust assumed the role of corporate trustee.

8 Premier states in paragraph 20 of its petition that it would have no problem
9 with resigning as cotrustee if Mrs. Frasier is competent and not being manipulated
10 by others. Mrs. Frasier has been deemed competent by Dr. Spar at two different
11 assessment meetings, and Premier has been provided with a copy of Dr. Spar's
12 assessment letters. Mrs. Frasier is making her decisions independently, without
13 undue influence, and has made numerous offers through her attorneys that would
14 eliminate Premier's concerns of undue influence, all of which Premier has either
15 rejected or failed to respond to. In the interests of Mrs. Frasier's health, judicial
16 economy, and trust preservation, Mrs. Frasier has no choice but to hereby seek court
17 approval of the removal and replacement of Premier Trust as cotrustee of the Trust
18 and the appointment of Farmers and Merchants Trust Company as successor
19 corporate trustee of the Trust.

20 ///

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1 In the interest of resolution that may be satisfactory to all parties, Mrs. Frasier
2 will also resign as a co-trustee contingent upon and concurrent with the resignation
3 of Premier Trust as cotrustee and concurrent with the appointment of Farmers and
4 Merchants Trust Company to serve as successor corporate sole trustee of the Trusts.

5 **AFFIRMATION**

6 The undersigned does hereby affirm this document does not contain the social
7 security number or legally private information of any person.

8 **DATED** this **12th** day of **July, 2017**.

9

10 By: /s/ Barnet Resnick.
11 BARNET RESNICK, ESQ.
12 Admitted *Pro Hac Vice*
13 VOGT/RESNICK/SHERAK, LLP
14 4400 MacArthur Boulevard, Suite 900
15 P.O. Box 7849
16 Newport Beach, CA 92658-7849
17 Ph: 949-851-9001
18 Fax: 949-833-3445
19 Lead Counsel for Mrs. Dinny Frasier
20
21
22
23
24
25
26
27
28

1
2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I hereby certify that I am an employee of the law firm
4 of Wallace & Millsap LLC, 510 W Plumb Lane, Suite A, Reno, Nevada 89509 and that
5 on the 28th day of June, 2017, I electronically filed the foregoing **Notice of Hearing**
6 with the Clerk of the Court by using the electronic filing system which will send a
7 notice of electronic filing to the following individuals or entities:

8
9 Michael Sullivan, Esq. Kristen Caverly, Esq. [pro hac vice]
10 Robison, Belaustegui, Sharp, & Low Henderson, Caverly, Pum & Charney
11 71 Washington Street 12750 High Bluff Drive, Suite 300
12 Reno, Nevada 89503 San Diego, CA 92130
13 Attorneys for Dr. Bradley L. Frasier Co-Counsel for Dr. Bradley L. Frasier

14 David Robertson, Esq.
15 Richard Williamson, Esq.
16 Robertson, Johnson, Miller &
17 Williamson
18 50 West Liberty Street, Suite 600
19 Reno Nevada 89501
20 Attorneys for Premier Trust, Inc.

21 I further certify that on the 28th day of June, 2017, I caused to be served by
22 ordinary first-class U.S. mail a true and correct copy of the foregoing **Notice of**
23 **Hearing** on the following individuals or entities:

24 Nori Frasier 25 4372 Pacifica Way, Unit 3 26 Oceanside, California 92056	27 Amy Frasier Wilson 28 10 Via Sonrisa Mission Viejo, California 92692
---	---

29 By: /s/ Patrick R. Millsap.
30 Local Counsel for Mrs. Dinny Frasier.

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FILED
Electronically
PR16-00128
2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “5”

EXHIBIT “5”

From: Barnet Resnick <bresnick@VRSLaw.net>
Sent: Wednesday, May 24, 2017 10:33 AM
To: David Robertson
Cc: Nicole Shrive (nshrive@premiertrust.com); janie@ethosfiduciary.com; Gina Kim
Subject: RE: Your Thursday

Janie and I will talk to her again, today I will let you know

-----Original Message-----

From: David Robertson [mailto:gdavid@nvlawyers.com]
Sent: Wednesday, May 24, 2017 10:30 AM
To: Barnet Resnick
Cc: Nicole Shrive (nshrive@premiertrust.com); janie@ethosfiduciary.com; Gina Kim
Subject: Re: Your Thursday

Barry:

Does Dinny understand she has an obligation as a trustee to speak with trust counsel about ongoing litigation involving the trust? If she is going to refuse to meet with me then I will have to file a motion with the court to extend the time in which to file the proposed order until after I have a chance to discuss it with Dinny.

Thanks,
David

Sent from my iPhone

> On May 24, 2017, at 10:10 AM, Barnet Resnick <bresnick@VRSLaw.net> wrote:
>
> David: Janie contacted Dinny about your visit. She advised us that she does not want a visit from you two at this time.
> As I have expressed to you on more than one occasion, she is not pleased with premier, Nicole and you.
> Sorry for the short notice but I didn't want you two to make the trip and find out while you are here that she refuses to see you.
>
> BARRY RESNICK, ATTORNEY
> VOGT/RESNICK/SHERAK, LLP
> 949-851-9001

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2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “6”

EXHIBIT “6”

From: BRICHARDSON@fclaw.com [mailto:BRICHARDSON@fclaw.com]
Sent: Wednesday, May 24, 2017 3:38 PM
To: Gina Kim; Barnet Resnick
Cc: COMARA@FCLAW.com
Subject: RE: Dinny Frasier

Gina,

I just spoke with David Robertson. I explained that Dinny wants he and Premier replaced. I told him about Dr. Spar's May 22nd report of evaluation and just finished emailing it to him.

He said he was ordered by the Court to meet with Dinny and would resist any effort to have he and Premier Trust replaced.

I am not sure if he is going to travel tomorrow or not. He said he has received reports that Barry is somehow influencing Dinny to a point Dinny won't or can't communicate with David.

As I mentioned, our firm cannot act as local counsel in a removal action. I believe Courtney can find a suitable replacement.

Brad

Bradley J. Richardson, Director
T: 702.692.8070 | F: 702.692.8056
brichardson@fclaw.com

From: Gina Kim [mailto:gkim@VRSLaw.net]
Sent: Wednesday, May 24, 2017 3:26 PM
To: RICHARDSON, BRADLEY; Barnet Resnick
Cc: O'MARA, COURTNEY MILLER
Subject: RE: Dinny Frasier

Thanks, Brad.

Would you be able to call Robertson today if possible? He's set to fly out tomorrow to meet with Dinny, but Dinny wants to fire him and Nicole asap so that tomorrow's meeting doesn't take place.

Thank you,
Gina

Sincerely,

Gina H. Kim
Attorney

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From: BRICHARDSON@fclaw.com [<mailto:BRICHARDSON@fclaw.com>]
Sent: Wednesday, May 24, 2017 12:58 PM
To: Barnet Resnick; Gina Kim
Cc: COMARA@FCLAW.com
Subject: RE: Dinny Frasier

Thank you Barry. I will let you know how the call with Robertson goes.
Brad

From: Barnet Resnick [<mailto:bresnick@VRSLaw.net>]
Sent: Wednesday, May 24, 2017 12:48 PM
To: Gina Kim
Cc: RICHARDSON, BRADLEY; O'MARA, COURTNEY MILLER
Subject: Re: Dinny Frasier

Brad: I have many declarations signed by Dinny, her caregivers and private fiduciary corroborating the fact that Dinny wants to fire Premier and Robertson.
Keep me posted,

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

On May 24, 2017, at 12:26 PM, Gina Kim <gkim@VRSLaw.net> wrote:

Hi Brad,

Please find attached Dr. Spar's newest capacity assessment letter, redacted so that you can share it with Robertson at your discretion.

Pursuant to your conversation with Barry Resnick, please contact David Robertson to notify him of Dinny's intent to fire his firm as her trustee counsel and to fire Premier as a co-trustee. If Premier agrees to its removal, then we can send out the notice of removal and replacement. If Premier will not agree, then we will have to file a petition in Nevada.

Please let us know the outcome of the conversation and we will proceed accordingly. As you are aware, there is a meeting between Robertson and Dinny set for May 25, 2017.

Thank you.

Sincerely,

Gina H. Kim
Attorney
VOGT | RESNICK | SHERAK, LLP
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<image001.png>

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Bradley J. Richardson, Director

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<Spar Assessment Letter dated 5-22-17-REDACTED.pdf>

EXHIBIT “7”

EXHIBIT “7”

STEPHAN H. ANDRANIAN
RICHARD M. BLUMENTHAL
SARAH E. BREWSAUGH
JEROME A. BUSCH*
JEANY A. DUFF
ADAM M. GREELY
BRYAN K. JOHNSON**
GINA H. KIM
BARNET RESNICK*
JEFFREY M. RESNICK*
DAVID A. SHERAK*

*A Law Corporation
** Also admitted to practice in New York

JAMES D. VOGT, Retired



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OF COUNSEL
JACK SMART*



FILE NO. 05447.01

May 25, 2017

VIA ELECTRONIC MAIL (gdauid@nvlawyers.com)

G. David Robertson
Robertson, Johnson, Miller & Williamson

Re: Frasier Trust/Premier Trust

Dear David:

As you know, the Trust provides to Dinny the power to remove, without cause, any trustee serving under the Trust, which necessarily includes co-trustee Premier Trust. Dinny's capacity to remove and replace Premier Trust and to make other trust-related decisions, and to hire and fire her attorneys at will was confirmed by James Spar, M.D. ("Dr. Spar") in his second capacity assessment of Dinny, which occurred on May 19, 2017. A copy of Dr. Spar's redacted opinion letter in which he states that Dinny possesses testamentary and contractual capacity to make trust-related decisions was provided to you on May 24, 2017 by Brad Richardson, and is also attached hereto for your reference.

Despite such authority provided her under the Trust and declaration of capacity from a qualified gerontologist, I have been informed that you and Premier plan to resist any efforts made by Dinny to remove and replace you and Premier as her attorney and as co-trustee, respectively. The only reason you proffer to support your position is that I am somehow exerting influence over Dinny to have you and Premier fired and to prevent any communications from taking place between you/Premier Trust and Dinny against her wishes. If you choose to make such allegations against me, I would appreciate the courtesy of providing me evidence to support your claims. As I have previously mentioned, Dinny has been extremely unhappy with the current trustee situation and wishes to have no contact with Nicole, Premier, you or your firm. I have simply been acting as her messenger to relay to you that she does not want to see you or Nicole at this time.

Dinny, as well as those close to her (and not related to me or my firm), have signed declarations regarding Dinny's hostile feelings and resentment toward Premier and your firm, and her desire to remove all of you. Said declarations are attached hereto for your reference. In light of these declarations and the recent events, it should come as no surprise to you that Dinny wants to fire your firm and Premier. Her wishes are clearly stated in her declaration, corroborated by declarations of others close to her, and corroborated by the statements that she made to Dr. Spar as explained in

May 25, 2017

Page 2

the capacity letter dated May 22, 2017.

I hope you will agree that it is clearly within Dinny's right to remove and replace Premier under the terms of the Trust and that she has been declared competent by Dr. Spar to exercise such right. The only condition to the removal and replacement since the May 9th hearing is court approval of said exercise of power.

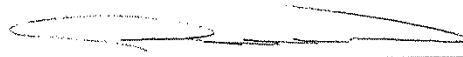
I hope that you and Premier will acknowledge not only Dinny's power to remove and replace Premier and to terminate her relationship with your firm, but also her contractual capacity to do the same based on the recent assessment. If you and Premier will agree to resign as her attorney and co-trustee, respectively, then we can inform the court of the change in trusteeship. However, if you and Premier choose to resist any removal efforts, then Dinny will have no choice but to file a motion with the court to approve her removal of Premier and your firm. Given that the Trust provides Dinny the power to remove and replace Premier so long as she has capacity, and Dr. Spar's expert opinion that she does possess the capacity to remove and replace Premier, I am confident that the court will approve the motion, particularly after reviewing Dr. Spar's letter and the corroborating declarations from Dinny, her agent, caregivers and friend of 30 years.

Please respond by or before 5PM on Friday, May 26, 2017. If I receive a response from you that you and Premier both agree to the removal and disengagement, then we can proceed to obtain court approval regarding the same. If I do not receive such a response from you by the stated time, then I will proceed to file a motion to approve Dinny's removal and replacement of Premier Trust and termination of your representation of her as co-trustee.

For the sake of our mutual client Dinny, it is my sincerest hope that you and Premier both agree to abide by Dinny's wishes so that we can make these transitions as smoothly as possible, without wasting the court's time.

Sincerely,

VOGT | RESNICK | SHERAK, LLP
Attorneys At Law



Barnet Resnick

Cc: Nicole Shrive (nshrive@premiertrust.com)
Bradley Richardson (brichardson@fclaw.com)
Courtney O'Mara (comara@fclaw.com)



May 22, 2017

JAMES E. SPAR, M.D.
PROFESSOR, DEPARTMENT OF PSYCHIATRY
& BIOBEHAVIORAL SCIENCES
DIVISION OF GERIATRIC PSYCHIATRY
DAVID GEFFEN SCHOOL OF MEDICINE AT UCLA
760 WESTWOOD PLAZA
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Barnet Resnick
Vogt Resnick Sherak, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849

Dear Mr. Resnick:

At your request I evaluated Mrs. Dinny Frasier, an 88-year old woman, in my office on May 19, 2017. Mrs. Frasier was accompanied to my office by Janie Mulrain, a professional fiduciary, and Rae Juarez, her caregiver, both of whom remained out of the office during the 75-minute evaluation. I asked Mrs. Frasier why she was being evaluated, inquired about her estate and her estate plans, and administered a general mental status examination, a Folstein Mini-Mental State Examination (MMSE) and several additional tests of naming, remote memory, frontal executive function (as reflected by similarities, word list generation, proverb interpretation, and clock drawing), and general information and reasoning.

Mrs. Frasier said, "I want to fire my Trustee, Premier Trust, especially Nicole". She went on to list some of the reason she wants to replace Premier Trust, which has headquarters in Nevada, with a Trustee with offices close to where she lives. She said that trust officer Nicole has been extremely difficult to reach, that she had scheduled a meeting with Nicole and waited for two hours and Nicole never showed up and did not call, and that Nicole will not return Mrs. Frasier's calls. She also said that Nicole has hired three new attorneys to work on her trust; Mrs. Frasier doubts the services of these attorneys are necessary and is concerned about the expense. She also complained that Premier Trust is not paying her bills, as promised, and mentioned that her house and the surrounding garden need work, but Premier Trust has not paid for the necessary services.

Mrs. Frasier is still unhappy living in the house that her daughter Amy and son-in-law Bill Wilson bought for her, after telling her that they would move in with her and help take care of her, and then never setting foot in the house and having essentially no communication with her. She said, "They lied about all of it". She also spoke a bit about her other children. She said her son Brad "Is fighting me in court. He doesn't want to pay back money my husband loaned him" (to purchase a medical building), and also expressed anger and exasperation towards her daughter Nori, saying, "We



(referring to her late husband Joe Frasier) bought them a house, and bought her a house, and she owes me money and doesn't want to pay it back". She continues to be angry at all three children [REDACTED]

Mrs. Frasier told me that she intends to sell all three of her houses: the one she is living in, the one she moved from (at 3 Pinewood Avenue, in Irvine, CA), and her house in Palm Springs. Then she plans to buy a smaller house for herself.

On general mental status examination Mrs. Frasier was well dressed and groomed, alert and in no distress, and quite cooperative with the examination. Her mood was euthymic, her affect was appropriate in direction and degree, and there were no abnormalities of the form, flow or content of thought. Her psychomotor behavior was unremarkable. She scored 15/30 on the MMSE, losing one point each on orientation to the year, month, date, day, season, place, floor, city and county; three on recall, and one on figure copying. This score is consistent with moderate cognitive impairment for her age and advanced education. Her performance on the other tests was mixed: her naming was intact, her spontaneous recall of remote, impersonal facts and information was moderately to severely impaired, but responded to clues, and her frontal executive function as reflected by word list generation was moderately impaired. However, on the tests of frontal executive function that I was not able to administer the first time I evaluated her, including similarities, proverb interpretation, and general information and reasoning, her performance was normal or slightly superior to normal.

Based upon this evaluation I believe that Mrs. Frasier has mild to moderate global cognitive impairment, with deficits mainly in spontaneous recall of previously learned facts and information, and registration and recall of new information. Despite this impairment, her clear understanding of her circumstances was reflected in her ability to provide a perfectly rational explanation for her decision to fire her current trustee and appoint another. To express this in California statutory language, with respect to her decision to replace her trustee, she was able to communicate the decision, and to understand and appreciate, to the extent relevant, the rights, duties, and responsibilities affected by the decision; the probable consequences for herself and the other persons affected by the decision; and the significant risks, benefits, and reasonable alternatives involved in the decision. I believe she is equally competent to make other trust-related decisions, such as to hire and fire and work with her attorneys as the need arises.

Sincerely,

J. Edward Spar, M.D.
Professor of Psychiatry
Division of Geriatric Psychiatry

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Attorneys for Dinny G. Frasier, Individually

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the matter of
JORDAN DANA FRASIER FAMILY
TRUST

CASE NO. PR16-00128

DEPT. NO. 15

DECLARATION OF DINNY G. FRASIER

I, DINNY G. FRASIER, declare as follows:

1. I am a co-trustee and a settlor of the Jordan Dana Frasier Family Trust ("Trust") and a party in the above-captioned matter.
2. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.
3. I did not select Premier Trust, Inc. ("Premier") to be my co-trustee of my Trust. I believe that my daughter Amy Frasier or some attorney she hired brought in Nicole/Premier to be a co-trustee of my Trust, and, consequently, David Robertson's firm.
4. I do not trust Nicole, Premier, or any of the attorneys in Reno. I think Nicole is stealing my money, and there is some funny business going on that I don't know about

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1 because Nicole never returns my calls. She also told me several times that she would visit
2 me, but she doesn't.

3 5. I do not wish to have any further contact with them, but if future communications
4 become necessary, I want to have my personal attorney, Barry Resnick, present, in any
5 meetings or calls that I have with Nicole, Premier, or their attorneys. I simply cannot trust
6 any of them, I don't feel comfortable dealing with them, and they don't act in my best
7 interest.

8 6. I want to fire Premier, Nicole, and David Robertson's firm and get them out of my
9 life. I want to work with a co-trustee who is local and accessible, transparent, and
10 trustworthy. I want a co-trustee who will keep me informed of my Trust and assets, and not
11 someone who I have to keep leaving voicemails to without getting a call back.

12 7. I don't understand why my Trust is even tied up in litigation in Nevada. This entire
13 litigation has caused me so much stress, and my health is suffering because of it. I often
14 have trouble sleeping, have trouble eating, and suffer from anxiety due to the stress that this
15 whole matter is causing me. I want to move on with my life and resume the activities that I
16 used to enjoy doing.

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

19 Executed this 5th day of May, 2017, at San Juan Capistrano, California.

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21 
22 DINNY G. FRASIER
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Attorneys for Dinny Frasier, Individually

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the matter of
JORDAN DANA FRASIER FAMILY
TRUST

CASE NO. PR16-00128

DEPT. NO. 15

DECLARATION OF BRUCE SCHWARTZ

I, BRUCE SCHWARTZ, declare as follows:

1. I am an attorney duly licensed to practice law before all courts in the State of California.
2. I was a neighbor of Dinny G. Frasier ("Dinny") and her late husband Joe Frasier for 30 years, and continue to be a friend of Dinny, a party in the above-captioned matter.
3. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.
4. Through the 30 years that I have known Dinny, I witnessed firsthand all of the heartaches and anguish that Dinny's children, and more recently, Premier Trust, Inc. ("Premier"), Nicole Shrive ("Nicole"), and David Robertson's firm, have caused her.


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1 5. Dinny has always been a bright, bubbly, and wonderful person with a fantastic sense
2 of humor and a great passion for life and her dogs. As her friend, it has been hard for me to
3 watch her suffer with anxiety and depression caused by Nicole, Premier and the Reno
4 attorneys.

5 6. Every time I see Dinny, she tells me how much she hates Nicole and the three
6 attorneys that Nicole hired. She says that Nicole cannot be trusted, and that she wants to
7 fire Nicole and all of the attorneys in Nevada and get them out of her life.

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

10 Executed this 5th day of May, 2017, at Newport Beach, California.

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13 BRUCE SCHWARTZ
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Attorneys for Dinny Frasier, Individually

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the matter of

CASE NO. PR16-00128

JORDAN DANA FRASIER FAMILY
TRUST

DEPT. NO. 15

DECLARATION OF DESARAE BOYLES

I, DESARAE BOYLES, declare as follows:

1. I am not a party in the above-captioned matter.
2. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.
3. I am employed by Family Home Care, Inc. and was assigned to Dinny G. Frasier ("Dinny"), a party in the above-captioned matter, as a Home Care Aide in August of 2016, shortly after Dinny was released from the rehabilitation center.
4. My currently scheduled hours with Dinny are Mondays through Thursday, 7AM to 7PM.
5. Soon after I met Dinny, I often heard Amy and Bill encouraging Dinny to call Nicole

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1 to "figure things out."


2 6. At Amy and Bill's repeated requests, Dinny called Nicole many times and left
3 voicemails. Nicole did not return Dinny's calls, however, so Dinny asked me to call and
4 leave Nicole a voicemail, which I did. Out of all the calls and voicemails left to Nicole, I
5 believe Nicole returned the call about two times total.

6 7. I clearly observed that Nicole's lack of accessibility and lack of response caused
7 extreme frustration, agitation, and anger to Dinny. Dinny wanted to drive down to the bank
8 and talk to Nicole in person, but I told her that Nicole was in Nevada and we couldn't go.
9 Dinny said that she wants everything local where she can get information and talk to
10 someone when she needs to.

11 8. Dinny often mentions that she wants to fire Nicole and the Reno attorneys, that she
12 wants them "out of my life," that she can't trust Nicole.

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

15 Executed this 5th day of May, 2017, at Lake Forest, California.

16
17 
18 DESARAE BOYLES
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1 1520

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2 Nevada Bar No. 1159

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8 California Bar No. 59906

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11 (Pro Hac Vice Pending)

Attorneys for Dinny Frasier, Individually

12

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

13

IN AND FOR THE COUNTY OF WASHOE

14

In the matter of

CASE NO. PR16-00128

15

JORDAN DANA FRASIER FAMILY
TRUST

DEPT. NO. 15

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DECLARATION OF RAE LYNN JUAREZ

19

I, RAE LYNN JUAREZ, declare as follows:

20

1. I am not a party in the above-captioned matter.

21

2. I have personal knowledge of the matters set forth herein and if called and sworn to
testify, I could and would competently do so.

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3. I am employed by Family Home Care, Inc. and was assigned to Dinny G. Frasier
("Dinny"), a party in the above-captioned matter, as a Home Care Aide about four months
ago when Dinny was released from the rehabilitation Center and moved in to the San Juan
Capistrano house.

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4. My scheduled hours with Dinny are Fridays through Sunday from 7AM to 7PM,
including holidays.

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1 5. Dinny is usually a happy and spirited person who loves to have fun. She is active and
2 loves to go out to her backyard to watch her dogs play and go to the movies. But I have
3 noticed that Dinny's mood changes very quickly from good to bad as soon as she hears
4 about the Nevada attorneys or Nicole. She gets very angry and very sad whenever their
5 names come up.

6 6. Dinny's words are "I hate the 3 attorneys that Nicole hired," "I hate Nicole because of
7 the things she's done to me."

8 7. One occurrence that sticks out in my mind happened on March 17, 2017, around
9 4:35pm. Dinny and I were at a Costco checkout line trying to make a purchase totaling
10 about \$100.00. The cashier informed Dinny that her Costco platinum card was declined.
11 The card was declined due to non-payment. Despite the embarrassment and anger that I
12 could see Dinny was feeling, she kept her composure inside the store. However, as soon as
13 we got into the car, she started yelling and screaming that she wanted to fire Nicole, and
14 asked "Why isn't she paying my bills?"

15 8. Another instance around that time was when Dinny opened a bill from the HOA that
16 payment was delinquent for a few months. Dinny got very angry and said "This makes me
17 sick. Why doesn't Nicole pay my bills? This is so embarrassing. Why can't she be fired?"

18 9. Dinny also gets very upset if she sees commercials about lawyers and says that
19 "Nicole's attorneys let Nicole do everything she wants."

20 10. I have had to switch the subject many times to divert Dinny's attention away from
21 these negative thoughts to get her out of her depressed mood. This also affects Dinny's
22 appetite, ability to sleep, and her pain flairs up.

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

25 Executed this 5th day of May, 2017, at San Juan Capistrano, California.

26 
27 RAE LYNN JUAREZ
28

FENNEMORE CRAIG, P.C.
300 East Second Street, Suite 1510
Reno, NV 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

1 **1520**

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20 (Pro Hac Vice Pending)
21 Attorneys for Dinny Frasier, Individually

22 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

23 **IN AND FOR THE COUNTY OF WASHOE**

24 In the matter of

CASE NO. PR16-00128

25 JORDAN DANA FRASIER FAMILY
26 TRUST

DEPT. NO. 15

27 **DECLARATION OF JANIE L. MULRAIN**

28 I, JANIE L. MULRAIN, declare as follows:

1. I am not a party in the above-captioned matter.
2. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.
3. I am a California Licensed Professional Fiduciary, License#768 and I was appointed by Dinny G. Frasier ("Dinny") a party in the above-captioned matter, as her financial agent under Durable Power of Attorney for Management of Property and Personal Affairs, and as her health care agent under an Advance Health Care Directive.
4. Since my appointment on December 10, 2016, my responsibilities involve assisting Dinny in connection to her health and wellness as well as implementing her wishes and

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1 decisions with regards to her financial affairs.

2 5. I met with Dinny at her residence on May 5, 2017 and discussed her declaration
3 regarding Premier Trust ("Dinny's Declaration"). I read the content of Dinny's Declaration
4 to her, and she also reviewed it herself and affirmed that Dinny's Declaration is a true
5 reflection of her thoughts and wishes.

6 6. Since the onset of my tenure with Dinny, she has repeatedly voiced her displeasure of
7 Premier Trust and trustee counsel in Reno. She consistently requested dismissal of Premier
8 Trust and "the trustee lawyers in Reno". I often had to facilitate cooperation and
9 communication between Premier Trust and Dinny. Examples include taking care of tasks in
10 connection with trust assets as requested by Dinny as well as by Premier Trust, relaying
11 information or requests by Premier Trust to Dinny, and obtain Dinny's signature on behalf
12 of Premier Trust on documents.

13 7. Thus, Dinny's Declaration is consistent with my knowledge of her wishes and
14 directives in not wanting to have Premier Trust as her Co-trustee and the dismissal of Co-
15 trustee counsel.

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

18 Executed this 7th day of May, 2017, at Irvine, California.

19
20 
21 JANIE L. MULRAIN
22
23
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25
26
27
28

EXHIBIT “9”

EXHIBIT “9”

Wallace & Millsap

-Attorneys at Law-

F. McClure Wallace, Esq.
mcclure@wallacemillsap.com

Patrick R. Millsap, Esq.
patrick@wallacemillsap.com

June 2, 2017

Via U.S. Mail

G. David Robertson, Esq.
Robertson, Johnson, Miller & Williamson
50 West Liberty Street, Suite 600
Reno, NV 89501

Re: *Jordan Dana Frasier Family Trust*

Dear Mr. Robertson,

Please allow this correspondence to confirm our conversation held on June 2, 2017 wherein we generally discussed the competency of Mrs. Frasier. As you will recall, I indicated Counsel for Mrs. Frasier reviewed Premier Trust's Second Supplemental Petition for Instructions as it relates to the Jordan Dana Frasier Family Trust and related Trusts thereunder (the "Trusts"). I further indicated my interpretation of Premier Trust's underlying concern in the Petition was the competency of Mrs. Frasier to determine whether Premier Trust should continue as Co-Trustees of the Trusts free of undue influence. Therefore, I offered to arrange a telephonic conference or video conference with Nicole Shive of Premier Trust, yourself, Mr. Barnet Resnick and Mrs. Frasier so Premier Trust would have the ability to speak with Mrs. Frasier directly regarding her decision to terminate Premier Trust as Co-Trustees of the Trusts. I reiterate my offer as part of this correspondence. A phone or video conference with Mrs. Frasier would offer you and Premier Trust the ability to personally speak with Mrs. Frasier as you have requested, and verify her decision to terminate Premier Trust as Co-Trustees of the Trusts with immediate effect.

In response to my offer, you indicated you would confer with Premier Trust in this regard but were inclined to insist upon an in-person meeting with Mrs. Frasier to assure she is not being unduly influenced in her decision to terminate Premier Trust as Co-Trustees of the Trusts. I stated Mrs. Frasier's physician determined an in-person meeting with you and Premier Trust is detrimental to her health because

G. David Robertson, Esq.
June 2, 2017
Page 2

it causes Mrs. Frasier increased anxiety and stress levels. You responded by stating your personal conversation with her did not seem to increase her stress or anxiety levels. Therefore, we were not able to reach an agreement on how to best proceed via our telephonic conference.

Reflecting on our discussion, I am confident a video conference is sufficient to address your concerns regarding undue influence. You will have the ability to view Mrs. Frasier as she is speaking to you analogous to an in-person meeting, thereby verifying Mrs. Frasier is not being told by a third-party how to answer your questions or make decisions regarding termination of Premier Trust. This method would also save the Trust the significant expense of an in-person meeting with you and a Premier Trust representative.

If Premier Trust refuses a video conference to allay its concerns, I would suggest a neutral and independent third-party meet with Mrs. Frasier to verify her decision to terminate Premier Trust as Co-Trustees of the Trust. I would nominate Retired Appellate Justice King, who conducted the mediation previously held in this matter, to act as the third-party interviewer. If Justice King determines Mrs. Frasier has independently decided to terminate Premier Trust free of undue influence, I would hope Premier Trust will honor Mrs. Frasier's wishes and expeditiously resolve this matter before the Court.

Should you have any questions or concerns regarding this correspondence, or if this correspondence is inaccurate in any way, please let me know immediately so we may rectify any misunderstanding. Thank you for your attention to this correspondence and I look forward to working with you in bringing this matter to a close.

Sincerely,

WALLACE & MILLSAP LLC



Patrick R. Millsap, Esq.

/prm

FILED
Electronically
PR16-00128
2017-07-12 07:20:07 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6193121 : pmsewell

EXHIBIT “10”

EXHIBIT “10”

**FIRST AMENDMENT AND RESTATEMENT OF THE
SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST DATED DECEMBER
29, 1980**

Name of Trust: FIRST AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST
CREATED UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980

Date Established: DECEMBER 29, 1980

Successor Trustees:

Successor Trustee designations for DINNY G. FRASIER are located in Section 4 of
Article Three of the FIRST AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S
TRUST CREATED UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED
DECEMBER 29, 1980 .

Informal Trust Name: FIRST AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST
CREATED UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980.

Formal Trust Name (Title to all assets in this Trust is vested in this name):

DINNY G. FRASIER and PREMIER TRUST INC., A NEVADA CHARTER TRUST
COMPANY, Trustees, or their successors in trust, under the FIRST AMENDMENT
AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST DATED DECEMBER 29, 1980, and any amendments
thereto.

THIS SUMMARY IS NOT PART OF THE TRUST

This
REVOCABLE FAMILY WEALTH TRUST
prepared for
DINNY G. FRASIER

The Law Offices of H. Brooks Travis, PC.
HBTTravis.Law@cox.net
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First Amendment and Restatement
of the
SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST DATED DECEMBER
29, 1980

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**First Amendment and Restatement
of the
SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA
FRASIER FAMILY TRUST DATED DECEMBER 29, 1980**

Article One - Creation of Amendment and Restatement

Section 1. Parties to My Trust Amendment and Restatement

This First Amendment and Restatement, dated May 29, 2015, of my Survivor's Trust is made between DINNY G. FRASIER, the Trustor, and the Initial Trustees appointed under Section 4 of Article Three.

Section 2. Trust Recitals

Trustor and Trustees entered into a Trust Agreement dated December 29, 1980 ("Trust Agreement"). The original Trust Agreement was first amended on December 31, 1984. That original Trust Agreement was amended for the second time on April 8, 1987. That original Trust Agreement was amended for a third time and completed restated on September 21, 1999. The restated Trust Agreement was amended for a fourth time on March 15, 2000. The restated Trust Agreement was amended for the 5th time on June 7, 2000. Trustor Jordan Dana Frasier died on October 22, 2014. Upon his death the 3rd Amendment and Restatement requires the split of assets between the Survivor's Trust and the Tax Exempt Trust. With this document, I desire to amend and restate the entire existing Survivor's Trust agreement created under the 3rd Amendment and Restatement dated September 21, 1999. This document is the first amendment and restatement of the Survivor's Trust created under that 3rd Amendment and Restatement of the Jordan Dana Frasier Family Trust dated December 29, 1980. By this Amendment and Restatement, I desire to amend and restate the entire existing Trust Agreement and Trustees agree to accept the changes set forth in this Amendment and Restatement.

Section 3. Trust Name

My Trust may be referred to as the:

FIRST AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN
DANA FRASIER FAMILY TRUST DATED December 29, 1980.

The formal name of my Trust and the designation to be used for the transfer of title to the name of my Trust is:

DINNY G. FRASIER and PREMIER TRUST INC., A NEVADA CHARTER TRUST COMPANY, Co-Trustees, or their successors in trust, under the FIRST AMENDMENT AND RESTATEMENT OF THE SURVIVOR'S TRUST CREATED UNDER THE JORDAN DANA FRASIER FAMILY TRUST DATED December 29, 1980, and any amendments thereto.

Section 4. My Trust is Revocable

My Trust is a revocable trust. My Trust is a grantor trust under the provisions of Sections 673 – 677 of the Code.

Section 5. My Family Members

All references to "children" are to (i) all of the children so identified in this Section 5 (subject to the exclusion of any child under subsequent provisions of this Section 5), (ii) any children conceived by me but not yet born at the time of the execution of my Trust, and (iii) any children conceived or adopted by me subsequent to the execution of my Trust and prior to my death.

a. Marital Status

I am presently unmarried.

b. My Children

The names of my children are as follows:

Name

BRADLEY L. FRASIER
NORI BETH CADY
AMY FRASIER WILSON

c. Exclusion of Certain Descendants

I hereby acknowledge the existence of BRADLEY L. FRASIER and intentionally, with full knowledge, have chosen to exclude him but not his descendants under the terms of my Survivor's Trust Agreement.

I hereby acknowledge the existence of NORI BETH CADY and intentionally, with full knowledge, have chosen to exclude her and her descendants under the terms of my Trust Agreement.

Section 6. Citizenship of Trustor

DINNY G. FRASIER is a citizen of the United States of America.

Article Two - Trust Property

Section 1. Initial Trust Property

To the extent not previously assigned, conveyed, transferred or delivered, I hereby assign, convey, transfer and deliver to my Trustee all property set forth on Schedule A, attached hereto, and made part of my Trust Estate. My Trustee acknowledges receipt of all assets listed on the attached Schedule and agrees to hold, manage and distribute my Trust Estate under the provisions set forth in my Trust Agreement.

All assets titled in the name of my Trust, in the name of my Trustee, or in the name of a nominee as authorized under my Trust Agreement but not listed on Schedule A, shall be considered a part of my Trust Estate as if they had been set forth on the attached Schedule.

Section 2. Additional Trust Property

I, or any other person or entity, may transfer or devise to my Trustee additional assets, real or personal, and may name my Trustee as the beneficiary of life insurance policies, annuities, retirement plans or similar contracts. Such assets, policies and proceeds, upon notice and acceptance by my Trustee, shall be a part of my Trust Estate, subject to all the terms of my Trust Agreement.

Section 3. Character of Trust Property

All property transferred by me into my Trust shall retain its character. All such property transferred, and income thereon less withdrawals thereof, shall be my Trust Estate.

Section 4. Acceptance of Trust Property

All property transferred to my Trust, and accepted by my Trustee, shall be held, administered and distributed according to the terms of my Trust Agreement.

Article Three - Trustees

Section 1. Definition

All uses of the word "Trustee" in my Trust Agreement shall be deemed a reference to the person or entity then serving as Trustee and shall include alternate Successor or Co-Trustees (if multiple Trustees are serving), unless the context requires otherwise.

Section 2. Trustee's Resignation

Any Trustee may resign at any time without court approval by giving written notice to me if I am living and competent. If I am not then living and competent, written notice shall be given to my next Successor Trustee; or if there is no next Successor Trustee, to the beneficiaries then entitled to receive income or principal distributions under my Trust Agreement or their respective Personal Representatives, or if any of such beneficiaries are then minors, to the persons having the care or custody of any such minor. Such resignation shall be effective upon the appointment of a Successor Trustee.

Section 3. Trustee's Removal

Any Trustee may be removed under my Trust Agreement as follows:

a. While Alive and Competent

While I am alive and competent, I shall have the right to add a Trustee, or to remove or replace any other Trustee appointed under my Trust Agreement at any time without cause.

b. Removal by Other than Trustor

After my death or incapacity, a majority in interest of the beneficiaries then entitled to receive income or principal distributions from a separate trust, or their respective Legal Representatives, shall have the discretion and power to remove any serving Trustee of such separate trust at any time for cause, as defined under Section 18 of Article Eleven. The serving Trustee who is being removed for cause may accept such removal, or may, within thirty days of receiving written notice of removal, petition a court of competent jurisdiction for a determination as to whether sufficient cause exists for such Trustee's removal and shall continue to serve until otherwise ordered by such court.

A majority in interest of the then living income beneficiaries of any trust hereunder (in the case of a minor beneficiary, the legal guardian or natural parent of the minor beneficiary) shall have the right to remove any corporate trustee of such trust by a written instrument duly acknowledged and delivered to such corporation. Concurrent with the exercise of this right, the income beneficiaries (in the case of a minor beneficiary, the legal guardian or natural parent of the

minor beneficiary) shall appoint a corporate Successor Trustee by a written instrument duly acknowledged and delivered to the corporation appointed Successor Trustee; provided, however that such corporation must be a trust company or bank possessing trust powers organized under the laws of the United States of America or one of the states thereof and it must have under its management a minimum of One Hundred Million Dollars in trust assets. Upon receipt by the removed corporation of the written notice of acceptance of appointment by the successor corporation, the removed corporation shall forthwith surrender and deliver to the corporate Successor Trustee all of the assets in the trust estate, and the trusteeship of the removed corporation shall terminate.

c. Notice to Removed Trustee

Unless a serving Trustee has petitioned, or will petition within thirty days, a court as provided in the paragraphs above, written notice of removal under my Trust Agreement shall be effective immediately when signed by the person or persons authorized to make the removal and delivered to my Trustee personally, or within three business days after mailing by certified mail, return receipt requested. The written notice removing a Trustee shall identify the Successor Trustee appointed pursuant to the other provisions of this Article.

d. Transfer of Trust Property

Unless petitioning the court as provided above, my Trustee so removed shall promptly transfer and deliver to the Successor Trustee all property of my Trust under the removed Trustee's possession and control.

Section 4. Appointment of Trustees

My Initial Co-Trustees shall be DINNY G. FRASIER and PREMIER TRUST INC., A NEVADA CHARTER TRUST COMPANY. In the event that DINNY G. FRASIER is unwilling or unable to serve as Trustee, PREMIER TRUST INC., shall continue to serve alone. DINNY G. FRASIER is empowered to replace PREMIER TRUST, INC. or any other then serving Commercial Trustee without cause. If PREMIER TRUST, INC. is unwilling or unable to serve, DINNY G. FRASIER shall name another Commercial Trust Company to act as Co-Trustee with her to replace PREMIER TRUST, INC. In the event that neither of the initial Co-Trustees were willing or able to serve, my first Successor Trustee shall be AMY FRASIER WILSON. If for any reason AMY FRASIER WILSON were unwilling or unable to serve as Trustee, then WILLIAM WILSON shall serve as Trustee. If for any reason all of the above named Successor Trustees are unwilling or unable to serve, then a Successor Trustee shall be appointed as provided under Section 5 of this Article.

Section 5. No Designated and Qualified Successor Trustees

If at any time there is no Trustee acting under my Trust Agreement and there is no person or entity designated and qualified as a Successor Trustee, a majority in interest of the beneficiaries then eligible to receive distributions of income or principal under my Trust Agreement, or their Legal Representatives, shall appoint a Successor Trustee. If any trust existing under my Trust

Agreement lacks a Trustee and no successor is appointed pursuant to this Article, the vacancy shall be filled by a court of competent jurisdiction.

Section 6. Rights, Responsibilities and Duties of Successor Trustees

Other than amending or revoking my Trust, or appointing or removing a Trustee, a Successor Trustee shall have the same rights, powers, duties, discretion and immunities as if named as an Initial Trustee under my Trust Agreement. No Successor Trustee shall be personally liable for any act, or failure to act, of any predecessor Trustee or shall have any duty to examine the records of any predecessor Trustee. A Successor Trustee may accept the account rendered and the property delivered by, or on behalf of, a predecessor Trustee as a full and complete discharge of the duties of the predecessor Trustee without incurring any responsibility or liability for doing so.

Section 7. Co-Trustee's Responsibility for Acts of Other Co-Trustees

No Co-Trustee shall be responsible for the act, omission or default of any other Co-Trustee without actual knowledge thereof.

Section 8. Special Co-Trustee Provisions

The function of the Special Co-Trustee is to protect the financial resources controlled and governed by my Trust and the interests of the beneficiaries.

a. Appointment of Special Co-Trustees

The following Special Co-Trustees are appointed in order of priority:

H. BROOKS TRAVIS II
DAVID GIBBS

b. No Named Special Co-Trustee Willing or Able to Act

In the event there are no named Special Co-Trustees willing or able to act, then the last named individual to act as Special Co-Trustee shall have the right to designate by written instrument a Successor Special Co-Trustee who is qualified, as defined in Paragraph c hereunder. In the event the last named Special Co-Trustee to act fails to appoint a Successor Special Co-Trustee, the first Successor Trustee who is independent within the meaning set forth in Code Section 672(c) shall act as Special Co-Trustee, or if no such individual is available, a majority of the Successor Trustees designated under Section 4 of this Article shall have the right to designate by written instrument a Special Co-Trustee who is qualified, as defined in Paragraph c hereunder.

c. Qualifications of Special Co-Trustee

A candidate for service as Special Co-Trustee must be independent and may not be related to, or be subordinate to, any member of my family or the family of any

direct or indirect beneficiary. Any person or corporation who provides professional services to any one or more members of my family is not per se a prohibited person if compensation for services rendered constitutes, excluding compensation for service as Special Co-Trustee, two percent or less of his, her or its income during any calendar year.

d. Special Co-Trustee May Not Serve as Trustee

Except for the special fiduciary authority given to a Special Co-Trustee, a Special Co-Trustee, including any Successor Special Co-Trustee, may not serve as a Trustee. This is in keeping with my intent and purpose that the Special Co-Trustee's only interest will be to protect the financial resources governed by my Trust Agreement and the beneficiaries thereto. It is further provided and required that the Special Co-Trustee may never have any personal financial interest in any property of my Trust or in the outcome of any transaction or any business by or for my Trust other than the payment of a fair and reasonable compensation for his, her or its services as the Special Co-Trustee. The responsibilities of the Special Co-Trustee shall be limited to the exercise of the power, duty, or discretionary authority as provided throughout my Trust Agreement. Said Special Co-Trustee shall not be concerned with, nor shall have, any authority with respect to any other aspects of administration of my Trust Estate.

e. Special Fiduciary Authority of Special Co-Trustee

In addition to the authority specifically given to the Special Co-Trustee under various provisions throughout my Trust Agreement, the Special Co-Trustee will have the authority to perform any one or more of the following functions to the extent that the discretionary authority of my Trustee to perform a function might constitute an act of self-dealing or might jeopardize the tax status of my Trust.

1. Valuation

The value of certain property of my Trust may not be readily ascertainable, for example, real estate and securities held in a closely held corporation, partnership, limited liability company or other investment or business organization. Marketable securities shall be included in this category if and to the extent that market quotations are not readily available for trades of the security in an established securities market. Whenever my Trustee's right to determine the value of this kind of property may be self-serving or may produce a possible conflict of interest or adverse taxation issues, the Special Co-Trustee is to value the property of my Trust.

2. Voting Rights

Whenever my Trustee's right to vote an equity interest in a corporation, partnership, Limited Liability Company, investment trust or business trust or other entity may be interpreted as self-

serving or may produce a possible conflict of interest or adverse taxation issues, the Special Co-Trustee will have the right to vote the equity interest. Voting rights will include decision-making authority with regard to the sale, exchange, or liquidation of any equity interest in a closely held corporation, partnership, Limited Liability Company, investment trust or business trust or other entity.

3. Life Insurance Policies

Whenever my Trustee's rights as to the control and maintenance of a life insurance policy or any interest in a life insurance policy could result in the inclusion of the proceeds of the policy in the estate of the insured for tax purposes, decision making with regard to a life insurance policy or interest in a policy is to be made by the Special Co-Trustee.

4. Discretionary Distributions of Trust Income and Principal

To the extent my Trustee has the discretionary authority to make distributions of income or principal to or among beneficiaries or to retain all or any part of the income, and to the extent this discretionary authority may result in, or appear to be, a conflict of interest or an opportunity for self-dealing or may produce adverse tax consequences, the Special Co-Trustee is to make all decisions with regard to the discretionary distributions of income and principal and the retention of income.

5. Gifting Powers

To the extent my Trustee has the authority to make gifts of income or principal to such Trustee and to the extent this authority to gift may result in, or appear to be, a conflict of interest or an opportunity for self-dealing or may produce adverse tax consequences, the Special Co-Trustee is to make all decisions with regard to any gifts made to such Trustee.

6. Property Located In Another Jurisdiction

The Special Co-Trustee may appoint an Ancillary Trustee to control and administer property located in another jurisdiction.

7. Amendment Powers

A. Changes in Law or Beneficiary Circumstances

The Special Co-Trustee may, from time to time, amend my Trust Agreement, including any sub-trust created hereunder, to address changes in federal or state law, or other circumstances which may affect my Trust and its beneficiaries or to delete provisions rendered obsolete due to changes in law or beneficiary circumstances. In exercising such power, the Special Co-Trustee shall consider the overall best interest of the present and future beneficiaries and shall be guided by what the Special Co-Trustee believes, in his or her discretion, would have been my intent in light of such changed circumstances.

8. Repeal of Federal Death Taxes

In the event of the repeal of the federal estate tax and generation-skipping transfer tax (as currently set forth in Chapters 11 and 13 of the Code) after my death or disability, the Special Co-Trustee may terminate my Trust Agreement, or any sub-trust created hereunder, by distributing the trust principal to my living descendants in whatever proportion the Special Co-Trustee deems appropriate. In exercising such power, the Special Co-Trustee shall, in addition to the factors set forth in the preceding paragraph, consider the following:

- A. The enactment of any federal income, capital gains or other tax which would impact adversely on, or offset, the tax benefits of any proposed trust or sub-trust termination;
- B. The benefits afforded to the beneficiaries by the continuation of my Trust, such as protection against the claims of judgment creditors, divorcing spouses, and insulation from the reach of governmental agencies; and
- C. The likelihood of re-enactment of a federal estate, gift, or generation-skipping transfer tax or comparable tax which would subject

my Trust Estate to the imposition of such tax or taxes in the hands of, or upon lifetime or testamentary transfers by, the beneficiaries to whom my Trust Estate would have been distributed upon termination.

f. Consultation

My Trustee is authorized to consult with the Special Co-Trustee as to any matter relating to the investment of assets, discretionary distributions and the use of principal, tax matters, dealings with the beneficiaries, and any other matter relating to the administration of my Trust in keeping with the objectives and purpose of this Trust Agreement. My Trustee will not be liable for any act or omission to act if acting according to the written instructions of, or with the written consent of, the Special Co-Trustee.

g. Accounting and Transaction Reports

The Special Co-Trustee will have the authority to receive and review any and all accounting reports, records, tax returns, transaction reports and ownership records concerning my Trust. All records of my Trust must be open for inspection at all reasonable times by the Special Co-Trustee.

h. Resolution of Disputes

The Special Co-Trustee may unilaterally resolve any dispute, claim or conflict between beneficiaries, including those who have, or claim to have, a present or future interest in property, between a beneficiary and a trustee, or between trustees. Such resolution shall be binding on all parties to my Trust and shall not be subject to review.

No one may file or instigate a claim in a court of law without first submitting the claim to the Special Co-Trustee for resolution together with detailed supporting information and a detailed supporting memorandum of law. In the event the Special Co-Trustee finds the supporting information or memorandum of law insufficient, the Special Co-Trustee may request such additional information as the Special Co-Trustee reasonably feels necessary to resolve such claim. The Special Co-Trustee may employ, and may act upon the advice of, legal counsel in making a resolution of any issue of fact and law. The Special Co-Trustee may submit the claim or dispute for mediation and/or binding arbitration. Subsequent to his or her review, the Special Co-Trustee may give any claimant the authority to file and maintain an action in a court of law. The granting of such authority by the Special Co-Trustee shall in no way nullify the "No Contest" provision provided under the "Other Trust Provisions" of my Trust. Whenever a dispute, conflict, or claim involves an interpretation or construction of my Trust Agreement, the Special Co-Trustee may file an action in a court of competent

jurisdiction for the interpretation and construction of such Trust Agreement, or the Special Co-Trustee may instruct my Trustee to do so.

i. Business Judgment

The Special Co-Trustee is permitted and authorized to exercise "Business Judgment" in the course of service in the capacity of Special Co-Trustee. The Special Co-Trustee will not be liable for any act or omission to act unless it is conclusively established that the act or omission to act was motivated by an actual intent to harm my Trust or a beneficiary of my Trust or is an act of self-dealing for personal pecuniary benefit. My Trust will pay or reimburse the costs of defending and/or settling any claim made against the Special Co-Trustee unless it is conclusively established that the Special Co-Trustee's conduct was motivated by an actual intent to harm my Trust or a beneficiary of my Trust. All provisions of my Trust Agreement that limit the liability of my Trustee will likewise apply in limiting the liability of the Special Co-Trustee.

j. Authority of Successor Special Co-Trustee

A Successor Special Co-Trustee will have all of the authority and duties of the Special Co-Trustee by original appointment, but will not be responsible for the acts, or omissions to act, of his, her, or its predecessor.

k. Compensation

A Special Co-Trustee may receive reasonable compensation as an expense of administration. The Special Co-Trustee is entitled to reasonable reimbursement for expenses and costs incurred on behalf of my Trust. Payment of compensation shall be from the funds of my Trust.

l. Bond

Unless otherwise required in written articles of appointment, the Special Co-Trustee will serve without the requirement of bond or other security.

Article Four - Lifetime Rights of Trustor

Section 1. Income and Principal

a. Right to Trust Income and Principal

My Trustee shall pay to me, or apply for my benefit during my lifetime, all or such part of the income and principal of my Trust Estate as I may direct.

b. Trustee Liability

Upon any distribution of the income or principal of my Trust Estate authorized or directed by me, my Trustee shall incur no liability, and shall be under no obligation or responsibility for such distribution.

Section 2. Incapacity of Trustor

a. Intent to Return Home

Notwithstanding any other provision of my Trust Agreement, as a notification to any governmental benefits provider, if I become incapacitated it is conclusively presumed that I intend to return home.

b. Distribution of Income and Principal

During any period of my incapacity, my Trustee shall pay to my legal representative, or apply for my benefit, as much of the net income and principal of my Trust Estate as my Trustee, in my Trustee's discretion, shall deem necessary or advisable. Any undistributed net income shall be added to principal.

Section 3. Right to Amend or Revoke Trust

a. Power to Revoke and Amend

While I am alive, I may at any time or times amend any provision of my Trust Agreement or revoke my Trust in whole or in part.

b. Method to Revoke or Amendment

Any amendment or revocation of my Trust Agreement made during my life shall be by a written instrument signed by me and delivered to my Trustee.

c. **Trustee Consent**

Any exercise of a power of amendment substantially affecting the duties, rights and liabilities of my Trustee shall be effective upon my Trustee only if agreed to by my Trustee in writing.

d. **Delivery of Property After Revocation**

After any revocation with respect to my Trust, my Trustee shall promptly deliver my Trust Estate to me.

e. **Trustee's Retention of Assets Upon Revocation**

In the event of any revocation of all or part of my Trust, my Trustee shall be entitled to retain sufficient assets to reasonably secure the payment of liabilities my Trustee has lawfully incurred in administering my Trust unless I indemnify my Trustee against loss or expense.

Section 4. Exercise Trustor's Rights and Powers by Others

Any right or power, other than (i) an amendment by Will, or (ii) any right or power that would constitute a general power of appointment if held by my Attorney-in-Fact, may be exercised for and on my behalf by any Attorney-in-Fact who, at the time of the exercise, is duly appointed and acting for me under a valid and enforceable Power of Attorney executed by me. Only if no such Attorney-in-Fact is then available may a legal representative appointed by a court of competent jurisdiction exercise such right or power.

Other than as provided in this Section, my powers under my Trust Agreement are personal to me and may not be exercised by any other person or entity.

Section 5. Property Held as Nominee

For administrative convenience, it is contemplated that certain assets may be added to my Trust Estate, from time to time, with the possession and control thereof retained by or redelivered to me. Notwithstanding such control or redelivery, such assets shall be assets of my Trust Estate and held by me as the nominee of my Trustee. During the period such assets are in my possession, they shall be subject to the following terms and conditions:

- a. I may receive directly and devote to my own use and benefit any dividends, interest, income, or proceeds or distributions from or upon such assets and neither I nor my Trustee shall have any duty of accounting to the other or to any other person with regard thereto.
- b. Any sale, exchange or other transfer of such assets by me shall constitute a withdrawal of such assets from my Trust Estate and my Trustee shall have no further interest therein or duties with regard thereto. Though not a

condition precedent to any such withdrawal, I agree to notify my Trustee of all such withdrawals.

- c. I shall be responsible for reporting the income from such assets to the appropriate taxing authorities and my Trustee shall have no responsibility for including such income on any fiduciary returns prepared by my Trustee or for the preparation of any other government filing with respect thereto unless I duly notify my Trustee of such income items and a full and adequate accounting thereof is made and presented to my Trustee.
- d. I shall protect and indemnify my Trustee against all losses, liabilities and expenses that may result directly or indirectly from my use, possession, management or control of such assets.
- e. Upon my death or incapacity, my Trustee shall remain entitled to the possession thereof and shall continue to have all the rights, powers and duties with respect to such assets that are granted to my Trustee herein. My Trustee is not responsible for assets held by me as nominee. However, it is also understood that my Trustee shall use any reasonable and prudent means to secure possession of any trust assets of which my Trustee has knowledge. My Trustee shall have no duty, accountability or responsibility to me or to any other person with respect to any assets of which my Trustee has no knowledge or of which my Trustee is unable to obtain possession and control.

Section 6. Government Assistance and Medicaid Planning

If at any time during my lifetime I become incapacitated, my Trustee shall have the power to deal with governmental agencies and to make applications for, receive and administer benefits on my behalf, including, but not limited to, Social Security, Medicare, Medicaid, Supplemental Security Income, In-Home Support Services, and any other government resources and community support services available to the elderly or incapacitated. My Trustee shall also cooperate in government assistance and Medicaid planning initiated by my Attorney-in-Fact appointed under a Durable Power of Attorney; or, if none, with any legal representative that may be appointed by a court of competent jurisdiction. Such planning shall include, but is not necessarily limited to, the power and authority to:

- a. Transfer ownership of the assets of my Trust Estate from my Trust back to ownership in my name;
- b. Make home improvements and additions to my family residence;
- c. Pay off, partly or in full, the encumbrance, if any, on my family residence;
- d. Purchase a family residence, if I do not own one;

- e. Purchase a more expensive family residence;
- f. Purchase an annuity under the guidelines provided by HCFA Transmittal No. 64 or any successor guidelines issued by the Centers for Medicare and Medicaid Services or similar government agency;
- g. Make gifts as directed by my Attorney-in-Fact;
- h. Make payments under any care contract negotiated by my Attorney-in-Fact; and
- i. Make payments as generally suggested as part of a "spend-down" program by my Attorney-in-Fact.

In exercising the above powers, my Trustee shall take into consideration that my primary concern shall be for my welfare and all government assistance and Medicaid Planning shall be of secondary importance to my welfare.

Article Five - Trust Administration at Death of Trustor

Section 1. Trustor's Testamentary Power of Appointment

Subject to any payments required under Section 3 of this Article, upon my death, my Trustee shall distribute my Trust Estate to any person or entity, and upon any trust terms and conditions, as I shall appoint by my Will or codicil, or by any other written instrument filed with my Trustee prior to my death and specifically referring to and exercising this testamentary general power of appointment. This power of appointment shall be exercisable by me alone and in all events. My Trustee may rely upon any instrument that my Trustee, in good faith, believes to comply with the provisions above in carrying out the terms of this power of appointment and shall not be liable for any good faith act in reliance upon that Will, codicil, or other written instrument even if for any reason it is later determined to be invalid with respect to its purported exercise of this power of appointment. If my Trustee receives no notice, within six (6) months after my death, of the existence of any Will or codicil that exercises this power of appointment, my Trustee may distribute my Trust Estate as though this power of appointment had not been exercised and shall be conclusively presumed to have acted in good faith even if a valid Will or codicil exercising this power is thereafter discovered.

Section 2. Immediate Distribution of Specific Devises

As soon as practicable after my death, my Trustee shall make certain distributions from my Trust Estate in the manner and amounts and to the persons specified in Article Six of my Trust Agreement. The remainder of my Trust Estate, after all the foregoing distributions have been made, and including any lapsed gifts (unless otherwise stated in Article Six), shall be held, administered and distributed as set forth in Section 3 of this Article.

Section 3. Creation, Administration and Distribution of Administrative Trust Upon and After Death

Upon my death, my Trust Estate, including any additions thereto by reason of my death, shall thereafter be known as the "Administrative Trust." My Trustee shall:

- a. Pay all expenses, debts, claims and taxes from the Administrative Trust as provided in Section 4 of this Article;
- b. Distribute that portion of the Administrative Trust consisting of any property effectively appointed pursuant to the provisions of Section 1 of this Article (the "Appointed Property"); and
- c. Distribute the remainder of the Administrative Trust (the "Remainder Property") as provided under the Articles that follow.

My Trustee may distribute the Appointed Property and allocate the Remainder Property in a single distribution or allocation or in a series of partial distributions or allocations. If an allocation is to be made to one or more trusts, then until full allocation has been made to any

such trust, the Trustee of the Administrative Trust may pay to any beneficiary of such trust such amounts of income and/or principal as are consistent with the terms of such trust. Such payments shall be in lieu of, and thus credited toward, the income and/or principal remaining to be allocated to such trust. No payment shall be made to any beneficiary of any trust which exceeds the amount of income and/or principal then remaining to be allocated to such trust as provided herein, nor shall any payment of income and/or principal be made to any beneficiary of any trust which exceeds the amount which might properly be distributed to such beneficiary at that time under the terms of such trust.

Section 4. Payment of Expenses, Debts, Claims and Taxes

Unless other provisions for payment have been made, my Trustee shall pay the following expenses, debts, claims and taxes:

- a. Final medical expenses and all funeral costs;
- b. Legally enforceable claims against me;
- c. Reasonable expenses of the administration of my Trust, including those attributable to my Probate Estate or those attributable to the distribution of any bequest;
- d. Any allowances mandated by a court of competent jurisdiction to those dependent upon me;
- e. Any estate, inheritance, succession, generation-skipping transfer or similar taxes payable by reason of my death; and
- f. Any penalties or interest on any of the above expenses, claims, debts or taxes owed by my Probate Estate or me.

Section 5. Source of Payment of Death Taxes, Claims and Expenses

a. Payment Out of Trust Property

Except as specifically provided for elsewhere in my Trust Agreement, all Death Taxes, claims and expenses payable under the provisions of this Article may be paid by my Trustee out of the Administrative Trust. Such payments may be allocated, partly or wholly, in my Trustee's discretion, to income or principal, keeping in mind the provisions of Treasury Regulation Section 20.2056(b)-4(d)(1)(ii).

b. Exception for Trust Retirement Assets

The provisions of Paragraphs h. and i. of Section 1 of Article Eleven control the payment of all Death Taxes, claims and expenses attributable to Retirement Plan Death Benefits payable to my Trustee as the result of my death.

c. **Exception for Property Passing Outside of Trust**

All Death Taxes, claims and expenses attributable to assets passing outside of my Trust or my Probate Estate shall be assessed against those persons receiving such property. Notwithstanding the preceding sentence, my Trustee may, in my Trustee's discretion, pay all or part of that portion of the Death Taxes, claims and expenses attributable to assets passing outside of my Trust that would otherwise be chargeable against a beneficiary's interest in such outside property using funds provided by such beneficiary, funds from such beneficiary's share of the Trust Estate, or both.

Section 6. Apportionment of Expenses, Claims, Taxes and Liabilities

Unless specifically directed otherwise by another separate provision of my Trust Agreement, all expenses, claims, taxes and liabilities attributable to any specifically distributed property shall be apportioned to the beneficiaries of such specific distributions. Any distribution of specific trust property under my Trust Agreement shall pass subject to all liens, mortgages or encumbrances attributable thereto.

Section 7. Exceptions to Apportionment of Death Taxes

a. **No Apportionment of Death Taxes to Property Qualifying for Marital or Charitable Deduction**

Notwithstanding any provision in my Trust Agreement to the contrary, it is my intent that no Death Taxes shall be apportioned to, or against, any part of my Trust Estate, or any beneficiary thereof, which qualifies for the federal estate tax Marital Deduction or Charitable Deduction.

b. **Apportionment to Exempt and Non-Exempt Trusts**

Death Taxes chargeable among trusts hereunder that are substantially identical except that one trust is exempt and the other trust is non-exempt shall be charged first to the Non-Exempt Trust until exhausted and then to the Exempt Trust. The preceding sentence shall not apply to the extent that charging and paying such taxes as provided in such sentence increases the Inclusion Ratio of any Exempt Trust hereunder.

Section 8. Payment by Trustee or Personal Representative

My Trustee, in my Trustee's discretion, may make distributions authorized under this Article either directly to the person or entities to whom payment is owed or to the Personal Representative of my Probate Estate. Written statements by my Personal Representative that such sums are due and payable by the estate shall be sufficient evidence of their amount and propriety for the protection of my Trustee. My Trustee shall be under no duty to see to the application of any such payments made to my Personal Representative.

Section 9. Tax Elections

If no Personal Representative has been appointed, with regard to the payment of any income tax, gift tax, estate tax, inheritance tax, generation-skipping transfer tax or any other tax due because of my death, my Trustee shall have the right to make any available elections allowed under the law or to sign and file any tax return. If a Personal Representative has been appointed, the Personal Representative shall have such rights and duties.

Section 10. Allocation of Unused Generation-Skipping Transfer ("GST") Exemption

a. Administrative Trust Estate Less Than Remaining Unused GST Exemption

If the date of distribution value of the Administrative Trust Estate does not exceed the amount of my Unused GST Exemption, my Executor (or my Trustee, if no Executor has been appointed for my estate) is directed to allocate that amount of my Unused GST Exemption as would be required to cause the Administrative Trust to be an Exempt Trust.

b. Administrative Trust Estate Greater Than Trustor's Remaining Unused GST Exemption

If the date of distribution value of the Administrative Trust does exceed the amount of my Unused GST Exemption, my Trustee shall divide the Administrative Trust into two separate shares. The first share, known as the "Exempt Trust" shall have my Unused GST Exemption allocated to it. The second share, known as the "Non-Exempt Trust" shall consist of the balance of the Administrative Trust allocated to it.

c. Administration of Exempt and Non-Exempt Trust

My Trustee shall hold, administer and distribute both the Exempt Trust, and the Non-Exempt Trust as provided under Article Seven of my Trust.

Section 11. Termination of Administrative Trust

The Administrative Trust shall be deemed terminated when all of the assets of the Administrative Trust have been paid or distributed in accordance with the provisions of Section 3 of this Article, except for a reasonable amount which is set aside for the payment of unascertained or contingent liabilities and expenses (excluding any claim by a beneficiary in his or her capacity as such).

Article Six - Specific Distributions of Trust Estate

Section 1. Distributions Other Than as Provided Under Article Six

Except for the distributions directed in the following Sections of this Article Six, all distributions of my Trust Estate shall be made in accordance with the Articles that follow.

Section 2. Disposition of Tangible Personal Property by Separate Writing

If at my death, my Trust Estate, other than any specific devises provided for under this Article, is comprised of tangible articles of a personal nature of mine, such as jewelry, clothing, household furniture and furnishings, musical instruments, books, pictures, paintings, objects of art, silverware and silver pieces, rugs, linen, automobiles and the like, then such assets shall be distributed, to the extent permitted by state law, according to the provisions of a written instrument signed by me and delivered to my Trustee. To the extent that all such property is not effectively disposed of by such written instrument or in the event I fail to execute such written instrument directing the distribution of my tangible personal property, then my Trustee shall distribute such assets with the remainder of my Trust Estate as if it had been an original part thereof. With respect to any property to which a minor child shall become entitled under this Section, my Trustee may, in my Trustee's reasonable discretion deems such property unsuitable for such minor's use, sell such property and add the proceeds from such sale to such minor child's share of my Trust Estate. Any such property which my Trustee, in my Trustee's reasonable discretion, shall deem suitable for such minor's use shall be delivered either (i) without bond to the Guardian of the person of such child, or if there is no such Guardian, to any suitable person who has the care or control of such child, or (ii) directly to such child if, in my Trustee's judgment, such minor child is of maturity to properly administer such property. Notwithstanding any other provision of my Trust Agreement, property distributed under this Section shall not be subject to apportionment and/or the payment of any estate, inheritance or other death taxes.

Section 3. Specific Distribution Not Part of Trust Estate

If the property making up any specific distribution set forth in this Article is not a part of my Trust Estate at the time such specific distribution is directed to be made, and will not become a part thereof within a reasonable time, my Trustee shall disregard that specific distribution.

Section 4. Specific Gifts

My Trustee shall make no specific distributions of Trust Property.

Article Seven - Distributions to Beneficiaries

Section 1. Division of Trust Estate Into Shares

Upon my death, my Trustee shall divide the Remainder Property into separate shares (and for purposes of determining such division and subsequent distributions shall take into account the exclusion of any descendant as may be directed in Article One) as follows:

<u>BENEFICIARY NAME</u>	<u>SHARE</u>
AMY FRASIER WILSON	100%

In the event an individual beneficiary named immediately above should die while there are assets remaining in such individual beneficiary's trust share, my Trustee shall hold, administer, and distribute the share for such beneficiary as provided under the terms of such share. In the event a named individual beneficiary predeceases me leaving no descendants or the terms of such share lapse without further direction, then such lapsed share shall be reallocated among the remaining individual beneficiaries named in this Section (if any), in accordance with each such remaining individual beneficiary's respective percentage of the total interests of all such remaining individual beneficiaries. If there are no remaining individual beneficiaries, such share shall be reallocated among the other remaining beneficiaries in accordance with each remaining beneficiary's respective percentage of the total interests of all remaining beneficiaries. If any beneficiary named in this Section is a "class" of individuals or organizations, such class shall be treated as a single beneficiary for purposes of such reallocation. If there are no remaining beneficiaries under this Section, then such share shall be administered as provided in the Articles that follow.

In the event a charitable organization is named as a beneficiary and such organization is no longer in existence or no longer qualifies as a tax-exempt organization under Sections 170(c), 2055 and 2522 of the Code, my Trustee shall distribute the share for such charitable organization to such charitable organization or organizations as my Trustee, in my Trustee's discretion, determines most closely matches my charitable intent. If my Trustee fails to distribute this share due to the lack of a qualified tax-exempt beneficiary, this share shall lapse and be reallocated among the remaining beneficiaries as provided in the paragraph immediately above.

Each share shall constitute a separate and independent trust, and Exempt Trusts shall remain separate from Non-Exempt Trusts. The decisions of my Trustee as to the assets to constitute each such share or sub-share shall be conclusive, subject only to the requirement that said shares or sub-shares shall be of the respective values.

The shares shall be held, administered and distributed as follows:

a. **Distribution and Administration of Trust for AMY FRASIER WILSON**

1. Beneficiary Trustees for AMY FRASIER WILSON

The Trustees designated below shall act with regard to the trust created for AMY FRASIER WILSON.

(1) PREMIER TRUST INC., A NEVADA CHARTER TRUST COMPANY

The beneficiary shall have the right to designate one or more Successor Trustees by written instrument delivered to such Successor Trustee(s). In the event the beneficiary fails to designate a Successor Trustee, then a Successor Trustee shall be appointed by the Special Co-Trustee appointed under my Trust.

2. Income Accumulated

The entire net income of the Family Sentry Trust shall be accumulated and added to principal on an annual basis if not distributed under the provisions of the paragraph immediately following.

3. Fully Discretionary Payments

My Trustee may, from time to time, pay to, or for the benefit of AMY FRASIER WILSON such portion or portions of the income and/or principal of AMY FRASIER WILSON's Family Sentry Trust, up to the whole thereof, as my Trustee, in my Trustee's sole discretion, deems appropriate.

4. Guidelines for Discretionary Distributions

In exercising discretion, my Trustee shall, at all times, give primary consideration to the needs of AMY FRASIER WILSON. No amount paid to or applied for the benefit of AMY FRASIER WILSON need thereafter be repaid to the Trustee or restored to her Family Sentry Trust. My Trustee shall give consideration to all other income and resources then known to be available to AMY FRASIER WILSON before making a discretionary distribution of principal. It is my intent that the income or principal of the Family Sentry Trust shall not be voluntarily or involuntarily anticipated, assigned, encumbered, or subjected to creditors' claims or legal process before its actual receipt by my beneficiary. My Trustee shall be entitled to rely upon the written certification of such beneficiary or Legal Representative of such beneficiary as to the nature and extent of such beneficiary's needs and the inadequacy of such

beneficiary's resources apart from the Trust Agreement. As to these matters, when relying upon such certification, my Trustee shall not be required to make further inquiry into the authenticity of the need or to the availability of other resources to satisfy the need. It is my desire that my Trustee consider the needs of the beneficiary in keeping with the standard of living that has been previously enjoyed by such beneficiary.

5. Death of AMY FRASIER WILSON Before Complete Distribution

In the event of the death of AMY FRASIER WILSON, subsequent to the creation of said child's trust and before the complete distribution of said child's trust, the trust set aside for her benefit shall terminate, and my Trustee shall distribute and deliver the remaining balance of said trust, subject to the provisions of Section 2, pursuant to said child's limited power of appointment or, if unexercised, to her husband WILLIAM WILSON. In order for WILLIAM WILSON to qualify to inherit under this section, he must be married to and not separated from AMY FRASIER WILSON at the time of her death. If WILLIAM WILSON is not then living or is not married to or is separated from AMY FRASIER WILSON at the time of her death, then my Trustee shall deliver the remaining balance of said trust in accordance with the provisions of Article Eight.

Section 2. Postponement of Distribution by Trustee

Subject to the provisions of Section 5 of Article Eleven, but notwithstanding any other provisions of this Article, if my Trustee determines that there is a compelling reason to postpone a distribution to a beneficiary, then my Trustee shall continue to hold and administer such beneficiary's trust as follows:

a. Income Accumulated

The entire net income of such beneficiary's trust shall be accumulated and added to principal on an annual basis if not distributed under the provisions of the paragraph immediately following.

b. Discretionary Payment of Principal

My Trustee shall pay to, or apply for the benefit of, such beneficiary only as much of the principal and accumulated income of such beneficiary's trust as my Trustee, in my Trustee's sole discretion, considers necessary for the proper health, education, maintenance and support of such beneficiary. Notwithstanding the preceding sentence, all discretionary distributions of principal and accumulated

income to a Special Needs Beneficiary shall be governed by the provisions of paragraph c. immediately following.

c. Discretionary Payment of Income and Principal for Special Needs Beneficiaries

My Trustee shall apply for the benefit of a Special Needs Beneficiary such amounts of principal and accumulated income of the Special Needs Beneficiary's share as provided for under Section 2 of Article Eleven.

d. Guidelines for Trustee's Discretion in Making Distributions

My Trustee shall take into consideration, to the extent my Trustee considers it advisable, any other income or resources of such beneficiary known to the Trustee. When, in my Trustee's discretion, the compelling reason for the postponement of a distribution ceases to exist, my Trustee shall make available for withdrawal by such beneficiary the postponed distribution(s), which such beneficiary shall request by written instrument filed with my Trustee. Notwithstanding the preceding sentence, the termination of the postponement of distributions to a Special Needs Beneficiary shall be governed by the provisions under Section 2 of Article Eleven.

e. Compelling Reason

A compelling reason includes, but is not limited to, the following:

1. The beneficiary has not attained the age of eighteen;
2. The beneficiary is a Special Needs Beneficiary as defined under Section 2 of Article Eleven;
3. The susceptibility of the beneficiary to undue influence or duress by an individual or a group;
4. Alcohol or substance abuse by the beneficiary;
5. A pending marital separation or dissolution of marriage or divorce of the beneficiary;
6. Potential financial difficulty or a proven inability of the beneficiary to manage money;
7. A serious tax disadvantage upon distribution to the beneficiary;

8. Minimization of income, gift, estate, generation-skipping, or other transfer taxes of a beneficiary, or beneficiaries, or the Trust Agreement; and
9. Substituting income, gift, estate, generation-skipping or other transfer taxes of the beneficiary for another.

f. Distributions Withheld

Any distribution may be postponed, including distributions of income or principal, whether in complete or partial termination of the beneficiary's trust, one or more of a series of payments, or otherwise.

g. Evidence of a Compelling Reason

In connection with the foregoing, and in furtherance thereof, my Trustee is authorized to require the beneficiary to submit to my Trustee for review appropriate evidence as to the existence or non-existence of the compelling reason for which the postponement of a distribution of income or principal has been made or is being considered. Upon the request of my Trustee, such evidence shall include the submission to blood tests or similar tests showing the absence of alcohol addiction or substance abuse, said tests to be conducted and administered by medical personnel approved by my Trustee.

h. Notice to Beneficiary; Request for Reconsideration

If my Trustee decides to postpone a beneficiary's distribution, then my Trustee shall provide written notification to such beneficiary of such postponement decision. Upon notification by my Trustee of the intent to postpone a distribution, such beneficiary may request reconsideration of such decision and submit to my Trustee such reports, information, or other evidence as such beneficiary deems appropriate. If a beneficiary seeks the advice, counsel, or representation of an attorney with regard to postponed distributions, then such beneficiary shall be entitled to reimbursement of the legal fees and costs incurred for such representation. Such reimbursement shall be limited to no more than one-half of one percent of the value of such beneficiary's trust at the beginning of the calendar year in which such reimbursement is requested. A request for such reimbursement of legal fees and costs shall be limited to once every two calendar years.

Section 3. General Power of Appointment Over Non-Exempt Assets

Should a beneficiary die prior to the creation of his or her separate trust of my Trust Agreement or die subsequent to the creation of such trust but before complete distribution of such trust, and as a result of said death a portion of my Trust Agreement would be subject to GST Tax but for

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the provisions of this Section, the beneficiary may, pursuant to a General Power of Appointment exercised in his or her last Will (but not in a codicil) and specifically referring to this power of appointment, provide for such trust to pass to the creditors of such beneficiary's estate, in accordance with the terms set forth below. The asset value subject to such general power of appointment shall be the maximum amount, if any, which, when added to the beneficiary's net taxable estate (computed prior to said power), will cause the federal estate tax marginal rate to increase until it equals the GST Tax marginal rate; but in no case shall such general power of appointment exceed the asset value of such beneficiary's trust. To the extent the beneficiary does not effectively exercise the general power of appointment, the unappointed asset value shall be held, administered and distributed in accordance with the other provisions of my Trust Agreement.

Article Eight - Lack of Designated Beneficiaries

Section 1. Remainder by Intestate Succession

If at any time there is no beneficiary entitled to receive all or any part of my Trust Estate under the preceding Articles, all of the remaining portion of my Trust Estate shall then be distributed, outright and free of trust, to those persons who would be my heirs at law had I died intestate owning my Trust Estate.

Notwithstanding the preceding, any Retirement Plan Assets that come under the control of my Trustee shall not be distributed to any charitable beneficiary and shall only be distributed to Heirs at Law that are younger than the oldest beneficiary named under the provisions of Article Seven (and disregarding all testamentary powers of appointment contained therein).

Article Nine - Trustee Provisions

Section 1. Co-Trustee Voting Provisions

a. Co-Trustee May Not Act Independently

All Co-Trustees acting under my Trust Agreement must act in concert with other Co-Trustees as provided in the other provisions of this Section.

b. Unanimous Vote for Two Trustees

If only two Trustees are serving, they shall act unanimously in the exercise of all powers and discretion granted to them under my Trust Agreement.

c. Majority Vote for More Than Two Trustees

If more than two Trustees are serving under my Trust Agreement, they shall act by majority vote and any exercise of a power or discretion by a majority of the Trustees shall have the same effect as an exercise by all of them.

d. Special Co-Trustee Resolves Disputes

If the Trustees are not able to reach an agreement on any decision as set forth in this Section, they shall consult with the Special Co-Trustee as provided under Section 8 of Article Three of my Trust Agreement.

Section 2. Delegation of Trustee Powers and Discretions

Notwithstanding any other provision of my Trust Agreement, any one or more of the Co-Trustees serving under my Trust Agreement may, from time to time, delegate to another Co-Trustee or Co-Trustees any or all of such Co-Trustee's powers and discretion by an instrument in writing delivered to the other Co-Trustees and may revoke such designation at will in the same manner; provided, however, the foregoing shall not apply to a "Special Co-Trustee" appointed under Special Co-Trustee Provisions of Article Three. For example, a Co-Trustee may authorize withdrawals of trust funds from any savings and/or checking account upon the signature of one of the others serving as Co-Trustee. Also, a Co-Trustee may authorize the opening and maintaining of bank accounts or safe deposit boxes, in the name of the Co-Trustee, with any bank, trust company or savings and loan association authorized and doing business in any state of the United States of America, and may authorize such bank, trust company or savings and loan association to make distributions to or for the benefit of the beneficiaries hereunder. Additionally, if a corporation, bank or trust company and an individual serve as Co-Trustees, the individual Co-Trustee shall not be obligated (but may so act if he or she wishes) to sign or countersign checks for disbursements of trust funds held by the corporation, bank or trust company. The delegating Co-Trustee shall incur no liability to any beneficiary of any trust

created hereunder with respect to the administration of such trust during the period of any such delegation.

Section 3. No Trustee Bond Required

No Trustee specifically named under my Trust Agreement shall be required to post any bond for the faithful performance of such Trustee's responsibilities.

Section 4. Compensation of Trustee

Other than when I am serving as Trustee, my Trustee shall be entitled to reasonable compensation for services rendered. Such compensation is payable without the need of a court order. In calculating the amount of compensation, customary charges for similar services, in the same geographic area, for the same time period shall be used as guidelines. Any corporate fiduciary shall be entitled to receive compensation for its services in accordance with its published fee schedule in effect from time to time and any trustee who is normally compensated on an hourly basis shall be so compensated. My Trustee shall also be entitled to reimbursement for reasonable costs and expenses incurred during the exercise of my Trustee's duties under my Trust Agreement.

Section 5. Change in Corporate Trustee

Any corporate successor to the trust business of any corporate trustee named under my Trust Agreement, or acting hereunder, shall succeed to the capacity of its predecessor without conveyance or transfer of trust property.

Section 6. Notice to Trustee

Until my Trustee receives written notice of any death or other event which triggers the right to payments from any trust or trust shares created under my Trust Agreement, my Trustee shall incur no liability for distributions made in good faith to persons whose interests may have been affected by such event.

Section 7. Duty to Account

My Trustee shall render accounts, upon request, to the income beneficiaries under my Trust Agreement at least annually, at the termination of a trust created hereunder and upon a change in my Trustees in the manner required by law.

Section 8. No Court Supervision

No trust or trust share created under my Trust Agreement shall require the active supervision of any state or federal court.

Article Ten - Powers of My Trustee

Section 1. Powers

In addition to any power hereinafter specifically granted to my Trustee, it is my intention that my Trustee has all powers granted to a trustee under state law, as well as those powers respecting property in my Trust Estate that an absolute owner of such property would have. In accordance with such intention, any power my Trustee needs to administer my Trust Estate, which is not hereinafter listed, shall be considered as provided for herein. All powers shall be exercised only in a fiduciary capacity, and such powers may be exercised without the approval or supervision of any court. It is also my intention that the investment of Trust assets shall be governed by the Uniform Prudent Investor Act, as enacted under the statutes that govern my Trust. If the Uniform Prudent Investor Act has not been enacted by the state whose law governs this document, then the Uniform Prudent Investor Act itself shall apply.

a. Retention of Property

My Trustee shall have the power to retain any ownership interest, partial or complete, in real property, farming and other family business enterprises, as well as other illiquid investments, such as restricted securities transferred, devised or bequeathed to my Trustee, regardless of any lack of diversification, risk, or non-productivity and regardless of whether or not such property is of a character authorized by state law for the investment of trust funds. My Trustee shall have the power to continue the operation of any such property or business enterprises at the risk of my Trust Estate as long as my Trustee believes that the retention of such property is in furtherance of my goals in creating my Trust and is in the best interest of my beneficiaries.

b. Additions

My Trustee shall have the power to receive additions to the assets of the various trusts created under my Trust Agreement from any source.

c. Business Participation

My Trustee shall have, notwithstanding any overall effect on the fair market value of the property held in any trust or trust share, the power to form, terminate, continue or participate in the operation of any business enterprise including a corporation, a sole proprietorship, a general or limited partnership (as a general or limited partner) or a limited liability company (as a managing or non-managing member) and to effect any form of incorporation, dissolution, liquidation or reorganization, including, but not limited to, the recapitalization and reallocation of classes of shares or other changes in the form of the business enterprise or to lend money or make a capital contribution to any such business enterprise.

d. Banking Powers

My Trustee shall have the following additional powers regarding financial transactions:

1. Existing Accounts

My Trustee may continue, modify, and terminate an account or other prior banking arrangement.

2. New Accounts

My Trustee may establish any type of account (including, but not limited to, checking, savings, and certificates of deposit) or other banking arrangement with a bank, trust company, savings and loan association, credit union, thrift company, industrial loan company, brokerage firm, or other financial institution.

3. Establishing, Entering and Closing Safe Deposit Boxes

My Trustee may open a new safe deposit box or space in a bank vault, access an existing safe deposit box or vault space containing trust property and withdraw or add to its contents, or close a safe deposit box or space in a bank vault.

4. Contracting Services

My Trustee may contract to procure other services that my Trustee considers appropriate which are offered by banks or other financial institutions.

5. Checks, Drafts, and Negotiable Paper; Withdrawals

My Trustee may make, assign, draw, endorse, discount, guarantee, and negotiate promissory notes, checks, drafts, and other negotiable or non-negotiable paper of mine, or payable to me or to my order, and deposit or receive the cash or other proceeds of those transactions. Furthermore, my Trustee may withdraw by check, order, or otherwise my money or property deposited with or left in the custody of a financial institution.

6. Receiving Negotiable or Non-Negotiable Instruments

My Trustee may receive for me and act upon a sight draft, warehouse receipt, or other negotiable or non-negotiable instrument.

7. Letters of Credit, Credit Cards, and Travelers Checks

My Trustee may apply for and receive letters of credit, credit cards, and traveler's checks from a financial institution, and give an indemnity or other agreement in connection with letters of credit as my Trustee finds necessary for the proper maintenance of trust property and financial needs.

8. Extensions to Pay

My Trustee may consent to extend the time of payment, due to or from me, with respect to any financial transaction with a bank or other financial institution.

e. Make Investments

My Trustee shall have the power to invest in any type of investment that plays an appropriate role in achieving the investment goals as set forth in my Trust Agreement, which investment shall be considered as part of the total portfolio. No category or type of investment shall be prohibited. I specifically do not wish to limit the universe of trust investments in any way other than is dictated by my Trustee's exercise of reasonable care, skill and caution. In connection with my Trustee's investment and management decisions with respect to my Trust, my Trustee is specifically entitled to take into account general economic conditions, the possible effect of inflation or deflation, the expected tax consequences of investment decisions or strategies, the role that each investment or course of action may play within the overall trust portfolio that may include financial assets, interests in closely held enterprises, tangible and intangible personal property, and real property; the expected total return from income and the appreciation of capital, and the asset's special relationship or special value, if any, to the purposes of my Trust or to one or more of the beneficiaries. My Trustee shall not be limited to any one investment strategy or theory, including modern portfolio theory, the efficient markets theory or otherwise, but should be free to consider any appropriate investment strategy or theory under all circumstances.

My Trustee may delegate investment and management functions that a prudent person of comparable skills would properly delegate under the circumstances. Should my Trustee delegate such function, my Trustee shall exercise reasonable care, skill and caution in selecting an Investment Advisor and shall establish, in writing, the scope and terms of the delegation consistent with the purposes and terms of my Trust. Such writing shall cover the terms of the Investment Advisor's duties and describe the Trust assets to be managed by the Investment Advisor.

Notwithstanding the general powers of my Trustee, the following provisions shall apply to each trust from time to time held hereunder which is being managed by an Investment Advisor (subject to any limitations or modifications contained in

the written agreement between my Trustee and such Investment Advisor or Advisors):

1. My Trustee shall follow the directions of the Investment Advisor with respect to the retention, purchase, sale or encumbrance of my Trust assets subject to management by such Investment Advisor and the investment and reinvestment of any funds derived from those assets, and shall have no duty to make or participate in making any decision regarding the same. The sole authority and discretion regarding the management of such assets shall belong to the Investment Advisor.
2. So long as my Trustee follows the direction or advice of the Investment Advisor, my Trustee shall be under no duty to review the assets subject to such Investment Advisor's management or to make any recommendations with respect to the investment or reinvestment thereof or to determine whether any direction or advice received from the Investment Advisor is proper.
3. My Trustee shall not be accountable for any loss or depreciation in value sustained by reason of any action: (i) taken with the direction or approval of the Investment Advisor, or (ii) not taken by reason of direction, disapproval or inaction by the Investment Advisor pursuant to the preceding provisions of this Section I.e. In addition, my Trustee may issue proxies to vote all securities included among the assets subject to management by the Investment Advisor, and my Trustee shall not thereafter be liable for the manner in which those securities are voted, for any direct or indirect result of that voting, or for any failure to vote such securities.
4. Except as modified by the provisions of this Section I.e., the powers and duties of my Trustee with respect to the assets of my Trust Estate managed by an Investment Advisor shall be the same as those with respect to all other assets of my Trust Estate.
5. An Investment Advisor, by written notice to my Trustee, may resign at any time, or may, from time to time, waive any or all such Investment Advisor's rights, powers and duties. By accepting the delegation of the trust asset management function and acting as Investment Advisor,

such Advisor submits to the jurisdiction of the courts of this state. An Investment Advisor shall be entitled to reasonable compensation, and such compensation shall be paid from the assets of my Trust and may be charged, in my Trustee's discretion, to income or principal, or partly to each. My Trustee shall incur no personal liability for the payment of such fees. The rights and powers herein conferred to an Investment Advisor shall be exercisable only in a fiduciary capacity.

f. Digital Assets

In addition to any other powers held, my Trustee shall have the power to open, continue, modify, terminate, access, view, make use of, and give instructions in regards to any financial, social media, or other account or other arrangement on the world wide web (also known as the internet) and/or on any other public or private network, and to access, view, and transfer any or all data owned by or concerning me or my Trust, in any format, including any electronic or digital data, no matter where it may be located, in this state, another state, or another country.

My Trustee may obtain password and/or login information and have complete access to any electronic account maintained by me or on my behalf, including, without limitation, electronic mail and on-line financial accounts.

g. Manage Securities

My Trustee shall have the power to buy, sell and trade in securities of any nature, including options, futures contracts, short sales, and for such purposes, may maintain and operate margin accounts with brokers, and may pledge any securities held or purchased by my Trustee with such brokers as security for loans and advances made to my Trustee. My Trustee shall have all the rights, powers and privileges of any owner with respect to securities held in trust, including, but not limited to, the power to vote and give proxies and pay assessments or other charges, participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers and liquidations and, in connection therewith, to deposit securities with and transfer title to any protective or other committee under such terms as my Trustee may deem advisable, and do all other acts which persons of prudence, discretion and intelligence would do or take for their own account.

h. Allocation of Principal and Income

Except as otherwise specifically provided in my Trust Agreement, the determination of all matters with respect to what is principal and income of my Trust Estate and the apportionment and allocation of receipts and expenses between these accounts shall be governed by the provisions of the Principal and

Income Act as enacted from time to time under state law. Any such matter not provided for either in my Trust Agreement or under governing state statute shall be determined by my Trustee in my Trustee's discretion.

My Trustee's powers shall be subject to my Trustee's duty to treat income beneficiaries and remainder beneficiaries equitably, except as provided below:

1. A reasonable reserve for the depreciation of all income-producing, depreciable real and personal property, and capital improvements and extraordinary repairs on income-producing property, shall be charged to income from time to time;
2. A reasonable reserve for the depletion of all depletable natural resources, including, but not limited to, oil, gas and mineral, and timber property, shall be charged to income from time to time;
3. Distributions by mutual funds and similar entities of gains from the sale or other disposition of property shall be credited to principal;
4. A reasonable reserve for the amortization of all intangible property having a limited economic life including, but not limited to, patents and copyrights, shall be charged to income from time to time; and
5. All premiums paid and all discounts received in connection with the purchase of any bond or other obligation shall be amortized by making an appropriate charge or credit to income as the case may be; provided, however, my Trustee shall not set aside out of income a reserve for the depreciation, depletion, obsolescence, repair, replacement, improvement or amortization of capital assets (tangible or intangible) contributed to my Trust during my lifetimes or by Will upon my death. Further provided, if my Trust is a partner in a partnership, my Trustee shall be entitled to accept, with respect to such partnership interest, any accounting methods used by the partnership, regardless of whether such methods include depreciation reserves, regardless of the assumptions on which any such reserve may be based, and regardless of whether such accounting methods are inconsistent with those methods used by my Trustee with respect to other property of my Trust Estate.

The income and principal of Retirement Assets and Annuities shall be governed by the provisions under Section 1 of Article Eleven.

i. Sell, Exchange and Repair

My Trustee shall have the power to manage, control, grant options on, sell (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair Trust property.

j. Lease

My Trustee shall have the power to lease Trust property for terms within or beyond the terms of the Trust and for any purpose, including exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements.

k. Permit Beneficiaries to Use or Reside Upon Trust Assets

Unless in conflict with the provisions of Section 2. e. of Article Eleven, my Trustee may permit any beneficiary to reside upon or occupy any real property in my Trust Estate or use any personal property in my Trust Estate, upon such terms, provisions and conditions as my Trustee determines.

l. Borrow

My Trustee shall have the power to borrow money for any trust purpose upon terms and conditions as my Trustee may deem proper and to obligate my Trust Estate for repayment; to encumber my Trust Estate or any of its property by mortgage, deed of trust, pledge or otherwise, using such procedure or procedures to consummate the transaction or transactions as my Trustee may deem advisable (including securing or guaranteeing a loan to me in my individual capacity for a purpose not connected with my Trust). My Trustee shall have the power to borrow money on behalf of one trust from any other trust provided for under my Trust Agreement, and to obligate the borrowing trust to repay such borrowed money, provided that such loan shall be adequately secured and shall bear interest at current bank rates.

m. Guarantees

My Trustee shall have the power to unconditionally or conditionally guarantee the payment of any and all indebtedness, advances, obligations and liabilities currently in existence or hereafter made, incurred or created by me, individually or jointly with others, or incurred or created by any person or any partnership (general or limited), or other legal entity, provided my Trustee holds any interest in such corporation, partnership or entity, and such guarantee benefits directly or indirectly my Trust Estate or its beneficiaries. Guarantees may be made to secure

indebtedness, advances, obligations and liabilities to banks, savings and loans, real estate investment trusts, any and all institutional investors, persons, corporations, partnerships and other legal entities.

n. Make Loans

My Trustee shall have the power to lend Trust money to my Personal Representative or to any beneficiary under my Trust (including me) or to a trust for the benefit of any such beneficiary, as may be agreed upon between my Trustee and such parties, provided, however, that any such loan shall be adequately secured and shall bear a reasonable rate of interest. My Trustee shall also have the power to loan or advance my Trustee's own funds to my Trust for any Trust purpose, with interest at current rates, and to receive security for such loans in the form of a mortgage, pledge, deed of trust, or other encumbrance of any assets of my Trust.

o. Purchase Assets from Trustor's Estate

My Trustee may use Trust funds to purchase any securities or other property tendered to it by the Personal Representative or Executor of my Estate or any Trustee of any trust established by me, at any time and from time to time at the then market value of such property. If there is any question as to the market value of such property, such value shall be determined by the Special Co-Trustee, as provided for under Section 8 of Article Three of my Trust Agreement.

p. Deal With Other Trusts

My Trustee may advance cash or other assets to any other trust or estate of which my Trust is a beneficiary in an amount equal to all or any portion of any expense, debt and other charges, and estate, inheritance, succession, transfer and other death taxes which are attributable to my Trust's share of such other trust or estate.

q. Insure

My Trustee shall have the power to carry, at the expense of my Trust, insurance of such kinds and in such amounts as my Trustee deems advisable to protect my Trust Estate and my Trustee against any hazard.

r. Agents

My Trustee shall have the power to employ managers, agents, attorneys, accountants, auditors, depositories and proxies, with or without discretionary powers, and to rely on the advice given by such advisors.

s. Litigation

Subject to the provisions of Section 8 of Article Three, my Trustee shall have the power to commence or defend, at the expense of my Trust, such litigation with respect to my Trust or any property of my Trust as my Trustee may deem advisable, and to compromise or otherwise adjust any claims or litigation against or in favor of my Trust.

t. Accept Gifts

My Trustee shall be authorized to accept gifts from any individual who desires to contribute to the principal of the respective trusts created hereunder. Such acceptance of any additional gift shall be in the discretion of my Trustee.

u. Pay Gift Taxes

If at any time any gift tax becomes due from me, by reason of my Trust Estate or any interest therein being includible for such tax purposes, such gift tax, together with interest, penalties, costs, Trustee's compensation and attorney's fees, in the discretion of my Trustee, may be paid by my Trustee from my Trust Estate, unless other adequate provision shall have been made therefor. Any such payments shall be charged to the principal of the share of my Trust Estate or any interest therein so included for such tax purposes.

v. Payment of Expenses

My Trustee shall have the power to pay any taxes, assessments, reasonable compensation of my Trustee and other expenses incurred in the collection, management, care, protection and conservation of my Trust Estate.

w. Corporate Fiduciary

If any stock of a corporate entity that is my Trustee, or of any affiliate or successor of such Trustee, shall be included in the assets of my Trust, my Trustee shall have full authority, in my Trustee's discretion, and notwithstanding any regulation or rule of law to the contrary, to retain the stock and any increases resulting from stock dividends and stock splits and from the exercise of purchase rights and the purchase of fractional shares needed to round out fractional share holdings that may arise concerning the stock. My Trustee shall vote such stock either directly or by proxy. However, to the extent my Trustee is prohibited by law from voting such stock, my Trustee shall vote in accordance with the written instructions of the Special Co-Trustee appointed under Section 8 of Article Three.

x. Investment Transactions

With regard to record keeping for investment transactions, my Trustee need not provide copies of confirmations or similar notifications each time a trade or investment transaction occurs, but investment transactions shall be set forth in my Trustee's periodic accounting.

y. Farm or Ranch Property

With respect to farm or ranch property, my Trustee shall have all necessary powers to participate in and operate any farming (including tree farming) or ranch operation, personally or with hired labor, tenants or sharecroppers; to lease any farm for cash or a share of crops under a lease that permits or precludes the material participation of my Trustee to fertilize and improve the soil; to employ conservation practices; to participate in government programs; and to perform any other acts deemed by my Trustee as necessary or desirable to operate the property. In making a decision whether to materially participate in farming or ranch operations, my Trustee shall consider whether an election should be made or has been made under Sections 2032A of the Code to qualify for special farm-use valuation or the qualified family owned business interest deduction, or both.

z. Power to Divide or Combine Trusts

My Trustee shall have the power to divide a single trust or share thereof into separate divisions, each to be administered in accordance with the terms and conditions of the single trust from which they were created (or in accordance with such terms and conditions as they may be affected by my Trustee's power to comply with "S" Corporation requirements) when my Trustee, in my Trustee's discretion, determines that division is desirable or advisable in view of tax considerations, including considerations related to income tax, gift tax, inheritance tax or generation-skipping transfer tax or other objectives of the trusts and their beneficiaries.

My Trustee shall not be required to make a physical segregation or division of the various trust subdivisions created under my Trust Agreement except as segregation or division may be required by reason of the termination and distribution of any of the trust subdivisions, but my Trustee shall keep separate accounts and records for different undivided interests.

My Trustee, in my Trustee's discretion, shall have the further power to combine two or more trusts or trust subdivisions having substantially the same terms into a single trust for purposes of administration when tax or other factors indicate that such combination would be desirable or advisable. In deciding whether to combine trusts or trust subdivisions, my Trustee shall consider the generation-skipping "inclusion ratio" of the trusts or trust subdivisions to be combined. Trusts or trust subdivisions having the same inclusion ratios may be combined.

Trusts or trust subdivisions having different inclusion ratios should generally not be combined unless their inclusion ratios are maintained unchanged through substantially separate and independent shares of different beneficiaries within the meaning of Section 2654(b) of the Code and the applicable regulations thereunder. Specifically, unless there is a Personal Representative, my Trustee has the authority to allocate any portion of my exemptions under Section 2631(a) of the Code to property as to which I am the respective Transferor, including any property transferred by me during my lifetime as to which I did not make an allocation prior to my death. My Trustee also has the authority to make the special election under Section 2652(a)(3) of the Code. If Sections 2631(a) or 2652(a)(3) of the Code are not interpreted to allow a Trustee to exercise such election, then a Personal Representative shall be appointed and is authorized to allocate my exemption and to exercise the said special election.

aa. Termination of Small Trust

If at any time after my death the costs of administration of my Trust (or any share thereof) are of such an amount in relation to the then principal and undistributed income of my Trust (or any share thereof) that my Trustee, in my Trustee's discretion, determines that my purposes in establishing my Trust (or any share thereof) would no longer be served, and if my Trustee deems it advisable to distribute the then principal and undistributed income of my Trust (or any share thereof) to the then living beneficiary or beneficiaries and thereby cause the termination of such trust or share, my Trustee (other than my estate and any then current beneficiary of my Trust) may do so without responsibility on the part of my Trustee. If no such Trustee is then serving, the Special Co-Trustee appointed under Section 8 of Article Three shall serve for the purpose of determining the advisability of termination and administering the termination process.

bb. Power to Subject Trust Property to Probate

It is my intention to avoid probate through the use of my Trust. If, however, my Trustee and Personal Representative mutually determine that it shall be in the best interests of the beneficiaries of my Trust, and the beneficial interests of the beneficiaries are not thereby altered, my Trustee may subject any asset to probate to accomplish a result unavailable without probate. This power shall be strictly construed and shall only be used to secure any tax or other benefit otherwise unavailable to my Trust. Accordingly, other than a distribution that would cause a Charitable Deduction to fail, my Trustee, in my Trustee's discretion, may accomplish this objective by distributing such property to my estate.

cc. Power to Change Situs

My Trustee shall have the power, exercisable by written instrument signed and acknowledged by my Trustee, to change the situs of any trust or trust share held by my Trustee; and, in conjunction with any such change and without any need to

obtain the approval of any court, to elect that such trust or trust share shall be subject to the jurisdiction of the new situs. In addition, my Trustee may move the assets of such trust or trust share to the location of the new situs. In no event, however, may this power be exercised in a manner that would cause the denial of Marital Deduction qualification for any portion of my Trust Estate, or that would prevent a trust or trust share from qualifying as a permitted shareholder of "S" corporation stock for federal income tax purposes.

dd. Release of Trustee Powers

Each Trustee who determines it to be in the best interest of any beneficiary may, at any time, by instrument executed with all the formalities of a deed and delivered personally or sent by certified mail to another then acting Trustee, if any, or to some beneficiary of the affected trust or trusts, release and relinquish or disclaim upon any terms, either in whole or in part, temporarily or permanently, revocably or irrevocably, with or without binding successors, any one or more of the powers, rights, authorities, and discretions conferred upon such Trustee by any provision or provisions of my Trust Agreement or generally pursuant to law, which release and relinquishment or disclaimer shall be binding on all affected beneficiaries. If the release and relinquishment or disclaimer of a power, right, authority, or discretion is made by less than all of my Trustees upon whom it is conferred, such power, right, authority, or discretion shall continue to be exercisable in full by my Trustee or Trustees (other than any Successor Trustees on whom it is, by its terms, binding) who have not thus released and relinquished or disclaimed it.

ee. Pay Death and Generation-skipping Transfer Taxes of Beneficiaries

Upon the death of any beneficiary other than me, any estate, inheritance, succession, or other death taxes (including any generation-skipping transfer taxes), duties, charges, or assessments, together with interest, penalties, costs, Trustee's compensation and attorneys' fees, which shall become due by reason of my Trust Estate or any interest therein being includible for such tax purposes, may be paid by my Trustee from my Trust Estate (other than the Trustor's) unless other adequate provision shall have been made therefor. Any such payments shall be charged to the principal of the share of my Trust Estate or the separate trust so included. If my Trustee considers that any distribution from a trust hereunder, other than pursuant to a power to withdraw or appoint, is a taxable distribution subject to a generation-skipping transfer tax payable by the distributee, my Trustee shall augment the distribution by an amount which my Trustee estimates to be sufficient to pay the tax and shall charge the same against the trust to which the tax relates. If my Trustee considers that any termination of any interest in or power over trust property hereunder is a taxable termination subject to a generation-skipping transfer tax, my Trustee shall pay the tax from the trust property to which the tax relates, without any adjustment of the relative interests

of the beneficiaries. If the tax is imposed in part by reason of trust property hereunder and in part by reason of other property, my Trustee shall pay that portion thereof which the value of the trust property bears to the total property taxed, taking into consideration deductions, exemptions and other factors which my Trustee deems pertinent. My Trustee may make any such payments directly, or to a Legal Representative or other fiduciary, and my Trustee may rely upon a written statement of such fiduciary as to the amount and propriety of such taxes, interest, penalties and other costs, and shall be under no duty to see to the application of any funds so paid.

Section 2. Gifts by Trustee

a. General Gift Authority

My Trustee is authorized to make gifts, grants, or other transfers without consideration, either outright or in trust, for any legitimate estate planning purpose, to or for my benefit, my descendants, or charitable organizations (including, without limitation, any Private Charitable Foundation, Charitable Remainder Trust, or Charitable Lead Trust established by me, as well as any public charity). Such gifts may include the forgiveness of indebtedness, the completion of any charitable pledges I have made, and the direct payment of tuition and medical care for the benefit of any such persons pursuant to the provisions of Section 2503(e) of the Code. Such gifts may be made in cash, in kind, or partly in each on a pro rata or non-pro rata basis. If any gifts are made to any individuals, then such gifts shall be made equally to all descendants of the same generation. For example, if a gift is made to my child or grandchild, as the case may be, then a similar gift or gifts of the same amount must be made to each of my then living children or grandchildren, as the case may be.

b. Deathbed Gifts

1. Circumstances for Making and Amount of Deathbed Gifts

Without limiting my Trustee's authority to make gifts under paragraph a. immediately preceding, if my Trustee determines that (i) I am terminally ill and it is unlikely that I will live, and (ii) my estate is or may be subject to death taxes, then my Trustee, in my Trustee's sole discretion, may make gifts up to the full amount of the federal gift tax annual exclusion amount under Section 2503(b) of the Code or successor statute (hereinafter referred to as "deathbed gifts").

2. Permissible Donees

My Trustee is authorized to make deathbed gifts to the following individuals: (i) First, to my then living children; provided, however, that if sufficient funds or suitable assets are not available to make the full amount of such gifts to all of my said children, then the funds or assets that are available shall be apportioned equally among said children; (ii) Second, if there are sufficient funds or suitable assets remaining after making the foregoing gifts to my then living children, then out of the remaining funds or assets, gifts shall be made to the then living children of my children (i.e., my grandchildren), in equal shares, per capita and not by right of representation; provided, however, that if sufficient funds or suitable assets are not available to make the full amount of such gifts to all such grandchildren, then the funds or assets that are available shall be apportioned equally among said grandchildren.

3. Completion of Deathbed Gifts Prior to Trustor's Death

I request that my Trustee take all action reasonably necessary to insure that the deathbed gifts authorized hereunder are completed for federal gift tax purposes prior to my death, including making gifts by wire transfer, electronic funds transfer, or other method that is reasonably calculated to complete such gifts prior to my death. If I am in an irreversible coma or vegetative state and my life is being prolonged solely by artificial means under circumstances where the timing of my death may be subject to the control of my Health Care Agent, the Conservator of my person, or other legal representative, then I request that my Trustee hereunder confer with such Health Care Agent, Conservator, or legal representative concerning the timing of such gifts in relation to the timing of my death.

4. Effect on Testamentary Plan

It is my desire that my Trustee make such deathbed gifts in order to save Death Taxes even if doing so is inconsistent with my testamentary plan. For example, if my Will or my Trust Agreement provides for the distribution of my estate to my children in equal shares upon my death, it is nevertheless my desire that my Trustee include my grandchildren in such deathbed gifts if Death Taxes could thereby be reduced, even if the effect would be to reduce the amounts passing to my children at my death or shift the total amount passing to each line of descent.

c. Limitation on Gifts to Trustee

Notwithstanding the provisions of Section 2 a. and b. above, any gifts my Trustee is authorized to make to himself or herself, or for his or her benefit, either directly or indirectly, including the discharge of his or her legal obligations, shall be limited to the greater of (i) five thousand dollars (\$5,000), or (ii) five percent (5%) of my Trust Estate during any calendar year, which power shall be non-cumulative and shall lapse at the end of each calendar year; provided, however, that gifts to the Trustee may exceed such limitation if any one of the following conditions is met: (i) the Special Co-Trustee provided for under Article Three of my Trust Agreement consents in writing to the gift to such Trustee, (ii) my then living adult children (other than the Trustee) unanimously consent in writing to the gift to such Trustee, or (iii) court approval of the gift to the Trustee is obtained on petition by the Trustee or any other interested person pursuant to state law.

d. Income Tax Effects

In making gifts hereunder, my Trustee may, but shall not be required to, consider the income tax effects of making a gift of any asset, the income tax basis of which differs from the fair market value, including the possibility of a step-up in basis at my death pursuant to Section 1014 of the Code. In that regard, my Trustee shall have the sole discretion to determine whether the estate tax savings of making such gifts outweighs the income tax consequences.

e. Gifts are Discretionary

My Trustee shall have the sole discretion to determine whether and to what extent to make gifts hereunder; provided, however, that, except as otherwise provided above in Section 2. b., it is my desire that the donees of each generation be treated equally. Nothing stated herein shall be construed to require my Trustee to make any such gifts and my Trustee shall not be liable to any person for failing to make any gifts authorized hereunder, or for the manner in which such gifts are made, except for his or her bad faith, willful misconduct, or gross negligence, including, without limitation, the death tax or income tax consequences to my estate, beneficiaries, or heirs at law. My Trustee shall be held free and harmless from any such liability, loss, cost, or expense, including reasonable attorney's fees, arising from my Trustee's acts or omissions in connection with making any gifts under the provisions of my Trust Agreement.

f. Payments to or for Benefit of Minors

If a gift is made hereunder to any person who is under the age of twenty-one (21), and if no trust is established for such person, such person's gift may, in the discretion of my Trustee, be distributed to an adult member of such person's family (to be selected by the Trustee) as custodian until such age as my Trustee

determines (but not to exceed the age of 21), under the Uniform Transfers to Minors Act or the Uniform Gifts to Minors Act.

Section 3. Trustee Environmental Powers

a. Trustee Authorized to Inspect Property Prior to Acceptance

1. Actions at Expense of Trust Estate

Prior to acceptance of the position of Trustee by any proposed or designated Trustee (and prior to acceptance of any asset by any proposed, designated, or acting Trustee), such Trustee or proposed or designated Trustee shall have the right to take the following actions at the expense of my Trust Estate:

A. Enter Property

To enter and inspect any existing or proposed asset of my Trust (or of any partnership, limited liability company, or corporation in which my Trust holds an interest) for the purpose of determining the existence, location, nature, and magnitude of any past or present release or threatened release of any hazardous substance; and

B. Review Records

To review my records and those of the currently acting Trustee (or of any partnership, limited liability company, or corporation in which my Trust holds an interest) for the purpose of determining compliance with environmental laws and regulations, including those records relating to permits, licenses, notices, reporting requirements, and governmental monitoring of hazardous waste.

C. Rights Equivalent to Partner, Member, or Shareholder

The right of the proposed, designated, or acting Trustee to enter and inspect assets and records of a partnership, limited liability company, or corporation under this provision is equivalent to the right under state law of a partner, member, or shareholder to inspect assets and records under similar circumstances.

1 My mother just finished what they had decided,
2 and changes my father could not complete.

3 Because as it stands now, she had given the A
4 Trust to me.

5 THE COURT: Not as it stands right now, of what
6 she did in January of 2017, where she changed her mind.
7 If I agree that she wanted to give the A Trust to you,
8 that's fine --

9 MS. WILSON: But --

10 THE COURT: I'm not quite done. But as the owner
11 of the money, she has the right to change her mind, as
12 long as she has the mental ability to do so.

13 MS. WILSON: And --

14 THE COURT: So if she promised to give it to you
15 ten years ago or five years ago, but then reached a
16 different conclusion in January, if her mind is okay,
17 that's what it is.

18 MS. WILSON: There has been a lot of undo
19 influence on her. She's been isolated from me. My phone
20 is blocked from her. The gate code has changed. They
21 won't open the door and let me in. I've had no contact
22 with her since October.

23 THE COURT: I understand, ma'am. I'm actually
24 very sorry about the circumstances. I'm not just a judge

1 who barks at people. Under the robe, I have familial
2 understanding and experiences, as well.

3 Some of the e-mails I read are shameful. I'm
4 sorry. But I can't fix that. And Premier Trust sent a
5 letter saying it couldn't fix that.

6 So what is it that you want this morning? I'm
7 just trying to understand that.

8 MS. WILSON: Well, my mom hasn't put a marker on
9 my father's grave, because she has -- she's not -- I don't
10 know. I mean, I feel -- I'm going to come out and say it.
11 She fell down three stairs, not 13. She hit her head.
12 When I found her, it looked like a crime scene. She had
13 blood everywhere.

14 THE COURT: Ms. Wilson, what is it about the
15 agreement that --

16 MS. WILSON: About the agreement?

17 THE COURT: Yes. I still don't know. I listened
18 to you very carefully. But I don't know if you want me to
19 unwind the agreement, or enforce the agreement. I still
20 don't even know that.

21 MS. WILSON: Well, they want to push down on the
22 framework, the skeletal one that was signed during
23 mediation. And there's actually two signature pages. And
24 they think that will hold up in court.

1 THE COURT: It will.

2 MS. WILSON: We were told that the agreement was
3 going to be refined, and it was going to include my
4 points. I didn't have a chance during mediation to bring
5 up any of my points.

6 THE COURT: Ma'am, I'm not trying to be
7 adversarial here, I'm just trying to understand.

8 You were told you could bring an attorney. And
9 for whatever reason, you chose not to. Then you were
10 there in person. And I don't know whether they gave you
11 nine minutes or nine hours. I don't know. But it appears
12 to me that you signed the agreement. Is that your
13 signature on page 2?

14 MS. WILSON: I signed it, because I was told that
15 if I did not sign it, they would have to start all over,
16 and it would take more time and --

17 THE COURT: That's all probably true. There's
18 nothing wrong with saying that if you don't sign it we go
19 to trial. That's what happens.

20 MS. WILSON: I brought, with my comments, a
21 definition of the points, what it is, like having --

22 THE COURT: So what points do you want
23 clarification on this morning? Because the legal question
24 before me this morning is whether the agreement hits all

1 material terms. That's the legal standard.

2 And, ma'am, what happened in fear, happens every
3 day in the law. People reach agreements under our rules,
4 and they either sign the agreement and put them on the
5 record, and then they go out and fill in the details, as
6 long as the material parts are --

7 MS. WILSON: But they just want to shove down the
8 original one. And my lawyer, Aaron Fricke, told me that
9 it was not to my --

10 THE COURT: I can't hear you. I'm sorry.

11 MS. WILSON: My lawyer, Aaron Fricke, who I had
12 retained for a short period of time, said it was not to my
13 advantage; that I needed clarification. And I did have
14 his points put in.

15 THE COURT: So if you could just tell me what you
16 want. If you could -- you want a marker for your mom?

17 MS. WILSON: For my father.

18 THE COURT: Forgive me. I'm sorry about that.

19 MS. WILSON: There's no marker. It's going to be
20 three years.

21 THE COURT: So you want a marker. What else do
22 you want?

23 MS. WILSON: I thought that if we could have her
24 declared not having capacity, then there would be no issue

1 of undo influence, and then I could reconcile with my mom.

2 THE COURT: So you want reconciliation?

3 MS. WILSON: Yes.

4 THE COURT: Well, that's fair.

5 MS. WILSON: I'm sorry.

6 THE COURT: So you want a marker?

7 MS. WILSON: I want a marker; I want
8 reconciliation with my mother. I don't know how she is.

9 THE COURT: Okay. Anything else?

10 MS. WILSON: Thank you. I'm really sorry.

11 THE COURT: It's quite all right.

12 I think I said e-mail, and I should have said
13 transcript and voice phone messages.

14 MS. WILSON: I've endured a lot.

15 THE COURT: We're not going to talk about that.

16 We we want a marker for dad?

17 We want reconciliation with mom?

18 MS. WILSON: Yes.

19 THE COURT: What else do we want this morning?

20 MS. WILSON: When I read Dr. Spar's evaluation,
21 it states that she can't enter into any agreement without
22 someone else helping her.

23 I want the truth. I want to really know what is
24 going on.

1 And I did want a medical evaluation of her. I
2 want to know, because the doctor that they picked has --
3 he's testified in some very high-profile cases. And
4 depending upon who was paying, they were found either to
5 have -- like he was in the Sumner Redstone case, and a
6 couple of other ones, and depending on who wanted who
7 declared competent -- you know, I want the truth of this.

8 I want to know exactly how she is. I want a
9 medical evaluation. I want -- when we took her to the
10 indian clinic, she had many scans done, she had a full
11 medical evaluation, she had a full neurological
12 evaluation. I mean, there's a lot of material. It was
13 like a three- to four-day evaluation of her; it wasn't
14 just a one thing.

15 She had psychological tests. She had -- you
16 know, I want to know the truth about this whole thing,
17 because Dr. Spar says his second copy was put out on the
18 29th, and there's no February 29th this year.

19 THE COURT: And the truth will lead you to what?

20 MS. WILSON: I will know what's actually going on
21 with her.

22 THE COURT: As it relates to what?

23 MS. WILSON: Everything. Her brain; her mental
24 status; if she was forced into this.

1 THE COURT: Are you attempting to regain a
2 greater percentage of the trust and distribution?

3 MS. WILSON: No, that's not the point.

4 THE COURT: So the distribution of Trust A makes
5 no difference whatsoever to you?

6 MS. WILSON: That's not it. I mean, I get little
7 snippets from people. Her caregivers had a lot to do with
8 preventing me from seeing her. I wanted to change them
9 out to memory specialists, to people that could give her a
10 high-protein diet.

11 I went there one time, and I had emptied the
12 garbage can, and the next day when I came over there, it
13 was filled with wrappers from ice cream bars.

14 THE COURT: So, remember, we're not going to
15 travel --

16 MS. WILSON: Yes.

17 THE COURT: Let me just summarize where we are.
18 You want a marker for your father?

19 MS. WILSON: Yes.

20 THE COURT: You want reconciliation with your
21 mother?

22 MS. WILSON: Yes.

23 THE COURT: You want information about her true
24 medicals condition, but --

1 MS. WILSON: Yes.

2 THE COURT: -- that will not lead you to want a
3 greater share of Trust A?

4 MS. WILSON: No.

5 THE COURT: What else do you want?

6 MS. WILSON: I just want the truth about the
7 whole thing, because there's all these redacted comments
8 and -- you know, he's got inconsistencies in his report.
9 And basically it says she doesn't have the capacity to
10 contract, unless someone else is doing it with her or for
11 her. I read it like 30, 40 times, and kept going over
12 every word, to try to understand what he was saying.

13 THE COURT: Well, what does it matter, if you're
14 not seeking more money than your siblings?

15 I understand you want the peace, of knowledge.
16 And I'm not begrudging that, and I don't disrespect that.
17 But I'm a judge, and I'm trying to understand the legal
18 boundaries of what I can do.

19 So as it relates to capacity, if you agree that
20 the three properties go, as designated, then what is it
21 that I can do, as a judge, about this agreement?

22 MS. WILSON: It's hard. I'm just -- I want the
23 truth of the whole situation. I want to know, because
24 there's -- the statements that you've gotten are full of

1 lies and accusations, and things from people who have made
2 all kinds of accusatory comments and everything else,
3 which has nothing to do with the actual episode of my
4 mother.

5 My mother needs to be evaluated. I wanted
6 somebody that nobody else picked, that was
7 Court-appointed, that somebody -- nobody could say, "Oh,
8 Dr. Spar, he testified on Sumner Redstone's." And the
9 wife wanted him incompetent, so he testified that she was
10 incompetent.

11 Basically when I read the report, it doesn't say
12 that she's going to make any kind of judgments or -- she
13 doesn't understand her properties. She doesn't
14 understand -- after she hit her head, she's a different
15 person.

16 THE COURT: So, again, if all of that is true,
17 you still believe that Trust A should be distributed with
18 those three properties to the three children --

19 MS. WILSON: Yes.

20 THE COURT: -- with the true-up, so they each get
21 the same identical amount?

22 MS. WILSON: Yes.

23 THE COURT: Okay.

24 MS. WILSON: And the house directly to me. It's

1 being taken out of the trust -- not leave it in the trust.

2 THE COURT: Counsel, there's something about a
3 self-trust for Ms. Amy Wilson --

4 MS. WILSON: That was on the B side.

5 THE COURT: There's something -- other siblings
6 didn't want to be trustees with that trust. Is that
7 anything I have to get into this morning?

8 MR. RESNICK: I think all parties are in
9 agreement with the mediation agreement.

10 MS. WILSON: May I ask my house be taken out of
11 the trust? I will not sign that. That's part of the
12 deal. I don't want to have it in the trust.

13 THE COURT: Counsel, I read all the moving
14 papers -- quite a bit -- but I don't have in mind the
15 provisions of the actual trust. And I'm confused -- can I
16 speak for a moment without you interrupting, please? --
17 I'm confused by how the home goes to Ms. Wilson, because
18 there are references to a sub trust.

19 Her request is that once it comes out of Trust A
20 to her, it goes to her in fee, I guess. Is there any
21 legal impediment, by virtue of the trusts?

22 MR. ROBERTSON: We're talking about the A Trust
23 now, Your Honor?

24 THE COURT: Right.

1 MR. ROBERTSON: And with respect to the A Trust,
2 if she has capacity, then she could amend that, to
3 eliminate the sub trust, completely.

4 Under the agreement, as reached at the mediation,
5 the sub trust was still contemplated, but Dr. Frasier and
6 Nori Frasier agreed not to the act as trustees of the sub
7 trust.

8 THE COURT: What is the purpose of putting Ms.
9 Wilson's residence in a sub trust?

10 MR. ROBERTSON: I don't know what the rationale
11 was for that, Your Honor. I wasn't there at the time.

12 MR. RESNICK: Nor do I. I didn't draft the
13 document.

14 THE COURT: Okay.

15 Nobody gets to raise their hand and just -- I'll
16 come to you. I promise, I will.

17 Yes?

18 MS. WILSON: The sub trust was on the B side.
19 This is a very confusing trust. But the B side is where
20 the sub trust -- and it was stated that the A Trust was my
21 mom's, and it was not. It was not under a trust.

22 And I don't know if they are putting my property
23 into the B trust. I don't know.

24 THE COURT: So I understand the concept of the

1 irrevocable trust. Maybe they referred to it as a sub
2 trust. But this settlement agreement refers to, in
3 paragraph 15(e) means sub trust. I just don't know what
4 that is.

5 MS. WILSON: I can --

6 THE COURT: Because there's the question that can
7 be answered as a matter of law, and then there's a
8 question that can be answered as a matter of family. I'm
9 trying to get to the lawful answer before I get to the
10 family answer.

11 MR. ROBERTSON: Your Honor, I think that -- I
12 don't want to speak for other counsel and other parties
13 that were present at the mediation, but my understanding
14 of paragraph 14 was that it was referring to the sub trust
15 in Trust B.

16 THE COURT: Okay. So is there any trust
17 impediment to distributing the home -- after it goes into
18 A Trust, or if it's not already, I can't remember which,
19 but after it lands in the A Trust, then going down out of
20 trust in fee to Ms. Wilson? Is there any trust impediment
21 to that?

22 MR. ROBERTSON: I believe that the co-trustees
23 could simply agree to do that, Your Honor, as long as
24 Dinny Frasier is competent to do that.

1 MR. RESNICK: That was my client's intention.

2 THE COURT: All right. Thank you so much.

3 Now, I think we're about done with your time,
4 because I have a sense of who you are and what you want.

5 Is there anything that you haven't had a chance
6 to tell me? And if you would, briefly tell me.

7 MS. WILSON: My conclusion is three things:

8 Number one, order the parties to work out their
9 differences on a formal agreement.

10 Two, alternatively, the Court should resolve any
11 disputes over any terms of the formal agreement.

12 Number three, make a determination whether Dinny
13 Frasier has efficient capacity to enter into this
14 settlement agreement.

15 Those are my three concerns, in conclusion.

16 THE COURT: Thank you, ma'am. Appreciate your
17 time to prepare.

18 Ma'am, please come forward, Ms. Nori Frasier, and
19 you may tell me what you would like.

20 MS. NORI FRASIER: So I was just -- so I was just
21 going to say about the sub trust for Amy, at the time --
22 this is what we were told as kids -- at the time that he
23 had that sub trust, it was put there to protect her,
24 because she was having financial, or whatever problems,

1 and he wanted to protect her assets so that nobody could
2 take advantage of her. She was around 50 at the time.
3 She's over 60 now. So, I mean, I believe my brother and I
4 feel she should get her property, you know.

5 And then I have a sheet of paper, because I
6 thought you were going to ask me to say something.

7 THE COURT: Well, I only want to hear what you
8 think I should hear.

9 MS. NORI FRASIER: Yes. It's just a summary.

10 THE COURT: Is it more of the stuff that I've
11 already been hearing? Go ahead and get started, and we'll
12 see where it goes.

13 MS. NORI FRASIER: Can my husband read it?

14 THE COURT: No.

15 MS. NORI FRASIER: It seems there's one comment
16 that everyone agrees on: that the settlement should be
17 fair.

18 In talking with others, it has become clear that
19 what constitutes fair is not an item in the agreement. I
20 am confused with what I have been told by different
21 people.

22 What has also become clear is that some of this
23 is due to no detail on the definition of what the
24 agreement states.

1 It seems a Court-appointed appraiser -- we went
2 through that -- but Court-appointed makes sense, as it
3 reduces the risk of any funny business. It would also
4 appear an example of how all appraisers are expected to
5 work, resulting in money flow, would help everyone
6 understand where an agreement -- or how far each party is
7 from agreement.

8 We went to mediation to discuss Brad's medical
9 building, so there was little reason for me to have an
10 attorney.

11 At the mediation, it was explained that the
12 medical building would be appraised at its current state,
13 and appraised as if it was a shell building: no
14 improvements. And that would be an average -- average, to
15 reach a value.

16 It has also been explained as something entirely
17 different now, to be something that would highly likely
18 undervalue the building in determining its value.

19 It was explained to me it's highly possible the
20 medical building could end up at \$100,000, which seems
21 highly unfair. But, again, it's interpretation of jargon
22 that's confusing, and leading to everyone assuming that
23 they are not being treated fairly.

24 I have had two different educated parties giving

1 me wildly different explanations of how the medical
2 building value is being determined. But, like I said, the
3 lack of details and likely examples makes it hard to
4 understand the calculations involved.

5 If this is done, and it was fair, then I think it
6 is likely that an agreement could be reached. It seems to
7 me that there should be a completely fair way to do all of
8 this.

9 It is not fair to just appraise a medical
10 building as it is, since Brad did pay for the improvements
11 to the building. It would seem that an appraisal of the
12 full medical building, with a deduction for improvements,
13 should have tax and other records, would be a starting
14 point.

15 Any other way to do this might be to apply a
16 common real estate appreciation of dollar amount
17 originally invested for the time period involved.

18 My father always said to split everything three
19 ways. But it seems that human nature makes it impossible.

20 Anyhow, thank you.

21 THE COURT: Thank you, ma'am.

22 Is there anything you wish to say on behalf of
23 the brother?

24 MR. SULLIVAN: Your Honor, we would just like to

1 have the agreement enforced, as written.

2 MR. RESNICK: Your Honor, can I make a statement?

3 THE COURT: Yes, sir.

4 MR. RESNICK: I have never met Dr. Spar. I have
5 never engaged Dr. Spar prior to this occasion. I have
6 never met Justice King, prior to the mediation.

7 Two statements. I want to make sure that the
8 record is clear. Also, I counted six different occasions
9 where my office requested comments from the parties:
10 February 1st through April 7th. Finally, at the last
11 minute, I get the comments.

12 THE COURT: Thank you.

13 Counsel, I'm going to come back to Ms. Frasier
14 continuing as trustee.

15 So excluding that, is there any evidence that you
16 intended to present this morning, that you want to
17 identify, at least by proffer?

18 MR. ROBERTSON: If I understand the Court's
19 question, it is whether there's any evidence outside of
20 the issue of whether Dinny Frasier should continue as
21 trustee, and whether we'd proffer such evidence? And we
22 do not.

23 THE COURT: I want to make sure that before I
24 orally pronounce, everybody has had an opportunity to tell

1 me what they prepared to tell me, in addition to what's
2 been written and argued.

3 Is there any evidence that you would have
4 presented this morning that I have stopped you from
5 presenting, that I would like you to identify and proffer?

6 MR. RESNICK: Declarations under penalty of
7 perjury, but no personal testimony today, from six
8 caregivers, friends, professional, personal, fiduciary,
9 through Dinny Frasier, if you're willing to accept it,
10 Your Honor.

11 THE COURT: I don't know. When you say "accept
12 it," I'm not sure what you mean.

13 I'm very reluctant to go with declarations or
14 affidavits in an evidentiary hearing, because the
15 affiant -- they aren't available for Cross-Examination.

16 MR. RESNICK: I understand, Your Honor.

17 THE COURT: So I think I understand, generally,
18 the supportive documents that would help the Court
19 understand your client's condition --

20 MR. RESNICK: Yes. And the situations,
21 themselves.

22 THE COURT: Thank you.

23 Ms. Frasier and Ms. Wilson, did you intend to
24 call any other witnesses this morning, besides what I've

1 already heard?

2 Between attorneys Robertson and Resnick, I'm not
3 sure that Ms. Dinny Frasier should continue serving as
4 co-trustee, based upon my entire file review, ending with
5 Dr. Spar, and also the moving papers relating to her
6 unwillingness to speak with her trust attorney.

7 And I'm not sure whether I should contemplate her
8 removal. And I want to talk about that, because there's
9 quite a problem. And the problem is going to be fixed
10 today, one way or another.

11 MR. ROBERTSON: Your Honor, I'm not sure that
12 issue is before the Court. This hearing is related to the
13 agreement that was reached at the mediation.

14 On the other hand, I've got a gerontologist of
15 psychiatry, UCLA, who drafted California Probate Code
16 6100.5, Competency to Make a Will, co-drafted Probate Code
17 Section 810, Due Process and Competency.

18 THE COURT: The very last sentence of Dr. Spar's
19 before the Court is that she does retain capacity to serve
20 as co-trustee, as long as she has a competent co-trustee
21 with whom she can consult in the matters of her trust
22 assets.

23 MR. ROBERTSON: As long as there's a corporate
24 co-trustee to act for her, I accept it.

1 THE COURT: You're insisting that the corporate
2 trustees' counsel not speak with your client --

3 MR. ROBERTSON: That's not true.

4 THE COURT: Well, I read the e-mails; it appears
5 true, to me.

6 MR. RESNICK: My statements to Mr. Robertson were
7 that my client advised me she would be present when the
8 corporate co-trustee speaks with her. I'm not filtering
9 anything, she just wants me -- I represent that's what the
10 note says.

11 THE COURT: So what should I do? I understand
12 it's not before me. I can make it before me very quickly,
13 come back here in about 10 days, and we can have that.
14 But this situation doesn't work for me.

15 MR. RESNICK: Your Honor, she doesn't want to
16 talk to you.

17 THE COURT: Okay.

18 MR. RESNICK: She has no -- I have had
19 declarations, and I can bring these witnesses and you can
20 hear their testimony.

21 THE COURT: It's beyond this agreement that
22 you're asking me to enforce.

23 MR. RESNICK: She has the right to not make
24 another corporate co-trustee, pursuant to the document.

1 She has the capacity, in the declaration by Dr. Spar --

2 THE COURT: Doctor Spar is not here for me to
3 observe, listen, and make him available for
4 Cross-Examination.

5 It's one thing to talk about a testamentary
6 capacity for the balance of Trust A. If it's also her
7 intention to terminate Premier Trust, we need to do that
8 in this court. But we're not going to do that, either.

9 Do you want to be heard?

10 MR. ROBERTSON: I would just say, Your Honor,
11 thank you for raising the issue. I think there are many
12 things that I can speak with Dinny Frazier, with Mr.
13 Resnick present. It is only things where there's a
14 conflict. And leading up to this hearing, there are some
15 things I needed to talk to her about, but I couldn't speak
16 to her about, because she has obligations as a trustee,
17 not just to herself, but to her children.

18 And sometimes those obligations, as a trustee,
19 conflict with her personal desires. And I believe that
20 she may not understand that. And I wanted the chance to
21 speak to her about that and make sure she understood the
22 differences. I don't think I can do that with personal
23 counsel present.

24 So if the Court could order that I have an

1 opportunity to speak with her personally, that may help to
2 clear this issue up. It may not. I don't know.

3 THE COURT: She has either created or been the
4 victim of a toxic family dysfunction, all pursuing their
5 own family and vision. I don't want to be too critical.
6 But the last thing I want to do is force her to do
7 something that she has told me she doesn't want to do, if
8 I just accept her letter at face value.

9 Now that's different, as I read Dr. Spar's
10 letter. She had the ability to understand her property
11 and who she wants it to go to. And I'm always concerned
12 about how that disrupts capacity to decisions -- that's
13 why we're not going there with Premier, until it goes
14 through the court.

15 MR. RESNICK: Your Honor, I would raise one last
16 point, which is that if Dinny Frasier were to resign as
17 trustee -- and I don't know who is going to replace her or
18 not, but the -- if Premier could act alone, or another
19 corporate fiduciary could act alone.

20 But if she were to resign as trustee, in my mind,
21 that would go a long way toward allowing some healing
22 within the family.

23 Because I think the primary reason she doesn't
24 want to have communication with the children has been that

1 when they communicate with her, they are talking to her
2 about making changes to the trust. And she doesn't want
3 to deal with that anymore.

4 If she no longer has the ability to make those
5 changes, then maybe there could be some healing.

6 MS. WILSON: Your Honor, no, I'm -- that's not
7 correct.

8 THE COURT: Mr. Robertson, your very last. Do
9 you have any last words for me?

10 MR. ROBERTSON: I understand, Your Honor.

11 THE COURT: Each of these three children, what
12 typical children and parents want, is peace and a
13 chance -- I'm not going to do anything about the
14 trusteeship, except invite you to come back to court, if
15 you believe it's necessary.

16 And I'm going to order that there be no change of
17 Premier's role as trustee, without corporate information
18 from -- I want to acknowledge that I know very well about
19 the Frasier family, and that none of us are susceptible to
20 just one characterization. I'm sometimes kind and
21 sometimes unkind. I'm sometimes patient, and sometimes
22 impatient. And I'm sorry about the circumstances that
23 created this faction, I suspect. By any stretch of the
24 trust language, can Premier assist with that in any way?

1 MR. ROBERTSON: Absolutely, yes, Your Honor.

2 THE COURT: What is the structure to assist with
3 that? First, Ms. Frasier, as the spouse, and then,
4 hopefully, with notice to -- I'm mindful of the costs of
5 your services, but I strongly agree with what you said:
6 that if there was never a conversation about money, we
7 would fill this void with conversations about other
8 things.

9 I just don't know if Dinny Frasier is willing, or
10 if she -- as to medical information. If Ms. Wilson wanted
11 to challenge Dr. Spar, she would have him summonsed into
12 court and bring her own physician expert. I would require
13 an expert report in advance. And it seems to be that Ms.
14 Wilson acknowledges she's not making any change. And so
15 I'm going to acknowledge her request, and decline to
16 introduce judgment.

17 Under this Court Rule 16, the Court finds no
18 concerns regarding material terms of the settlement
19 agreement. The rule requires that the agreement be
20 memorialized in writing. The format, as followed with
21 Justice King, is identical with the format that occurs in
22 the State of Nevada, and probably elsewhere, including the
23 Nevada Supreme Court.

24 Ms. Nori had an opportunity to think before she

1 authorized Justice King to use her signature. There's
2 been substantial time to send them to us.

3 I'm going to enforce the requirement for a Court
4 appointment for the appraiser that Ms. Caverly and Mr.
5 Resnick can agree upon -- is it one or two?

6 MR. RESNICK: I believe one, Your Honor.

7 THE COURT: One appraiser. The identification of
8 a gerontologist did not require Court appointment before,
9 but, instead, requires Court approval of the agreement.
10 So I'm not dismissing this agreement because Dr. Spar was
11 not Court appointed.

12 As to quantifying the tenant-in-common interest
13 through the discounted partition, I think the attorneys
14 can figure that out and put it into their final agreement.
15 As long as the appraiser understand what their job is, I'm
16 okay with that.

17 MR. RESNICK: Your Honor, could we have some
18 clarification from the Court as relates to the discount?
19 Can we approach the appraiser that's selected and ask what
20 the market discount rate is?

21 MR. ROBERTSON: I'm certainly not the expert.

22 MS. O'MARA: It was anticipated that the
23 appraiser would bring his or her professional knowledge.
24 And Mr. Resnick and I couldn't agree about the right

1 valuation, which is why we agreed to the average and why
2 we agreed that we would both participate in conversations
3 with the appraisers, so that no one could influence
4 improperly. Both valuation methodologies are legitimate,
5 and I think one will favor Dr. Frasier's interests, and
6 one will probably favor the trust's interests. Again,
7 that's why the average.

8 I am not sure what Mr. Resnick is asking to
9 clarify. I think the appraiser will understand what is a
10 discounted 50 percent interest versus a partition value.
11 The partition is a Court-sponsored statutory scheme that
12 the discounted valuation is commonly used for, for estate
13 tax purposes.

14 But I do think the agreement is sufficient enough
15 with both of us, as well as whoever we would want to
16 consult with independently, to then try to persuade the
17 appraiser.

18 But with a differing interest that we're
19 representing, I think that we can come to a value that is
20 as fair as any other methodology.

21 THE COURT: Okay.

22 MR. RESNICK: Your Honor, I will try to avoid
23 shopping around for the right discount and Ms. Caverly
24 shopping around for the right discount, and then let's

1 have the appraiser just make that decision. And we
2 communicate well.

3 THE COURT: I think that advocacy, though
4 expensive, usually creates a good result. Just watching
5 the two of you, you're going to be fine representing your
6 respective clients' interests.

7 MR. RESNICK: I hope we can talk to --

8 THE COURT: Tax implications. Those will be
9 borne by the B Trust, as contemplated.

10 And I am disinterested in any income request to
11 help you avoid your task obligations. I'm not going to
12 be -- it just is what it is. As long as you can figure it
13 out, the professionals, please don't present that question
14 to me.

15 Dinny Frasier will -- the trustee will distribute
16 these three identified real properties to each of the
17 identified children in the trust, along with whatever
18 equalizing money is required.

19 I would like to order that Ms. Dinny Frasier is
20 not restricted from making alternate distribution
21 amendments to Trust A, as long as she is capacitated. And
22 I would just be careful about that capacity. I think
23 about the money and -- I think with her age, and we can
24 trace back in time -- I want to make sure that question is

1 as narrow as possible.

2 Premier Trust shall not be terminated as
3 co-trustee of the trust without order from this Court.
4 You may present that to the Court at any time, in any
5 format you wish.

6 If you all present to me an order consistent with
7 the settlement agreement, with all the details included, I
8 will sign it.

9 MR. RESNICK: Your Honor, I have a question.

10 THE COURT: Yes, sir.

11 MR. RESNICK: Bear with me. One last question.
12 The settlement was to occur, I believe, upon Dinny's
13 death. I need to look at the agreement.

14 THE COURT: I'm looking at it, too. Thank you
15 for that.

16 MR. ROBERTSON: I believe Mr. Resnick is correct,
17 Your Honor, that that would be upon her death that
18 equalization would occur.

19 THE COURT: So each of you are going to give the
20 approximate, but then there's going to be a difference in
21 value of those properties. It appears that -- and I'm
22 going to use first names -- it appears that Brad's
23 property is going to be worth a lot more than Amy and
24 Mori's properties, and so there will be additional money,

1 cash money, going to Amy and Nori. But the question is:
2 When does that cash money come out of the trust? Either
3 now, or at the time of Ms. Dinny's death.

4 So, again, understanding Ms. Dinny is still alive
5 and capacitated, and we're talking about her money -- so
6 Mr. Bradley Frasier receives value, Ms. Dinny Frasier
7 receives value -- I'm sorry. If Dinny Frasier lives to be
8 105, another 17 years, Brad has enjoyed the full value of
9 distribution, and his sisters have not.

10 MR. ROBERTSON: Your Honor, Premier would be open
11 to changing that position, if Dinny Frasier is open to it.

12 THE COURT: I would like you to staff, Ms. Clerk,
13 a telephone conference with Mr. Robertson and Mr. Resnick
14 for sometime next week, where Mr. Resnick can see if his
15 client is willing to consider any of those options.

16 Because the feeling of a settlement agreement is
17 fairness. That's why we have equalizing.

18 Do you understand what I'm doing, Ms. Nori and
19 Ms. Frasier? Ms. Nori, you're going to get a house, and
20 at some point in the future you're going to get some
21 money. The question is: When do you get that money?
22 When your mother dies? Or when your mother says you get
23 some or all of it?

24 Her trust, the fact she might live to 105,

1 doesn't -- even if she lives with 24-hour nursing care,
2 she's still going to have plenty.

3 MR. RESNICK: That will be a point I will discuss
4 with her, but --

5 MR. ROBERTSON: Your Honor, I just wanted to
6 clarify. You made a comment to Nori Frazier, a minute
7 ago, that she would receive some money in addition to the
8 house.

9 I just want to be clear that I don't know how
10 this discounting is going to work. It's possible that the
11 trust half of the medical building might be discounted so
12 much that it's actually below the \$650,000 that is Amy's
13 home, or the \$325,000 that is Nori's home.

14 So I just want to make sure that we're clear on
15 the record that we don't know which way the money is going
16 to flow, at this point.

17 THE COURT: I have written \$1,000,000, so --

18 MR. ROBERTSON: Right.

19 THE COURT: So we will have to get those
20 appraisals.

21 MR. RESNICK: Your Honor, it depends on the
22 lobbying by Ms. Caverly.

23 THE COURT: I would like an order consistent with
24 my oral pronouncements within the next 20 days. So it

1 will be submitted and, under District Court Rule 9, copied
2 on all other people. And then I'll wait 10 days to see if
3 I get any written objections.

4 Any questions, Ms. Nori?

5 MS. NORI: No. Like you've heard, we all want to
6 see our mom.

7 THE COURT: Yes. I'm really sorry. I am. I
8 don't know if and how and when that might be.

9 MS. NORI: Is there any -- like can we visit with
10 her with an attorney, so we don't talk about the wrong
11 thing? I don't know if that's doable.

12 MR. RESNICK: Your Honor, may I?

13 THE COURT: Yes.

14 MR. RESNICK: The appointed personal fiduciary,
15 which is the Power of Attorney under the financial and
16 local health care directive, will reach out to the
17 children, and maybe start with -- at least I will suggest
18 to Dinny -- limited rules, and see how that works.

19 But I've got a doctor's report, from a Dr. Hagga,
20 that says, "Any time the family dynamics are discussed,
21 she gets agitated and anxious." So we have to overcome
22 that. I will work on it with the doctor.

23 THE COURT: I'm grateful for your words. Thank
24 you so much.

1 I would love to see baby steps, moving into full
2 strides. I would love to see that. And I'm comforted by
3 what counsel have said. But your mother needs peace
4 and --

5 MS. NORI: Well, her grandchildren are doing
6 amazing things.

7 THE COURT: Ms. Amy, anything from you?

8 MS. WILSON: I don't know if this is appropriate.
9 Is there a way to have like a guardian ad litem appointed,
10 to take care of her and help her?

11 THE COURT: No, not at the moment. No,
12 because -- not at the moment, I can't.

13 If there becomes greater levels of incapacity,
14 which may be inevitable, if she lives and this disease
15 progresses, there could be a telephonic procedure for
16 conservatorship. But from me, this morning, there's not.
17 No, we will just see what your mom wants to do. Hopefully
18 her attorney is going to call her and say things went
19 well, and here's the plan.

20 MS. NORI: I have one more question. When I was
21 staying with my mom for nine weeks, from October to
22 December, living with her, being there with her, until all
23 this started, I noticed Premier Trust would call her at
24 8:00, 9:00 in the morning, when she was really incoherent,

1 because she was asleep.

2 Is there any way that people can call her like in
3 the early afternoon? Because she's better in the
4 afternoon than first thing in the morning. It's just a
5 request.

6 THE COURT: Thank you. I think those decision-
7 makers have heard the request.

8 Mr. Brad Frasier, you're surrounded by attorneys,
9 and I've given each of them an opportunity. But before I
10 leave this room, is there anything you want to say, sir?

11 MR. BRADLEY FRAZIER: Yes. So regarding the
12 headstone. We bought my dad a headstone. And I haven't
13 been involved with the family for over two years now. If
14 I had been involved, he would have his headstone on his
15 grave within his one-year anniversary. That was the plan.

16 THE COURT: Where is it now?

17 MR. BRADLEY FRAZIER: It's purchased with the
18 funeral -- with the cemetery. All we have to do is go in
19 and say we want that one, and make it -- it's already
20 bought and paid for. So that should have been done.

21 I just want to say --

22 MS. WILSON: Well --

23 THE COURT: Hold on, Ms. Wilson. Your brother
24 did not interrupt you one time when you were speaking.

1 And now you keep -- it's his turn.

2 MR. BRADLEY FRAZIER: I just want to say one
3 thing about the medical building; okay? So my mother and
4 father were very generous to provide half the down payment
5 on the building.

6 Beyond that, they provided nothing. My dad
7 didn't declare it on his taxes. He wasn't involved,
8 didn't want to be involved.

9 I wanted to pay him back. He didn't accept it.
10 All that is documented, in the papers.

11 Regarding the numbers, if the building were
12 valued for \$3 million today, the bank owns \$1.5 million
13 of that. So that's the mortgage. So the equity is
14 1.5 million. Half of that is \$750,000. That's what the
15 trust would own. One third of that would go to each of
16 us. So their equity today, if we sold the building, would
17 be \$250,000. So I just wanted to say that. That's where
18 the equity is. And whatever thing we use to value the
19 building, that has to be taken into consideration.

20 THE COURT: Thank you, sir.

21 MR. RESNICK: Your Honor, that's the first I've
22 heard of a headstone. I'll bring it to my client's
23 attention.

24 THE COURT: You get the last word, Ms. Amy.

1 MS. WILSON: Over the past couple of years I have
2 spent taking care of my mom, helping her out, I have
3 mentioned a number of times we did pay for the stone. The
4 cemetery requires that she does the inscription. And
5 we've given her a lot of ideas, to put this, put that
6 down. You know, she is the one that has to actually give
7 them the order to engrave the stone, the marker. So they
8 have to have her permission.

9 MR. RESNICK: Your Honor, if the three of them
10 can reach an agreement on what the three of them agree is
11 the inscription that they'd like, I'll present it to my
12 client and try and make it happen.

13 THE COURT: But if they don't reach an agreement,
14 then present it to me, and I will make a decision.

15 MR. RESNICK: Fair enough.

16 THE COURT: Judges have to do these horrible
17 things all the time. I recently had a case where a
18 deceased person languished, and the children were fighting
19 about cremation and burial -- and this happens -- and the
20 deceased person languished for six weeks. Judges make
21 these decisions.

22 Dad needs a headstone. If there are
23 disagreements at all among the children, then, as a
24 stranger, I will make that decision.

1 MR. RESNICK: Fair enough.

2 MS. NORI: I think she keeps saying that, "I'm
3 mad that he died, so I'm not going to give him a
4 headstone." Life.

5 THE COURT: Despite how I barked, it's wonderful
6 to see all of you. Thank you for coming here. I wish,
7 truly, your happiness and harmony.

8 Please express my best wishes to your client.

9 You will prepare the order, Mr. Robertson, as it
10 comes out of this hearing, from my oral pronouncements.

11 Now, if you can incorporate those into the orders
12 enforcing the settlement agreement, so be it. But if you
13 need a separate order, that captured some of the details,
14 in particular, your client's continuing service until
15 further order of the Court headstones, et cetera, so
16 forth, let's get it done.

17 (Whereupon, the proceeding was concluded.)
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24

1 STATE OF NEVADA)

2)

3 COUNTY OF WASHOE)

4
5
6 I, RANDI LEE WALKER, Certified Shorthand
7 Reporter of the Second Judicial District Court of the
8 State of Nevada, in and for the County of Washoe, do
9 hereby certify:

10 That I was present in Department No. 15 of
11 the above-entitled Court and took stenotype notes of the
12 proceedings entitled herein, and thereafter transcribed
13 the same into typewriting as herein appears;

14 That the foregoing transcript is a full, true
15 and correct transcription of my stenotype notes of said
16 proceedings.

17 DATED: At Reno, Nevada, this 1st day of May,
18 2019.

19
20 /s/ Randi Lee Walker
21 RANDI LEE WALKER, CCR No. 137
22
23
24

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IN THE SECOND JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

In the Matter of the
JORDAN DANA FRASIER FAMILY TRUST

Case No. PR16-00128
Dept. No. PR

SECOND SUPPLEMENTAL PETITION FOR INSTRUCTIONS

Pursuant to the provisions of NRS chapter 164, Petitioner Premier Trust, Inc. ("Premier"), Co-Trustee of the Jordan Dana Frasier Family Trust, by and through its attorneys of record, the law firm of Robertson, Johnson, Miller & Williamson, hereby petitions this Court for:
1) instructions regarding how to proceed in light of certain recent events; and (2) such other direction and relief as the Court may deem appropriate.

I. Procedural Background

1. Premier and its Co-Trustee, Dinny G. Frasier ("Dinny"), commenced this action on March 2, 2016, by filing a *Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions*.

2. On April 21, 2016, the Probate Commissioner made several findings and recommendations.

3. The Court ultimately confirmed, approved, and adopted the Probate Commissioner's recommendation in most respects, including the following points:

- 1 a. This Court has jurisdiction of the Jordan Dana Frasier Family Trust, as amended,
- 2 and all other trusts created thereunder (collectively, the “Frasier Trusts” or,
- 3 alternatively, simply “Trusts”);
- 4 b. Premier and Dinny were confirmed as Co-Trustees of the Frasier Trusts;
- 5 c. Premier should provide an annual accounting of the Trusts’ assets to Dinny;
- 6 d. The Co-Trustees are authorized to administer the Frasier Trusts in their
- 7 reasonable discretion, and that no third party may interfere with the Frasier
- 8 Trusts’ assets or administration;
- 9 e. The Co-Trustees are entitled to demand and inspect reasonable management and
- 10 financial records concerning all of the Frasier Trusts’ assets; and
- 11 f. The Court will retain continuing jurisdiction over the Frasier Trusts.

12 4. The Court held a Status Conference on October 5, 2016, in which counsel for the
13 co-trustees and counsel for Bradley L. Frasier (“Brad”) advised the Court that they were
14 embroiled in a dispute over ownership of a medical building in Oceanside, California.

15 5. The Court scheduled a bench trial to resolve that dispute and also ordered the
16 parties to participate in a mediation within 120 days.

17 6. The mediation occurred on January 27, 2017, before the Honorable Justice Jeffrey
18 King (ret.), resulting in a Settlement Agreement signed by all parties.

19 7. The Court held an evidentiary hearing on May 9, 2017, wherein the Court
20 confirmed the Settlement Agreement.

21 II. Trust Summary

22 8. Dinny and her husband, Jordan Frasier (“Joe”) established the Frasier Trusts.

23 9. Joe died on October 22, 2014.

24 10. In or around May, 2015, Dinny appointed Premier to serve as the corporate Co-
25 Trustee for the Frasier Trusts.

26 11. Joe and Dinny had three children, all of whom are still living: Brad, Nori Beth
27 Frasier Cady (“Nori”), and Amy Michelle Frasier Wilson (“Amy”).

28 12. Until her death, Dinny is the sole income beneficiary of all of the Trusts.

1 **III. Jurisdictional Facts**

2 13. This Court has assumed jurisdiction over the Frasier Trusts and Co-Trustees.

3 14. Pursuant to NRS 164.030(1), any trustee whose appointment has been confirmed,
4 “may petition the court for instructions in the administration of the trust or for a construction of
5 the trust instrument”

6 15. Accordingly, this Court has jurisdiction of the Frasier Trusts and Co-Trustees, the
7 matters brought forth in this Second Supplemental Petition, and any other matters which the
8 Court may need to determine in the future in relation to the Frasier Trusts or the Co-Trustees.

9 **IV. General Basis for Second Supplemental Petition**

10 16. As the Court is aware from the Pre-Hearing Statement filed by the Co-Trustees on
11 May 5, 2017, both Premier Trust and counsel for Dinny Frasier (in her capacity as Co-Trustee)
12 are no longer able to communicate with Dinny Frasier regarding Trust matters without her
13 personal counsel, Mr. Barry Resnick, also being present. See Pre-Hearing Statement at 12-14.

14 17. As the Court observed at the May 9, 2017, evidentiary hearing, this situation is
15 “unworkable” in that Premier Trust and trust counsel cannot “just pick up the phone and talk to
16 their client.” Partial Transcript of May 9, 2017 hearing at 4:1-13 (attached as Exhibit 1).

17 18. The Court further indicated that if the trusteeship issues raised at the hearing
18 require resolution then the parties should bring those issues back to the Court. Id. at 8:1-3.

19 19. Following the May 9, 2017 hearing, this communication problem has escalated.
20 Mr. Resnick now indicates that Dinny Frasier refuses to speak with either Premier Trust or trust
21 counsel at all, even if Mr. Resnick is present, and that she wants to terminate both Premier Trust
22 and trust counsel. Mr Resnick has also now written a letter requesting such termination.

23 20. As explained in greater detail below, Premier Trust is extremely concerned about
24 Dinny’s welfare and multiple strange events that have occurred in the past seven months
25 involving both Dinny personally and her finances. Because Premier Trust’s communication with
26 Dinny has now been cut off, it is unclear how Premier should proceed. If, in fact, Dinny is
27 competent and not being manipulated by others, then Premier has no problem with resigning as
28 Co-Trustee. However, this does not appear to be the case.

V. Isolation of Dinny From Her Family, Advisors and Friends

21. The Court is already aware that, following Mr. Resnick's retention, all communications between Dinny and her children and grandchildren were severed - allegedly at Dinny's request. See, e.g., Pre-Hearing Statement at p. 12, paragraph 78.

22. This severance occurred shortly after Mr. Resnick arranged for a fiduciary, Janie Mulrain, to take over Dinny's personal finances. See, e.g., Exhibit 2 (12/27/16 email from Ms. Mulrain to caregivers re Dinny's children not being allowed to visit her).

23. Immediately following this severance, Nori Frasier wrote an email to Mr. Resnick indicating the restriction that Janie Mulrain placed on Nori communicating with Dinny "is NOT my mother's wishes" (emphasis in original), and that "you and Janie are destroying my mother day by day." See Exhibit 3 (12/27/16 email from Nori Frasier to Barnet Resnick).

24. In addition, as discussed at the hearing, Dinny now allegedly refuses to communicate with Premier Trust and trust counsel unless Mr. Resnick is present.

25. Accordingly, following the hearing, trust counsel and Premier Trust representative Nicole Shrive agreed to meet with Dinny while Mr. Resnick was present so that Ms. Shrive could review Dinny's finances with her and trust counsel could ensure that Dinny agreed with the proposed orders that trust counsel prepared at the Court's direction. See Exhibit 4 (5/9/17 email from G. David Robertson to Barnet Resnick requesting meeting).

26. This meeting was set for May 25, 2017, and confirmed on May 9, 2017. See Exhibit 5 (5/9/17 email from G. David Robertson to Barnet Resnick confirming meeting).

27. On May 23, 2017, two days prior to the meeting, trust counsel wrote to Mr. Resnick regarding details of the meeting. In his response of May 24, 2017, and despite the meeting having been confirmed 15 days earlier, Mr. Resnick indicated for the first time that Dinny allegedly would not meet with Nicole Shrive or trust counsel on May 25, 2017, even if Mr. Resnick were present. See Exhibit 6 (emails between G. David Robertson and Barnet Resnick dated 5/23/17 and 5/24/17 regarding the scheduled May 25, 2017 meeting).

28. As a result, both Premier Trust and trust counsel now apparently have no ability to communicate with Dinny at all, even with Mr. Resnick present.

1 29. At no point in time has Dinny herself ever personally advised either Premier Trust
2 or trust counsel that she does not want to communicate with them. See Exhibits 7 (Declaration
3 of Nicole Shrive) at 1 and Exhibit 8 (Declaration of G. David Robertson) at 1.

4 30. Indeed, prior to the May 9, 2017, hearing, trust counsel called Dinny on April 18,
5 2017 to discuss what positions the Trust should take at the hearing regarding various issues.
6 Dinny's caregiver answered the call and asked Dinny if she wanted to speak with Mr. Robertson.
7 Exhibit 8 at 1 Dinny affirmatively responded "yes" and took the call. Id. at 2.

8 31. Dinny's call with Mr. Robertson was very pleasant and they discussed her health,
9 physical therapy, nutrition (she remarked quite happily that she "had a good hamburger today")
10 and then they briefly discussed her desires and goals for the Trusts at the upcoming hearing. Id.
11 At no time did Dinny indicate that she did not wish to speak with Mr. Robertson, or that she
12 preferred that Mr. Resnick be included when communicating with him. Id.

13 32. Following this call, Mr. Robertson confirmed the call in an email to Nicole Shrive
14 that was copied to Janie Mulrain. Id.

15 33. Two days later, for reasons unknown to trust counsel, Dinny allegedly wrote a
16 statement that she did not wish to further speak with either Premier Trust or trust counsel without
17 Mr. Resnick present. Exhibit 9. This written statement is quite strange in that two identical
18 phrases are accidentally and incorrectly repeated in the same sentence, suggesting that Dinny
19 was trying to copy down what someone else was dictating to her. Id.

20 34. To the knowledge of trust counsel, nothing occurred between his conversation
21 with Dinny on April 18, 2017, and two days later when Dinny allegedly stated that she did not
22 want to speak with him without Mr. Resnick present. Exhibit 8 at 2.

23 35. While these events raise concerns, even more troubling is that Dinny's sudden
24 isolation has now extended beyond her children, grandchildren, Co-Trustee and her trust counsel.

25 36. Attached hereto is a written statement under penalty of perjury from Dinny's
26 long-time friend of approximately 20 years, Nasser S. Bakhtiari. See Exhibit 10.

27 37. Mr. Bakhtiari's statement is perplexing. Despite being Joe and Dinny's close
28 friend for approximately 20 years, and regularly visiting with Dinny in person every week or two

1 for the past 20 years, Mr. Bakhtiari now indicates that suddenly - and without any explanation
2 whatsoever – Dinny has stopped answering her door or taking any of his calls. Id. This started in
3 mid-April, i.e., about the same time as Dinny allegedly advised that she would no longer speak to
4 her Co-Trustee or trust counsel without Mr. Resnick present. Id.

5 38. Mr. Bakhtiari also indicates that this behavior by Dinny is not typical of her, and
6 that he is “quite concerned about her suddenly being unduly influenced by someone.” Id. He is
7 even more upset about the situation because, prior to his death, Joe Frasier made Mr. Bakhtiari
8 promise that he would watch out for Dinny after Joe passed away, and Mr. Bakhtiari has been
9 dutifully doing so for the past 2 ½ years, but he can no longer fulfill that promise. Id.

10 39. Thus, since mid-December 2016, Dinny has now become completely isolated
11 from her children and grandchildren, her Co-Trustee and her trust counsel, and also at least one
12 of her closest and longest friends – *all without any of these people ever hearing directly from*
13 *Dinny that she does wish to speak with them.* This series of events has Premier extremely
14 concerned about Dinny’s welfare, but Premier is unable to communicate with Dinny to
15 determine whether she is making these decisions independently or not.

16 **VI. Premier’s Concerns Regarding Dinny’s Personal Finances**

17 40. In the 15-month period between when Premier began overseeing Dinny’s finances
18 and November 2016, Dinny never once requested that Premier deposit funds from the Trusts into
19 Dinny’s personal checking account. See Exhibit 7 at 1. This was to be expected since the Trusts
20 provided for virtually all of Dinny’s needs and she therefore required only small expenditures of
21 personal funds. Id. at 2.

22 41. On November 25, 2016, however, a \$10,000.00 retainer check was written on
23 Dinny’s personal checking account to the law firm of Vogt, Resnick, Sherak. See Exhibit 12 at
24 p. 5 (redacted to secure account information). This amount was strange since the retainer
25 agreement between Dinny and Mr. Resnick’s firm only called for a \$5,000.00 retainer. Exhibit 8
26 at 2. Despite requesting an explanation for this discrepancy, Mr. Resnick has never explained
27 why the amount received was double what was provided for in the retainer agreement. Id.

1 42. Even more problematic, however, is the fact that Dinny's signature on this check
2 appears to be forged. As the Court can see, Dinny issued several small checks that same day,
3 signing each one with her typical signature which clearly sets apart the two "n's" in her name.
4 The retainer check, however, does not do so. Rather, that signature appears to run together two
5 "m's" as in the name "Dimmy" rather than "Dinny." This raised concern on the part of Premier.

6 43. Worried that the retainer check had been forged, Nicole Shrive discussed this
7 issue with Dinny during a meeting with her on January 6, 2017, in Irvine CA. Exhibit 7 at 2.

8 44. Dinny and Nicole were alone at the time of this discussion. Id.

9 45. Nicole specifically asked Dinny at this meeting if Barry Resnick was her attorney
10 and she replied "No." Id.

11 46. Nicole then asked her if she remembered writing a \$10,000.00 retainer check to
12 Mr. Resnick's firm, to which she replied "That is a lot of money. I didn't write him a check." Id.

13 47. Nicole then showed Dinny the \$10,000.00 retainer check (Exhibit 12 at p. 5) and
14 asked if she wrote it. Dinny responded that she did not write the check. Id.

15 48. Nicole then again asked her if she hired Mr. Resnick to be her attorney and she
16 replied "No." Id.

17 49. Since that time, funds have continued to disappear from Dinny's personal
18 checking account. In November 2016, Dinny's personal account contained approximately
19 \$156,000 in cash. Id. Apparently, those funds have now been depleted because on April 18,
20 2017, Janie Mulrain advised Nicole that Dinny needed an additional \$68,545.00 to be deposited
21 into her personal checking account. Id.

22 50. Nicole questioned what the additional funds were needed for, to which Janie
23 Mulrain responded they were to pay legal and medical professional fees. Id. Nicole asked what
24 medical bills - since as the Trusts have always paid Dinny's medical bills - but Janie did not
25 provide any explanation. Id. Thus, Dinny has apparently spent approximately \$200,000 since
26 November 2016. Id. Premier does not know what these funds have been used for because Janie
27 Mulrain opened a new personal checking account for Dinny, and Nicole does not have access to
28 the new account to determine how Dinny's funds are being spent. Id.

VII. Dinny's Alleged Desire to Terminate Premier

51. On May 24, 2017, the same day that Mr. Resnick wrote to cancel the meeting with Dinny, Bradley J. Richardson of Finnemore Craig called trust counsel.

52. In that conversation, Mr. Richardson advised that Mr. Resnick had called him and indicated that Dinny wished to terminate Premier Trust's services. Exhibit 8 at 3.

53. Mr. Richardson indicated to trust counsel that Finnemore Craig would not assist in seeking the removal of Premier Trust because Mr. Richardson frequently uses Premier Trust for his clients and also regularly recommends that Premier Trust be appointed by the courts. Id.

54. Mr. Richardson then forwarded to trust counsel a new report from Dr. Spar dated May 22, 2017, which Mr. Richardson had apparently received from Mr. Resnick. See Exhibit 13 (May 24, 2017 email from Bradley Richardson to G. David Robertson).

55. Like the statement of Mr. Bakhtiari, Premier views this new report from Dr. Spar as quite perplexing – if not alarming. Exhibit 7 at 3.

56. The report concludes that Dinny scored 15 out of 30 on the MMSE test and has moderate dementia. See Exhibit 14 at 2. MMSE scores between 13 and 20 indicate moderate dementia, with scores of 12 or below being severe dementia. See Exhibit 15. Thus, Dinny scored at the lower end of the moderate scale, and only 3 points above severe dementia. Id.

57. According to the report, Dinny is completely disoriented. Not only was she unable to tell Dr. Spar what day it was when he administered the exam, she could not even tell him what month or year it was. See Exhibit 14 at 2. She also did not know what season it was. Id. She further could not identify where the examination was taking place, what floor of the building she was on, or even what City or County she was in. Id.

58. Premier is concerned that Dinny's current mental state indicates that she does not understand her circumstances and is extremely vulnerable to influence and manipulation.

59. For example, the report suggests that Dinny does not comprehend that the litigation with Brad over the medical building has been settled. Rather, Dinny apparently told Dr. Spar that Brad is currently "fighting [her] in court" because he "doesn't want to pay back money my husband loaned him." Id. at 1.

1 60. Premier and trust counsel are very concerned that this statement indicates Dinny
2 may not know that the litigation has been settled, or the nature of the settlement.

3 61. The report also indicates that Dinny is unhappy with her daughter Amy for not
4 communicating with her. Id. This suggests Dinny does not know that her caregivers have been
5 actively preventing Amy from communicating with her.

6 62. According to the report, Dinny also thinks her daughter Nori owes her money. Id.
7 at 2. There is no recorded debt from Nori to Dinny. See Exhibit 7 at 3.

8 63. Finally, the report shows that Dinny is completely confused about Premier Trust.
9 There was never any meeting scheduled between Nicole and Dinny that Nicole failed to attend.
10 Exhibit 7 at 3. When Dinny has called and left a message, Nicole promptly returned her calls as
11 soon as possible. Id. In addition, since Janie received a power of attorney from Dinny in late
12 2016, Nicole has communicated with Dinny only through Janie, and Dinny has not called Nicole
13 since that time. Id. Further, Nicole has not hired any new attorneys to work on Dinny's trust.
14 Id. Dinny and Premier both jointly hired Mr. Robertson and Mr. Williamson in February, 2016,
15 and Nicole has not hired any other "new" attorneys to work on this case Id. (Dinny may be
16 thinking of Mr. Resnick, Mr. Sherak and Mr. Schwartz, who are representing her personally).
17 Finally, Premier has always paid Dinny's bills on time (assuming they are promptly forwarded to
18 Premier by Janie and her support staff), and Nicole is unaware of any issue with either Dinny's
19 home or garden but would promptly pay for those services if needed. Id.

20 64. In sum, the new Dr. Spar report shows that Dinny has at least moderate dementia
21 and is disoriented, not even knowing what year, month, season, city or county she is in, or why
22 her daughter Amy is not communicating with her, and is further completely confused about
23 events involving Premier Trust, this litigation, and perhaps even who represents her.

24 **VIII. Whether Premier Should Resign as the Corporate Co-Trustee**

25 65. Nicole Shrive has presented the above facts to Premier's Trust Committee. Id.
26 The Committee's consensus is one of concern for Dinny. Id. That Dinny is becoming
27 increasingly isolated from her family, long-term advisors and friends – and large sums of money
28 are being spent from her personal checking account – are red flags to the Committee. Id.

66. The Committee is further concerned about whether Dr. Spar is truly an independent evaluator, and how much he is being paid for his expert reports. *Id.*

67. Finally, the Committee is worried that unknown persons may be attempting to influence Dinny to change from Premier to a non-corporate trustee, who might then seek to improperly influence her regarding multiple issues, including amendment of the A Trust. *Id.* at 4.

68. Regardless of the Committee's concerns about Dinny's competency and whether she is currently the subject of undue influence, however, Premier will voluntarily resign in favor of another institutional trustee if the Court believes that to be in Dinny's best interests.

IX. Notice of Petition

69. Dinny, Brad, Nori and Amy will all be given notice of this petition in accordance with NRS 164.037.

X. Prayer for Relief

WHEREFORE, Petitioners pray for an order from the Court as follows:

A. For instructions in the administration of the Frasier Trusts and, specifically, whether Premier should continue as the corporate Co-Trustee under the circumstances.

B. For such other and further relief and determinations as the Court may deem just and proper.

Affirmation

Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 31st day of May, 2017.

**ROBERTSON, JOHNSON,
MILLER & WILLIAMSON**
50 West Liberty Street, Suite 600
Reno, Nevada 89501
(775) 329-5600

By:

G. David Robertson, Esq.
Richard D. Williamson, Esq.
Attorneys for Premier Trust, Inc.

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VERIFICATION

Under penalties of perjury, Nicole Shrive, as a Trust Officer of and on behalf of Premier Trust, Inc., a Nevada corporation, which is a Co-Trustee of the Jordan Dana Frasier Family Trust, hereby declares the following:

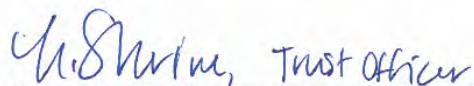
1. Premier Trust, Inc. is a duly-appointed co-trustee of Jordan Dana Frasier Family Trust, and the Petitioner herein;

2. I have read the foregoing Second Supplemental Petition for Instructions, and know the contents thereof; and

3. The statements made in this Petition are true of my own personal knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 31st day of May, 2017.



Nicole Shrive, Trust Officer for
Premier Trust, Inc., a Nevada corporation

1 CERTIFICATE OF SERVICE

2 Pursuant to NRCF 5(b), I hereby certify that I am an employee of Robertson, Johnson,
3 Miller & Williamson, 50 West Liberty Street, Suite 600, Reno, Nevada 89501, and that on the
4 31st day of May, 2017, I electronically filed the foregoing SECOND SUPPLEMENTAL
5 PETITION FOR INSTRUCTIONS with the Clerk of the Court by using the electronic filing
6 system which will send a notice of electronic filing to the following:

7 Michael E. Sullivan, Esq. Kristen E. Caverly, Esq. *[pro hac vice]*
8 Scott L. Hernandez, Esq. Henderson, Caverly, Pum & Charney
9 Robinson, Belaustegui, Sharp & Low 12750 High Bluff Drive, Suite 300
71 Washington Street San Diego, CA 92130
Reno, Nevada 89503 Co-Counsel for Dr. Bradley L. Frasier
Attorneys for Dr. Bradley L. Frasier

10 Bradley J. Richardson, Esq. *[pro hac vice]*
11 David Sherak, Esq. *[pro hac vice]*
12 Barnet Resnick, Esq. *[pro hac vice]*
13 Courtney Miller O'Mara, Esq.
c/o Fennemore Craig, P.C.
300 East Second Street, Suite 1510
Reno, NV 89501
Attorneys for Dinny Frasier, individually

15 I further certify that on the 31st day of May, 2017, I caused to be served by U.S. Mail a
16 true and correct copy of the foregoing document, addressed to the following:

17 Nori Frasier Amy Frasier Wilson
4372 Pacifica Way, Unit 3 10 Via Sonrisa
18 Oceanside, CA 92056 Mission Viejo, CA 92692

19 */s/ Amy Sprinkle*

20 An Employee of Robertson, Johnson, Miller & Williamson
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Index of Exhibits

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EXHIBIT “2”

EXHIBIT “2”

EXHIBIT “2”

Leah Gregory

From: Nicole Shrive
Sent: Wednesday, December 28, 2016 9:49 AM
To: Leah Gregory
Subject: FW: Frasier - effective immediately

Importance: High

-----Original Message-----

From: J [mailto:administrator@sprynet.com]
Sent: Tuesday, December 27, 2016 3:16 PM
To: Janie Mulrain <janie@ethosfiduciary.com>
Cc: bresnick@VRSLaw.net; Nicole Shrive <nshrive@premiertrust.com>; bgslawoffice@aol.com
Subject: Re: Frasier - effective immediately

Confirming receipt. We will communicate these instructions to everyone on Dinny's care team.

Jonathan Irish
Vice President of Operations
Family Home Care, Inc.
P:805-458-0002
F:866-480-9809
E:administrator@sprynet.com

www.familyinhomecare.com

Northern Santa Barbara County & SLO County Communities, California:
P: 805-481-6081
Home Care Organization License # 404700009

All Orange County Communities, California:
P: 949-770-3009
Home Care Organization License # 304700051

Tucson & Surrounding Southern Arizona Communities:
P: 520-323-1010

Phoenix, Scottsdale & East Valley Communities, Arizona:
P: 480-644-0084

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On 12/27/16, 3:03 PM, "Janie Mulrain" <janie@ethosfiduciary.com> wrote:

>Pursuant to our meeting with Dinny today, this correspondence is to
>confirm that effective immediately all of Dinny's children are NOT
>allowed access to Dinny at her residence in SJC.
>
>If Nori or any of Dinny's children shows up at the house, please advise
>her (them) that she (they) are not allowed to be there, then contact us
>right away at:
>
>Janie (Dinny's power of atty) 949-229-6193 Barry (Dinny's attorney)
>949-851-9001 x225 Bruce (Dinny's longtime friend and Irvine neighbor)
>714-624-7617
>
>Even if it's after hours, message left on our numbers above from will
>be received and we will take appropriate action right away.
>
>Please be sure to notified all caregivers supporting Dinny. Thank you.
>
>
>Janie L. Mulrain CLPF, NCG
>Ethos Fiduciary Services
>P.O. Box 61282, Irvine, CA 92602
>949.229.6193
>Janie@ethosfiduciary.com
>
>Notice: This email may contain privileged or confidential information
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>of the contents of this information is prohibited and may be unlawful.
>If you have received this electronic transmission in error, please
>reply immediately to the sender that you have received the message in
>error, and delete it. Thank you.

EXHIBIT “3”

EXHIBIT “3”

EXHIBIT “3”

Leah Gregory

From: Nicole Shrive
Sent: Wednesday, December 28, 2016 10:58 AM
To: Leah Gregory
Subject: FW: Meet at my office

Importance: High

From: Barnet Resnick [mailto:bresnick@VRSLaw.net]
Sent: Tuesday, December 27, 2016 10:44 AM
To: janie@ethosfiduciary.com; Nicole Shrive <nshrive@premiertrust.com>
Subject: Fwd: Meet at my office

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

Begin forwarded message:

From: Nori Frasier <nori_frasier@hotmail.com>
Date: December 27, 2016 at 10:25:10 AM PST
To: Barnet Resnick <bresnick@VRSLaw.net>, Bruce <bgslawoffice@aol.com>, "Nori Frasier" <nori_frasier@hotmail.com>
Subject: Re: Meet at my office

You and Janie are destroying my mother day by day. I wish you both would stop this immediately!!

You were asked to help my mother but instead this person Janie is destroying her by the rules and restriction she is putting in place which is NOT my mother's wishes. You promised you would listen to my mother but no one is listening to her again!!! And you would help her.

Kindly, Nori

From: Barnet Resnick <bresnick@VRSLaw.net>
Sent: Monday, December 26, 2016 3:53 PM
To: Nori Frasier
Subject: Re: Meet at my office

EXHIBIT “4”

EXHIBIT “4”

EXHIBIT “4”

David Robertson

From: David Robertson
Sent: Tuesday, May 09, 2017 1:15 PM
To: Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net)
Cc: Nicole Shrive (nshrive@premiertrust.com); Rich Williamson (rich@nvlawyers.com); Gina Kim (gkim@VRSLaw.net)
Subject: Dinny

Hi Barry:

When you speak with Dinny about whether she is willing to make the equalizing payment when the properties are transferred, can you also please ask her about whether Amy's house can be given to her free of any sub-trust? The Judge appeared to think that was a good idea, and Premier is fine with such a change.

Also, Nicole and I would like to schedule a time to meet with Dinny before the 20 days expires to submit the proposed order to ensure that she understands and approves of the proposed order (in her capacity as co-trustee), and to also go over Trust financials with her. We acknowledge her request that you attend any such meetings and we agree to that condition for purposes of this meeting. Could you please advise of available dates during either the week of 5/15 or 5/22?

Finally, it appears we are tasked with resolving the epitaph issue for the headstone. Can you please check to see if Dinny has any suggestions which we could work from to seek a consensus of the children?

Thanks.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gdavid@nvlawyers.com
Please visit our website at www.nvlawyers.com

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EXHIBIT “5”

EXHIBIT “5”

EXHIBIT “5”

David Robertson

From: David Robertson
Sent: Tuesday, May 09, 2017 4:44 PM
To: 'Barnet Resnick'; COMARA@FCLAW.com
Cc: Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; Gina Kim; Teresa Stoyak
Subject: RE: Dinny

Hi Barry:

We are confirming the meeting with Dinny on May 25th.

We can work out the specifics later, but we would like to have lunch with her if possible, and we can bring in the lunch. We would also like to meet at her house so that I can see it and better understand her concerns about living there and wanting to move.

Thanks, and I hope you had a pleasant trip home.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gdavid@nvlawyers.com
Please visit our website at www.nvlawyers.com

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From: Barnet Resnick [<mailto:bresnick@VRSLaw.net>]
Sent: Tuesday, May 09, 2017 1:23 PM
To: David Robertson; COMARA@FCLAW.com
Cc: Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; Gina Kim
Subject: Re: Dinny

EXHIBIT “6”

EXHIBIT “6”

EXHIBIT “6”

Thanks,

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

On May 23, 2017, at 6:52 PM, David Robertson <g david@nvlawyers.com> wrote:

Hi Barry:

Nicole and I plan to arrive at Dinny's house around noon on Thursday, and will bring a hamburger for Dinny since she loves them. We can bring lunch for you too if you like, and also Janie if she is joining us. Perhaps Janie can recommend a place where we should pick up the lunch?

We know that Dinny gets tired easily so we do not plan to stay longer than a couple of hours. That should be enough time to cover the accountings, etc.

See you on Thursday. My cell phone is (775) 721-5600 if you need to reach me.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: g david@nvlawyers.com
Please visit our website at www.nvlawyers.com

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David Robertson

From: Barnet Resnick <bresnick@VRSLaw.net>
Sent: Wednesday, May 24, 2017 10:07 AM
To: David Robertson
Cc: Nicole Shrive (nshrive@premiertrust.com); janie@ethosfiduciary.com; Gina Kim
Subject: Your Thursday

David: Janie contacted Dinny about your visit. She advised us that she does not want a visit from you two at this time. As I have expressed to you on more than one occasion, she is not pleased with premier, Nicole and you. Sorry for the short notice but I didn't want you two to make the trip and find out while you are here that she refuses to see you.

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

EXHIBIT “7”

EXHIBIT “7”

EXHIBIT “7”

1 **CODE: 1520**

2 G. DAVID ROBERTSON, ESQ. (NV Bar 1001)
3 RICHARD D. WILLIAMSON, ESQ. (NV Bar 9932)
4 JONATHAN J. TEW, ESQ. (NV Bar 11874)
5 Robertson, Johnson, Miller & Williamson
6 50 West Liberty Street, Suite 600
7 Reno, Nevada 89501
8 Telephone No.: (775) 329-5600
9 Facsimile No.: (775) 348-8300
10 *Attorneys for Petitioners,*
11 *Co-Trustees Dinny G. Frasier and Premier Trust, Inc.*

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IN THE SECOND JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

In the Matter of the

Case No. PR16-00128

JORDAN DANA FRASIER FAMILY TRUST

Dept. No. 15 [PR]

DECLARATION OF NICOLE SHRIVE

I, Nicole Shrive, hereby declare as follows:

1. I am a Trust Officer with Premier Trust, Inc., a Nevada corporation ("Premier"). Premier is a professional corporate trustee, duly licensed to conduct trust business in the State of Nevada.
2. Premier is a duly-appointed Co-trustee of Jordan Dana Frasier Family Trust and all of its sub-trusts (collectively, the "Trusts"), and a Petitioner in this case.
3. In 2015, Dinny Frasier ("Dinny") appointed Premier to serve as the corporate Co-trustee for the Trusts.
4. At no point in time has Dinny ever personally advised me that she does not want to communicate with me or trust counsel.
5. In the 15-month period between when Premier began overseeing Dinny's finances and November 2016, Dinny never once requested that Premier deposit funds from the Trusts into Dinny's personal checking account.

1 6. This was to be expected since the Trusts provided for virtually all of Dinny's
2 needs and she therefore required only small expenditures of personal funds.

3 7. In late 2016, I learned that a \$10,000.00 retainer check was written on Dinny's
4 personal checking account to the law firm of Vogt, Resnick, Sherak.

5 8. When I saw a copy of the check, it looked different from other checks that Dinny
6 had written.

7 9. I was worried that the retainer check had been forged, so I discussed this issue
8 with Dinny during a meeting we had on January 6, 2017, in Irvine, California.

9 10. Dinny and I were alone at the time of this discussion.

10 11. I specifically asked Dinny at this meeting if Barry Resnick was her attorney and
11 Dinny replied, "No."

12 12. I then asked her if she remembered writing a \$10,000.00 retainer check to Mr.
13 Resnick's firm, to which she replied, "That is a lot of money. I didn't write him a check."

14 13. In November 2016, Dinny's personal account contained approximately \$156,000
15 in cash.

16 14. Apparently, those funds have now been depleted because on April 18, 2017, Janie
17 Mulrain advised me that Dinny needed an additional \$68,545.00 to be deposited into her
18 personal checking account.

19 15. I questioned what the additional funds were needed for, to which Janie Mulrain
20 responded they were to pay legal and medical professional fees. I asked what medical bills -
21 since as the Trusts have always paid Dinny's medical bills - but Janie did not provide any
22 explanation. Thus, Dinny has apparently spent approximately \$200,000 since November 2016.
23 Id. Premier does not know what these funds have been used for because Janie Mulrain opened a
24 new personal checking account for Dinny, and I do not have access to the new account to
25 determine how Dinny's funds are being spent. Id.

26 16. I recently received a copy of a letter from James E. Spar, M.D. to Barry Resnick,
27 dated May 22, 2017, which apparently sets forth Dr. Spar's impressions from an evaluation of
28 Dinny that Mr. Resnick had Dr. Spar perform on May 19, 2017.

1 17. I view this new report from Dr. Spar as quite perplexing – if not alarming.

2 18. Several facts seem incorrect, and it is unclear whether the incorrect facts are
3 coming from Dr. Spar or Dinny.

4 19. The report shows that Dinny is completely confused about Premier and its role in
5 her Trusts.

6 20. I have never failed to attend any scheduled meeting with Dinny.

7 21. When Dinny has called and left a message, I have promptly returned her calls as
8 soon as possible.

9 22. In addition, since Janie Mulrain received a power of attorney from Dinny in late
10 2016, I have communicated with Dinny through Janie, and Dinny has not called me since that
11 time.

12 23. Further, there is no recorded debt from Nori to Dinny.

13 24. I have also not hired any new attorneys to work on Dinny's Trusts.

14 25. Dinny and Premier both jointly hired Mr. Robertson and Mr. Williamson in
15 February, 2016, and I have not hired any other attorneys to work on this case.

16 26. Finally, Premier has always paid Dinny's bills on time (assuming they are
17 promptly forwarded to Premier by Janie Mulrain and her support staff).

18 27. I am not aware of any issue with either Dinny's home or garden, but Premier
19 would promptly pay for those services if needed.

20 28. I have presented the above facts to Premier's Trust Committee.

21 29. The Committee's consensus is one of concern for Dinny.

22 30. That Dinny is becoming increasingly isolated from her family, long-term advisors
23 and friends – and large sums of money are being spent from her personal checking account – are
24 red flags to the Committee.

25 31. The Committee is further concerned about whether Dr. Spar is truly an
26 independent evaluator, and how much he is being paid for his expert reports.

27
28

32. Finally, the Committee is worried that unknown persons may be attempting to influence Dinny to change from Premier to a non-corporate trustee, who might then seek to improperly influence her regarding multiple issues, including amendment of the A Trust.

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

Executed at Reno, Nevada, this 31st day of May, 2017.

Nicole Shrive, Trust officer

EXHIBIT “8”

EXHIBIT “8”

EXHIBIT “8”

1 **CODE: 1520**
2 G. DAVID ROBERTSON, ESQ. (NV Bar 1001)
3 RICHARD D. WILLIAMSON, ESQ. (NV Bar 9932)
4 JONATHAN J. TEW, ESQ. (NV Bar 11874)
5 Robertson, Johnson, Miller & Williamson
6 50 West Liberty Street, Suite 600
7 Reno, Nevada 89501
8 Telephone No.: (775) 329-5600
9 Facsimile No.: (775) 348-8300
10 *Attorneys for Co-Trustees Dinny G. Frasier*
11 *and Premier Trust, Inc.*

12
13
14 **IN THE SECOND JUDICIAL DISTRICT COURT**
15
16 **IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA**
17

18 In the Matter of the	Case No. PR16-00128
19 JORDAN DANA FRASIER FAMILY TRUST	Dept. No. 15 [PR]

20
21 **DECLARATION OF G. DAVID ROBERTSON**
22

23 I, G. David Robertson, hereby declare as follows:

24 1. I am an attorney at law, duly licensed and admitted to practice before all the
25 courts of the State of Nevada.

26 2. I am one of the attorneys responsible for representation of the Petitioners,
27 Co-Trustees Dinny G. Frasier ("Dinny") and Premier Trust, Inc. ("Premier") in the
28 above-entitled action.

3. I have personal knowledge of the facts set forth below, and if called as a
witness, could and would testify competently thereto.

4. At no point in time has Dinny herself ever personally advised me that she
does not want to communicate with either Premier Trust or anyone from my firm.

5. Indeed, I called Dinny on April 18, 2017, to discuss what positions the
Trust should take regarding various issues at the hearing scheduled for May 9, 2017.

6. Dinny's caregiver answered the call and asked Dinny if she wanted to
speak with me.

1 7. Dinny affirmatively responded “yes” and took the call.

2 8. My call with Dinny was very pleasant and we discussed her health,
3 physical therapy, nutrition and other topics. For instance, Dinny remarked quite happily
4 that she “had a good hamburger today.”

5 9. We then briefly discussed her desires and goals for the Trusts at the
6 upcoming hearing.

7 10. At no time did Dinny indicate that she did not wish to speak with me, or
8 that she preferred that Mr. Resnick be included when communicating with me.

9 11. After my conversation with Dinny, I confirmed the call in an email to
10 Nicole Shrive that was copied to Janie Mulrain.

11 12. As far as I know, nothing occurred between my conversation with Dinny on
12 April 18, 2017, and two days later when Dinny allegedly stated that she did not want to
13 speak with me without Mr. Resnick present.

14 13. In late 2016, I learned that a \$10,000.00 retainer check was written on
15 Dinny’s personal checking account to the law firm of Vogt, Resnick, Sherak.

16 14. When I saw a copy of the check, I was concerned.

17 15. This amount was strange since the retainer agreement between Dinny and
18 Mr. Resnick’s firm only called for a \$5,000.00 retainer.

19 16. Despite requesting an explanation for this discrepancy, Mr. Resnick has
20 never explained why the amount received was double what was provided for in the
21 retainer agreement.

22 17. I have repeatedly tried to work with Mr. Resnick in this case.

23 18. Following the hearing on May 9, 2017, Nicole Shrive and I agreed to meet
24 with Dinny while Mr. Resnick was present so that Ms. Shrive could review Dinny’s
25 finances with her and I could ensure that Dinny agreed with the proposed orders that I
26 prepared at the Court’s direction.

27 19. A true and correct copy of my email to Barry Resnick dated May 9, 2017,
28 is attached hereto as Exhibit 4.

20. This meeting was set for May 25, 2017, and confirmed on May 9, 2017.

21. A true and correct copy of my confirming email to Barry Resnick dated May 9, 2017, is attached hereto as Exhibit 5.

22. On May 23, 2017, two days prior to the meeting, I wrote to Mr. Resnick regarding details of the meeting.

23. In his response of May 24, 2017, and despite the meeting having been confirmed 15 days earlier, Mr. Resnick indicated for the first time that Dinny allegedly would not meet with Nicole Shrive or me—even if Mr. Resnick were present.

24. A true and correct copy of my email exchange with Barry Resnick dated May 23 and 24, 2017, is attached hereto as Exhibit 6.

25. On May 24, 2017, the same day that Mr. Resnick wrote to cancel the meeting with Dinny, Bradley J. Richardson of Fennemore Craig called me.

26. In that conversation, Mr. Richardson advised that Mr. Resnick had called him and had indicated that Dinny wished to terminate Premier's services.

27. Mr. Richardson indicated that his firm would not assist in seeking the removal of Premier because Mr. Richardson frequently uses Premier for his clients and also regularly recommends that Premier be appointed by the courts.

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

Executed at Reno, Nevada, this 31st day of May, 2017.



G. David Robertson

EXHIBIT “9”

EXHIBIT “9”

EXHIBIT “9”

David Robertson, Premier Trust
Gentlemen

As you are aware, I have a
personal attorney, Barry Resnick,

I have utmost confidence in him,
and depend on him to assist me in
all legal matters.

In the future, when you communicate ~~with~~ ^{with me,}
in any form, I insist in any form
I insist that you advise Mr. Resnick of your
intentions as well as what time and date
you would like to take place.

I do not want to communicate with you
without my personal attorney,
Mr. Resnick present. (phone or in person)
Please acknowledge receipt of this, as
well as your agreement.

Thank you for understanding

Dinny Frasier
April 20, 2017

EXHIBIT “10”

EXHIBIT “10”

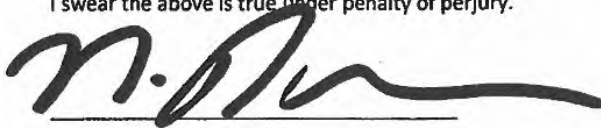
EXHIBIT “10”

May 25, 2017

To Whom It May Concern:

1. My name is Nasser S. Bakhtiari. I am 54 years old and reside in Fullerton, CA. I am a California Licensed Real Estate Broker and Certified Property Manager. I own both a real estate and property management company, and also a recreational vehicle resort.
2. I have known Joe and Dinny Frasier quite well for approximately 20 years. Over that time we became both close friends and also engaged in some business together. In addition to being close friends with Joe and Dinny, I also considered Joe to be both my personal and business mentor.
3. During Joe's lifetime, I typically would see or speak with either Joe or Dinny - or both of them - on average about once every one or two weeks.
4. When Joe realized his medical condition was critical he asked me to look out for Dinny after he was gone. As a result, and also because of my friendship with Dinny, I have stayed in regular communication with her ever since Joe passed. This has consisted of me visiting her at her personal residence approximately once every couple of weeks, and in between visits often speaking with her over the telephone or - with her caregiver's assistance - using FaceTime.
5. I last visited Dinny during the first week of April. It was one of our typical visits and ended pleasantly.
6. Since that time I have tried to reach Dinny by telephone on numerous occasions, and also by FaceTime at least 10 times, all without success. Out of my concern for her, I have also driven over to her house 3 times and both knocked and rang her doorbell, but no one has ever answered.
7. I am very worried about Dinny suddenly becoming so isolated from not only her family and the trust advisors that she has listened to for years, but now also from her long-time friends. This behavior is not typical of her, and I am quite concerned about her suddenly being unduly influenced by someone.
8. It would be greatly appreciated if I could re-establish communications with Dinny so that I can rest assured that she is doing well and that I am living up to the promise that I made to Joe before he died.

I swear the above is true under penalty of perjury.

A handwritten signature in black ink, appearing to read 'N. Bakhtiari', with a long horizontal flourish extending to the right.

Nasser S. Bakhtiari

EXHIBIT “11”

EXHIBIT “11”

EXHIBIT “11”

From: Barnet Resnick [mailto:bresnick@VRSLaw.net]
Sent: Tuesday, January 17, 2017 6:43 AM
To: David Robertson
Cc: Nicole Shrive (nshrive@premiertrust.com); Rich Williamson
Subject: Re: Dinny Frasier

David: I understand our respective positions.
I am not aware of the retainer issue and will look into this.
Who signed the \$10,000 check?
Strange!

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

On Jan 17, 2017, at 3:15 AM, David Robertson <gddavid@nvlawyers.com> wrote:

Hi Barry:

Please understand that I am not asking for you to reveal any client confidences. Rather, you and I both represent Dinny, but in different capacities. I am just trying to make sure that we communicate effectively as to her desires and goals so that we can both work together to successfully represent her interests.

On a slightly different subject, it was recently brought to our attention by a third party that your fee agreement calls for a \$5,000 retainer but that a retainer check was written to your firm in the amount of \$10,000 and was signed by someone else on Dinny's behalf. We have confirmed with Dinny that she did not issue or sign the retainer check for \$10,000. Could you please advise why the retainer amount was increased to \$10,000, and who signed Dinny's name to the \$10,000 retainer check?

Thanks.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gddavid@nvlawyers.com
Please visit our website at www.nvlawyers.com

EXHIBIT “12”

EXHIBIT “12”

EXHIBIT “12”

DINNY G FRASIER
~~REF ASHE FRASIER~~
31521 PASEO CAMPEON
SAN JUAN CAPISTRANO CA 92675-1828

435

11-35/1210 CA
82616

Nov. 25, 2016
Date

Pay To The
Order Of

Southern California Edison Co \$ 15.80

Fifteen dollars & eight cents

Dollars



Photo
Safe
Deposit
Details on back

Bank of America 

ACH R/T 121000358

For

2-97-216-0754

Dinny Frasier

Harland Clarke

DINNY G FRASIER
~~GERARD FRASIER~~
31621 PASEO CAMPEON
SAN JUAN CAPISTRANO CA 92675-1828

432

11-35/1210 CA
92618

Nov. 25. 2016
Date

Pay To The
Order Of

Bank of America

\$72.63

Seventy-two and 63/100

Dollars



Bank of America

ACH R/T 121000058

For

BofA Credit Card

Dinny Frasier

MEMBER CHECK

DINNY G FRASIER

~~OFFICER FRASIER~~

31521 PASEO CAMPEON

SAN JUAN CAPISTRANO CA 92675-1828

433

11-35/1210 CA
82816

Nov 25, 2016

Date

Pay To The
Order Of

Arbor Dental Group

\$ 21.00

Twenty one dollars & no cents

Dollars



Photo
Safe
Deposit
Details on back

Bank of America



ACH R/T 121000358

For

4940

Dinny Frasier

MP

Harvard Clarke

DINNY G FRASIER
PO BOX 54324
IRVINE CA 92619-4324

280

11-35/1210 CA
82616

Pay To The Order Of Lakewood Maintenance Ass ^{Date} \$386.00

Three hundred eighty-six dollars — Dollars

Bank of America 

ACH R/T 121000358

For 75331002

Dinny Frasier

Noted Copy

DINNY G FRASIER
31521 PASEO CAMPEON
SAN JUAN CAPISTRANO CA 92675-1828

461

11-35/1210 CA
82616

11/25/16

Date

Pay To The
Order Of

Vogt, Resnick, Sherak

\$10,000.00

Ten thousand & xx/100

Dollars



Photo
Safe
Deposit
Details on back

Bank of America



ACH-R/T 121000358

For

Retainer

Dinny Frasier

Mayland Cochrane

EXHIBIT “13”

EXHIBIT “13”

EXHIBIT “13”

David Robertson

From: BRICHARDSON@fclaw.com
Sent: Wednesday, May 24, 2017 3:30 PM
To: David Robertson
Subject: RE: Frasier Trust [FC-Email.FID7891646]
Attachments: Spar Assessment Letter dated 5-22-17-REDACTED (3).pdf

David,

Here is a copy of Dr. Spar's evaluation of Dinny Frasier dated May 22, 2017 that I mentioned to you in our phone call this afternoon.

Brad Richardson

Bradley J. Richardson, Director

FENNEMORE CRAIG

300 S. Fourth Street, Suite 1400, Las Vegas, NV 89101

T: 702.692.8070 | F: 702.692.8056

brichardson@fclaw.com | [View Bio](#)



CONFIDENTIALITY NOTICE: The information contained in this message may be protected by the attorney-client privilege. If you believe that it has been sent to you in error, do not read it. Please immediately reply to the sender that you have received the message in error. Then delete it. Thank you.

EXHIBIT “14”

EXHIBIT “14”

EXHIBIT “14”



May 22, 2017

JAMES E. SPAR, M.D.
PROFESSOR, DEPARTMENT OF PSYCHIATRY
& BIOBEHAVIORAL SCIENCES
DIVISION OF GERIATRIC PSYCHIATRY
DAVID GEFFEN SCHOOL OF MEDICINE AT UCLA
760 WESTWOOD PLAZA
LOS ANGELES, CALIFORNIA 90024-1759

Barnet Resnick
Vogt Resnick Sherak, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849

Dear Mr. Resnick:

At your request I evaluated Mrs. Dinny Frasier, an 88-year old woman, in my office on May 19, 2017. Mrs. Frasier was accompanied to my office by Janie Mulrain, a professional fiduciary, and Rae Juarez, her caregiver, both of whom remained out of the office during the 75-minute evaluation. I asked Mrs. Frasier why she was being evaluated, inquired about her estate and her estate plans, and administered a general mental status examination, a Folstein Mini-Mental State Examination (MMSE) and several additional tests of naming, remote memory, frontal executive function (as reflected by similarities, word list generation, proverb interpretation, and clock drawing), and general information and reasoning.

Mrs. Frasier said, "I want to fire my Trustee, Premier Trust, especially Nicole". She went on to list some of the reason she wants to replace Premier Trust, which has headquarters in Nevada, with a Trustee with offices close to where she lives. She said that trust officer Nicole has been extremely difficult to reach, that she had scheduled a meeting with Nicole and waited for two hours and Nicole never showed up and did not call, and that Nicole will not return Mrs. Frasier's calls. She also said that Nicole has hired three new attorneys to work on her trust; Mrs. Frasier doubts the services of these attorneys are necessary and is concerned about the expense. She also complained that Premier Trust is not paying her bills, as promised, and mentioned that her house and the surrounding garden need work, but Premier Trust has not paid for the necessary services.

Mrs. Frasier is still unhappy living in the house that her daughter Amy and son-in-law Bill Wilson bought for her, after telling her that they would move in with her and help take care of her, and then never setting foot in the house and having essentially no communication with her. She said, "They lied about all of it". She also spoke a bit about her other children. She said her son Brad "Is fighting me in court. He doesn't want to pay back money my husband loaned him" (to purchase a medical building), and also expressed anger and exasperation towards her daughter Nori, saying, "We



(referring to her late husband Joe Frasier) bought them a house, and bought her a house, and she owes me money and doesn't want to pay it back". She continues to be angry at all three children [REDACTED]

Mrs. Frasier told me that she intends to sell all three of her houses: the one she is living in, the one she moved from (at 3 Pinewood Avenue, in Irvine, CA), and her house in Palm Springs. Then she plans to buy a smaller house for herself.

On general mental status examination Mrs. Frasier was well dressed and groomed, alert and in no distress, and quite cooperative with the examination. Her mood was euthymic, her affect was appropriate in direction and degree, and there were no abnormalities of the form, flow or content of thought. Her psychomotor behavior was unremarkable. She scored 15/30 on the MMSE, losing one point each on orientation to the year, month, date, day, season, place, floor, city and county; three on recall, and one on figure copying. This score is consistent with moderate cognitive impairment for her age and advanced education. Her performance on the other tests was mixed: her naming was intact, her spontaneous recall of remote, impersonal facts and information was moderately to severely impaired, but responded to clues, and her frontal executive function as reflected by word list generation was moderately impaired. However, on the tests of frontal executive function that I was not able to administer the first time I evaluated her, including similarities, proverb interpretation, and general information and reasoning, her performance was normal or slightly superior to normal.

Based upon this evaluation I believe that Mrs. Frasier has mild to moderate global cognitive impairment, with deficits mainly in spontaneous recall of previously learned facts and information, and registration and recall of new information. Despite this impairment, her clear understanding of her circumstances was reflected in her ability to provide a perfectly rational explanation for her decision to fire her current trustee and appoint another. To express this in California statutory language, with respect to her decision to replace her trustee, she was able to communicate the decision, and to understand and appreciate, to the extent relevant, the rights, duties, and responsibilities affected by the decision; the probable consequences for herself and the other persons affected by the decision; and the significant risks, benefits, and reasonable alternatives involved in the decision. I believe she is equally competent to make other trust-related decisions, such as to hire and fire and work with her attorneys as the need arises.

Sincerely,

J. Edward Spar, M.D.
Professor of Psychiatry
Division of Geriatric Psychiatry

EXHIBIT “15”

EXHIBIT “15”

EXHIBIT “15”

Tests for Alzheimer's Disease and Dementia

Like 512

Twitter G+1 22



There is no single test that proves a person has Alzheimer's. A diagnosis is made through a complete assessment that considers all possible causes.

[Medical history](#)
[Physical exam](#)
[Neurological exam](#)

[Mental status tests](#)
[Brain imaging](#)

Medical history

During the medical workup, your health care provider will review your medical history.

He or she will want to know about any current and past illnesses, as well as any medications you are taking. The doctor will also ask about key medical conditions affecting other family members, including whether they may have had Alzheimer's disease or related dementias.

Get our weekly e-newsletter

Stay up-to-date on the latest news and advances in Alzheimer's research, care and treatments.

First name

Last name

Email *

[Privacy policy](#) ZIP *

Physical exam and diagnostic tests

During a medical workup, you can expect the physician to:

- Ask about diet, nutrition and use of alcohol.
- Review all medications. (Bring a list or the containers of all medicines currently being taken, including over-the-counter drugs and supplements.)
- Check blood pressure, temperature and pulse.
- Listen to the heart and lungs.
- Perform other procedures to assess overall health.
- Collect blood or urine samples for laboratory testing.

Be prepared for the doctor to ask:

- What kind of symptoms have you noticed?
- When did they begin?
- How often do they happen?
- Have they gotten worse?

Having a family member or caregiver with you to provide input can be helpful.

Use our [Doctor Visit Checklist](#) to get ready for your appointment.

Information from a physical exam and laboratory tests can help identify health issues that can cause symptoms of dementia. Conditions other than Alzheimer's that may cause confused thinking, trouble focusing or memory problems include

anemia, infection, diabetes, kidney disease, liver disease, certain vitamin deficiencies, thyroid abnormalities, and problems with the heart, blood vessels and lungs.

If the diagnosis is Alzheimer's or another dementia, you are not alone. Join [AlzConnected](#), our message boards and online social networking community, to ask questions and receive support.

Genetic testing

Researchers have identified certain genes that increase the risk of developing Alzheimer's and other rare "deterministic" genes that directly cause Alzheimer's. Although genetic tests are available for some of these genes, health professionals do not currently recommend routine genetic testing for Alzheimer's disease.

Risk genes: While there is a blood test for **APOE-e4, the strongest risk gene** for Alzheimer's, this test is mainly used in clinical trials to identify people at higher risk of developing Alzheimer's. Carrying this gene mutation only indicates a greater risk; it does not indicate whether a person will develop Alzheimer's or whether a person has Alzheimer's. Genetic testing for APOE-e4 is controversial and should only be undertaken after discussion with a physician or genetic counselor.

Deterministic genes: Testing also is available for genes that cause **autosomal dominant Alzheimer's disease (ADAD)** or "familial Alzheimer's," a rare form of Alzheimer's that accounts for 1 percent of all cases. ADAD runs strongly in families and tends to begin earlier in life. Many people in these families do not wish to know their genetic status, but some get tested to learn whether they will eventually develop the disease. Some ADAD families have joined clinical studies to help researchers better understand Alzheimer's.

Learn more: [Genetic Testing Fact Sheet](#) and [Genetics and Alzheimer's](#).

Neurological exam

During a neurological exam, the physician will closely evaluate the person for problems that may signal brain disorders other than Alzheimer's. The doctor will look for signs of small or large strokes, Parkinson's disease, brain tumors, fluid accumulation on the brain, and other illnesses that may impair memory or thinking.

The physician will test:

- Reflexes
- Coordination, muscle tone and strength
- Eye movement
- Speech
- Sensation

If the evaluation does not indicate Alzheimer's disease or a related dementia, but the symptoms continue to get worse over time, your doctor may need to order more tests or you may wish to get a second opinion.

Learn more: [What Is Alzheimer's?](#) and [What Is Dementia?](#) and [Types of Dementia](#).

The neurological exam may also include a [brain imaging](#) study.

Sign up for our weekly e-newsletter

Getting to the answer of Is it Alzheimer's? requires testing and working with a variety of doctors. Sign up for our weekly e-newsletter to get tips on working with a medical team to get the best possible care for a person with dementia. [Subscribe now](#)

Home Screening Tests for Dementia

A number of dementia screening tests have been marketed directly to consumers. The Alzheimer's Association believes that home screening tests cannot and should not be used as a substitute for a thorough examination by a skilled doctor. The whole process of assessment and diagnosis should be carried out within the context of an ongoing relationship with a responsible health care professional.

Mental status tests

Mental status testing evaluates memory, ability to solve simple problems and other thinking skills. Such tests give an overall sense of whether a person:

- Is aware of symptoms
- Knows the date, time, and where he or she is
- Can remember a short list of words, follow instructions and do simple calculations

The [mini-mental state exam](#) and the [mini-cog test](#) are two commonly used tests.

Mini-mental state exam (MMSE)

During the MMSE, a health professional asks a patient a series of questions designed to test a range of everyday mental skills.

The maximum MMSE score is 30 points. A score of 20 to 24 suggests mild dementia, 13 to 20 suggests moderate dementia, and less than 12 indicates severe dementia. On average, the MMSE score of a person with Alzheimer's declines about two to four points each year.

Mini-cog

During the mini-cog, a person is asked to complete two tasks:

1. Remember and a few minutes later repeat the names of three common objects
2. Draw a face of a clock showing all 12 numbers in the right places and a time specified by the examiner



The results of this brief test can help a physician determine if further evaluation is needed.

Computerized tests cleared by the FDA

A growing area of research is the development of devices to administer computer-based tests of thinking, learning and memory, called cognitive tests.

The U.S. Food and Drug Administration (FDA) has cleared several computerized cognitive testing devices for marketing. These are the Cantab Mobile, Cognivue, Cognision and Automated Neuropsychological Assessment Metrics (ANAM) devices.

Some physicians use computer-based tests such as these in addition to the MMSE and Mini-Cog. Computerized tests have several advantages, including giving tests exactly the same way each time. Using both clinical tests and computer-based tests can give physicians a clearer understanding of cognitive difficulties experienced by patients.

Mood assessment

In addition to assessing mental status, the doctor will evaluate a person's sense of well-being to detect depression or other mood disorders that can cause memory problems, loss of interest in life, and other symptoms that can overlap with dementia.

Brain imaging

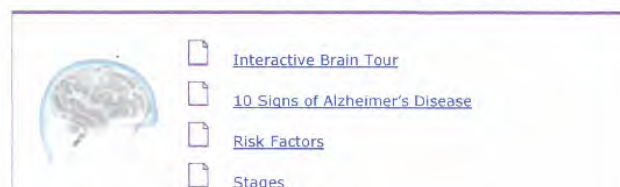
A standard medical workup for Alzheimer's disease often includes structural imaging with MRI or CT; these tests are primarily used to rule out other conditions that may cause symptoms similar to Alzheimer's but require different treatment. Structural imaging can reveal tumors, evidence of small or large strokes, damage from severe head trauma or a buildup of fluid in the brain.



Imaging technologies have revolutionized our understanding of the structure and function of the living brain. Researchers are studying other brain imaging techniques so they can better diagnose and track the progress of Alzheimer's.

RELATED INFORMATION

[RESOURCES](#) [TREATMENTS](#) [LIVING WITH ALZ](#)



1 CODE:
2 Amy Frasier-Wilson
3 10 Via Sonrisa
4 Mission Viejo, CA 92692
5 949-385-0125
6 In Pro Per

7 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR THE COUNTY OF WASHOE**
9

10
11 In the Matter of the Case No.: PR16-00128
12 JORDAN DANA FRASIER FAMILY TRUST Dept. No.: 15
13
14 _____/

15
16 **JOINDER TO SECOND SUPPLEMENTAL PETITION FOR INSTRUCTIONS**

17 COMES NOW, AMY FRASIER-WILSON, in pro per and interested party to the above
18 entitled action, hereby files this Joinder to Co-Trustee PREMIER TRUST, INC.'s Second
19 Supplemental Petition for Instructions filed on May 31, 2017. This Joinder incorporates all
20 pleadings, exhibits and all other documents on file in this case and is based upon the following:
21

22 **I. Procedural History**

23 This Court is well aware of this case and its extensive history. On April 14, 2017, Dinny
24 Frasier, in her individual capacity as Co-Trustee of the Jordan Dana Frasier Family Trust, filed a
25 Motion to Approve and Enforce Settlement Agreement and to Vacate Trial. On April 21, 2017,
26 the parties stipulated that the evidentiary hearing be continued to May 9, 2017 and the Court
27 granted that continuance. A hearing was held on May 9, 2017 and all parties were represented or
28

1 present. The Court took evidence and heard arguments regarding both the Motion and also
2 ancillary issues. Following hearing, on May 31, 2017, a proposed Order Granting Motion to
3 Approve and Enforce Settlement Agreement and Vacate Trial Date and a proposed Order
4 Regarding Ancillary Hearing Issues were submitted. The parties had 10 days to oppose such
5 Orders. No Opposition was submitted to date.
6

7 On May 31, 2017, Co-Trustee Premier Trust filed a Second Supplemental Petition for
8 Instructions, which Premier seeks guidance from the Court for: (1) instructions regarding how to
9 proceed in light of certain recent events; and (2) such other direction and relief as the Court may
10 deem appropriate. Amy Frasier-Wilson, in Pro Per now joins this Second Supplemental Petition
11 for Instructions.
12

13 **II. Current Facts**

14 The Court is aware from the Pre-Hearing Statement filed by the Co-Trustees on May 5,
15 2017, both Premier Trust and counsel for Dinny Frasier (in her capacity as Co-Trustee) are no
16 longer able to communicate with Dinny Frasier regarding Trust matters without her personal
17 counsel, Mr. Barry Resnick, also being present.
18

19 This Court further observed at the May 9, 2017, evidentiary hearing, this situation is
20 "unworkable" in that Premier Trust and trust counsel cannot "just pick up the phone and talk to
21 their client." Following the May 9, 2017 hearing, this communication problem has escalated. Mr.
22 Resnick now indicates that Dinny Frasier refuses to speak with either Premier Trust or trust
23 counsel at all, even if Mr. Resnick is present, and that she wants to terminate both Premier Trust
24 and trust counsel. Mr. Resnick has also now written a letter requesting such termination.
25

26 Premier Trust is extremely concerned about Dinny's welfare and multiple strange events
27 that have occurred in the past seven months involving both Dinny personally and her finances.
28

1 Because Premier Trust's communication with Dinny has now been cut off, it is unclear how
2 Premier should proceed. If, in fact, Dinny is competent and not being manipulated by others,
3 then Premier has no problem with resigning as Co-Trustee. However, it also appears to Amy
4 Frasier -Wilson that Dinny is being manipulated and taken advantage of by Mr. Resnick and
5 those associated with him.
6

7 **III. Argument**

8 1. Inappropriate dealings, isolation from family, advisors and friends

9
10 The Supplemental Petition for Instructions filed on November 29, 2016 disclosed that a
11 neighbor from Irvine was involved. It is believed that this "neighbor" is an attorney named
12 Bruce Schwartz, who is a criminal defense attorney located in Southern California.

13 On December 3, 2016, Amy and Bill (Amy's husband) came to see Mr. Schwartz at his
14 Irvine house. Mr. Schwartz told Amy and Bill to "back off", and to let the attorneys deal with
15 things (in regards to Dinny) and that he did not want to talk about it anymore, that he was tired,
16 and he had been working on this case all week. Mr. Schwartz stated that a new trust attorney Mr.
17 Resnick was handling the case. Mr. Schwartz indicated that Mr. Resnick's intent was to "fire Ms.
18 Shrive, the attorneys in Reno, and bring the Trust back to Orange County".
19

20 Sometime after December 2016, Mr. Resnick installed himself as Dinny's personal
21 attorney and hired Janie Mulrain to be Dinny's Fiduciary Advisor. Mr. Resnick and Ms. Mulrain
22 have blocked all of the children's access to Dinny, isolating her from her family and friends.
23 Amy and Bill reached out to Ms. Mulrain to setup a meeting to discuss Dinny's well-being and
24 end of life issues. Ms. Mulrain stated that she could meet with Amy and Bill, but could not talk
25 about Trust issues and would need a list of questions provided to her prior to the meeting to
26 confirm Dinny's approval to discuss the questions. Amy and Bill provided a background history
27
28

1 and a set of questions to Ms. Mulrain for review prior to their meeting as requested. Ms. Mulrain
2 indicated she had not heard any of the facts provided before, including the timeline provided
3 regarding the fall Dinny had July 2016. Ms. Mulrain indicated that we should document what
4 happened in the past, so we can provide those facts to Dinny in the future to help her remember.
5 However, upon providing the set of facts and questions to Dinny, Ms. Mulrain stated that Dinny
6 did not want to share any information, and the meeting was cancelled.
7

8 Amy and Bill are now concerned that the alleged allegations made by Nori (Dinny's
9 other daughter) during the procurement of Mr. Resnick and Ms. Mulrain, may have created a
10 bias and damages towards Amy which cannot be repaired due to her now isolation from Dinny.
11

12 2. Amy Frasier-Wilson joins the facts and arguments made by Premier regarding Dinny's
13 personal finances

14 Mr. Bakhtiari, Dinny's long-time friend visited Dinny's house in December 2016. Mr.
15 Bakhtiari asked Dinny about her new attorney and how much he is costing her. Dinny stated that
16 her new attorney was not costing her anything, and that Bruce is a friend. Mr. Bakhtiari further
17 indicated that Dinny wanted to fire all of her attorneys because she did not want to pay for
18 attorneys. Dinny has now stopped talking to or seeing him. This is troublesome that after a 20
19 year plus friendship, Dinny no longer wishes to speak to or see Mr. Bakhtiari without any
20 indication why or due to any incident. Mr. Bakhtiari indicated their last visit went well.
21
22

23 On February 28, 2017 and May 19, 2017, Dr. James Edward Spar evaluated Dinny. The
24 evaluation indicated that Dinny did not understand why Amy and Bill did not move in and why
25 Amy and Bill have essentially had no communication with her. Dinny does not understand that
26 Amy and Bill have been completely blocked from communicating with her. According to Dr.
27 Spar's evaluation, Dinny claimed that Amy and Bill never set foot in her house. Dinny does not
28

1 remember the many things that Amy and Bill did to support Dinny's move, including the care of
2 her dogs for 6 weeks while she was in rehabilitation, spending close to 10 hours house cleaning,
3 setting up the utilities, preparing the house for Dinny to move in, buying groceries and helping
4 drive Dinny to appointments. Bill was onsite when the plumber came to fix the garbage disposal
5 and the dishwasher. Bill setup Dinny's fax machine. Amy cleaned the bug infested Irvine house
6 and moved the household items to the new house until the caregivers prevented entrance to the
7 house. Dinny has also stated in her evaluation that, "Brad is fighting me in court" demonstrating
8 that Dinny does not understand the Settlement Agreement that she signed during February 2017.
9

10
11 Most troubling is that it appears Dinny continues to be a victim of undue influence.

12 3.Uncertainty as to legal and fiduciary representation

13 Dinny states in her evaluation with Dr. Spar that Ms. Shrive is hiring attorneys. This
14 demonstrates that Dinny is still confused about her legal representation. Dinny thinks Brooks
15 Travis is still her attorney. There is a concern that Dinny still thinks Travis is her attorney and
16 does not know that she fired Mr. Brooks Travis. Mr. Bakhtiari also stated that Dinny seems to
17 think Mr. Schwartz was her attorney. Mr. Bakhtiari was not sure whether Dinny knew Mr.
18 Resnick was actually her attorney.
19

20
21 There is also concern regarding the accuracy of what transpired and how Ms. Mulrain
22 was hired to be the Fiduciary for Dinny. Dinny is a very private person, and it takes time before
23 Dinny would allow anyone to handle her personal financial affairs. Dinny has always wanted to
24 control her own finances and to write all of her own checks for bills. This created a problem
25 when Dinny agreed that Ms. Shrive would pay all of her bills to make things easier for Dinny.
26 Dinny would repeatedly change her mind on how she wanted the bills paid. There were personal
27 experiences that Dinny had in the past with housekeepers and others where her things have been
28

1 stolen from her. The concern is that there is the possibility that Ms. Mulrain was presented as
2 Dinny's "Personal Assistant" and that Dinny did not understand what the Fiduciary relationship
3 was, just like Dinny thought that either Mr. Schwartz or Mr. Resnick would be providing legal
4 services for free.
5

6 Troubling are the large amounts of funds being transferred from Dinny's accounts. One
7 such amount was a retainer check for \$10,000.00, which was not written by Dinny. There are
8 other large sums being used for "bills." Dinny's account has been depleted since Ms. Mulrain
9 was hired. In November 2016, Dinny's account had approximately \$156,000.00 in cash, but has
10 now been depleted entirely and an additional \$68,545.00 was requested to be deposited. Dinny
11 has somehow gone through approximately \$200,000.00 since November 2016.
12

13 4.Termination of Premier as Co-Trustee

14 The alleged desire by Dinny to terminate Premier Trust seems to have been dictated by
15 Mr. Resnick from the beginning of his involvement. At this point, the medical building litigation
16 has been settled. Mr. Resnick's claim has been that it is in Dinny's best interest to settle the
17 medical building litigation so that she can avoid such stress in her remaining years. But now Mr.
18 Resnick wants to continue litigation efforts so that Premier Trust can be terminated.
19

20 There are concerns that Dinny Frasier entered into the attorney relationship with Mr.
21 Resnick, not knowing whether Mr. Resnick was her attorney or whether it was Mr. Schwartz.
22 There seems to be an understanding by Dinny that whoever was her attorney would be providing
23 legal services at no charge. Mr. Bakhtiari stated that Dinny seemed to think Mr. Schwartz was
24 her attorney and did not mention Mr. Resnick. What Dinny thought was important was that Mr.
25 Schwartz was helping her for free, not charging her.
26
27
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1 The confusion was compounded by the fact that Mr. Schwartz shares office space with
2 Mr. Resnick. The retainer check written to Resnick does not look like Dinny's handwriting and
3 the high probability exists that whoever wrote the retainer check did not want Dinny to know that
4 Mr. Resnick would be charging her for his services. Dr. Spar indicated in his 02/28/17 evaluation
5 that Dinny only has the capacity to contract when she has the oversight of a competent Co-
6 Trustee. A major concern is whether Dinny had the capacity to contract if a competent Co-
7 Trustee was not involved during the firing of Mr. Brooks Travis and hiring of Mr. Resnick. If
8 Premier Trust had been present during all meetings, there could be no dispute that Dinny had
9 capacity to enter into an agreement with Mr. Resnick. Unfortunately, this did not happen and
10 Premier was not present as Dinny's Co-Trustee.
11
12

13 There is additional concern that Mr. Resnick told Dinny that the Trust changes that she
14 executed with Mr. Brooks Travis would not hold up in court, and he (Resnick) would have to
15 change it. Premier Trust would not have accepted management of this Trust, if after due
16 diligence, it was determined that the changes made by Dinny with Mr. Brooks Travis would not
17 hold up in court.
18

19 There is also concern as to whether Mr. Resnick has the desire to work with any Co-
20 Trustee, including Premier. Whether the history of undue influence regarding both Dinny's
21 Personal and Trust Financial matters will continue to exist unless there is Court supervision and
22 whether Ms. Mulrain has the desire to work with any Co-Trustee, including Premier, due to her
23 past isolation of Dinny, lack of personal financial transparency, lack of communications with
24 Dinny's family.
25
26
27
28

1 IV. CONCLUSION

2 Based upon the above and in Joinder to the Second Supplemental Petition for Instructions
3 filed by Co-Trustee Premier, Amy Frasier -Wilson prays for an order from this Court for
4 instructions in the administration of the Frasier Trust.
5

6 Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding
7 document does not contain the social security number of any person.

8 I declare, under penalty of perjury under the law of the State of Nevada, that the
9 foregoing is true and correct.
10

11 DATED this 19 day of June, 2017.

12
13
14 

15 Amy Frasier-Wilson
16 10 Via Sonrisa
17 Mission Viejo, CA 92692
18 949-385-0125
19 In Pro Per
20
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1 **CERTIFICATE OF SERVICE**

2
3 I am a resident of the State of Nevada, over the age of eighteen
4 years, and not a party to the within action. On the 20 day of June
_____, 2017, I served the within documents(s):

5 **Joinder**

6 **BY ELECTRONIC MEANS:** by transmitting via electronic means
7 the document(s) listed above to the fax number(s) set forth
below on this date before 5:00 p.m. NRCP 5(b)(2)(D).

8 **BY HAND:** by personally delivering the document(s) listed above
9 to the person(s) at the address(es) set forth below. NRCP
5(b)(2)(A).

10 ☒ **BY MAIL:** by placing the document(s) listed above in a
11 sealed envelope with postage thereon fully prepaid, in the
12 United States mail at Reno, Nevada addressed as set forth below.
NRCP 5(b)(2)(B).

13 **BY DEPOSITING WITH THE CLERK:** by causing document(s) to be
14 deposited with the Clerk of the Court, as the party or their
15 attorney has no known address. NRCP 5(b)(2)(C)

16 **BY PERSONAL DELIVERY:** by causing personal delivery by
17 Reno/Carson Messenger Service of the document(s) listed above to
the person(s) at the address(es) set forth below.

18 Michael E. Sullivan, Esq.
19 Scott L. Hernandez, Esq.
20 Robinson, Belaustegui, Sharp & Low
21 71 Washington Street
Reno, Nevada 89503
Attorneys for Dr. Bradley L. Frasier

22 Bradley J. Richardson, Esq. [pro hac vice} David Sherak,
23 Esq. [pro hac vice}
Barnet Resnick, Esq. [pro hac vice} Courtney Miller
24 O'Mara, Esq.
c/o Fennemore Craig, P.C.
25 300 East Second Street, Suite 1510
Reno, NV 89501
26 Attorneys for Dinny Frasier, individually

27 Kristen E. Caverly, Esq. [pro hac vice}
28 Henderson, Caverly, Pum & Charney
12750 High Bluff Drive, Suite 300

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San Diego, CA 92130
Co-Counsel for Dr. Bradley L. Frasier

ROBERTSON, JOHNSON,
MILLER & WILLIAMSON
G.David Robertson, Esq.
Richard D. Williamson, Esq.
50 West Liberty Street, Suite 600
Reno, Nevada 89501
Attorneys for Premier Trust, Inc.

Nori Frasier
4372 Pacifica Way, Unit 3
Oceanside, CA 92056

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

Executed on 6/20/17, Reno,
Nevada.

Lindsay Wheeler

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Index of Exhibits

<u>Exhibit</u>	<u>Description</u>	<u>Pages</u>
1	Letter from Nasser Bakhtiari 06/09/17	1
2	Janie Mulrain Emails – Meeting 05/24/17	7
3	Copies of Checks	6
4	Dr. Spar 02/28/17 Evaluation 04/07/16 Report	2
5	Dr. Spar 02/29/17 Evaluation 04/26/17 Report	3
6	Dr. Spar 05/19/17 Evaluation 05/22/17 Report	2

EXHIBIT 1

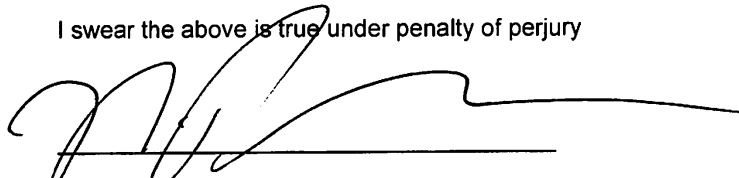
EXHIBIT 1

June 9, 2017

To Whom It May Concern:

1. My name is Nasser S. Bakhtiari. I am 54 years old and reside in Fullerton, CA. I am a Licensed Real Estate Broker and Certified Property Manager. I own both a real estate and property management company, and also a recreational vehicle resort.
2. I have known Joe and Dinny Frasier quite well for approximately 20 years. Over that time we became close friends and also engaged in some business together. In addition to being close friends with Joe and Dinny, I also considered Joe to be both a personal and business mentor.
3. During Joe's lifetime, I typically would see or speak with either Joe or Dinny – or both of them – on an average about once every one or two weeks.
4. When Joe realized his medical condition was critical he asked me to look out for Dinny after he was gone. As the result, and also because of my friendship with Dinny, I have stayed in regular communication with her ever since Joe passed. This has consisted of me visiting her at her personal residence approximately once every couple of weeks, and in between visits often speaking with her over the telephone or – with caregiver's assistance – using Facetime.
5. I have met over the years most of Joe and Dinny's family, including Amy, Nori, Brad, I have also met Bill Wilson, Amy's husband, many times over the years.
6. In late October 2016, Nori called me on the telephone to find a locksmith, I asked why? Nori tells me that Bill has the keys, and "they suspect that Bill pushed Dinny down the stairs when she fell", Dinny repeated this a number of times to me after this call from Nori. I tried to explain to Dinny that it is not possible that Bill pushed you down the stairs. I consider this theory strange since only came to light when Nori reemerged at Dinny's new house.
7. During a visit to Dinny's house in Dec. 2016, I asked Dinny about her new attorney, how much is he costing you? Dinny replied that "he is not costing me anything, Bruce is a friend, not charging me anything". Dinny seemed to think that her former neighbor, Mr. Bruce Schwartz was her attorney and did not talk about Mr. Barnett Resnick. Dinny wanted to fire all of her attorneys because she did not want to pay for attorneys.
8. In October 2016, I met with Dinny at the Irvine house to show her that Joe's car has not been driven, and that Bill was not driving around in Joe's car. Dinny was under the impression that Bill moved into the garage, driving Jordan's car.

I swear the above is true under penalty of perjury



Nasser S. Bakhtiari

FILED
Electronically
PR16-00128
2017-06-19 04:49:05 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6156257 : yvilorla

EXHIBIT 2

EXHIBIT 2

Subject: Re: Meeting with Janie Mulrain
From: William Wilson <William.H.Wilson@me.com>
Date: 5/12/2017 1:39 PM
To: Janie Mulrain <janie@ethosfiduciary.com>
BCC: Amy Frasier <digitalmermaid8@gmail.com>

Janie,

Thank you so much for your time today and setting up the meeting at your office Wednesday 5/24 1PM.

We will prepare our questions and reply to you no later than Monday 5/22 Noon.

Going forward, we will contact you at your office line 949-229-6193.

Conversely, please do not provide our information to anyone unless you receive prior approval from us.

We look to meeting with you.

Thank you

Bill and Amy

On 5/12/2017 10:56 AM, Janie Mulrain wrote:

Bill and Amy,

Per your request, this is to confirm our meeting at my office on Wednesday 5/24 1 pm.

I reiterate that there will be no discussion regarding trust matters and those inquiries needs to be directed to appropriate persons or to Dinny's attorney Barry Resnick. Additionally, please note that I have a duty of loyalty and confidentiality to my client – Dinny, so depending on what you're asking, I am limited to what I can share with you. In order to make our meeting productive, please reply with a list of questions that you are seeking answers to no later than noon, Monday 5/22 so that I may confer with my client.

Lastly, I reaffirmed that even though Nicole gave you my cell phone # (without my permission) as the means to reach me, going forward, please contact me on my office line 949.229.6193.

Janie L. Mulrain
CLPF #768, NCG
ETHOS FIDUCIARY SERVICES
15615 Alton Pkwy, Ste. 450, Irvine, CA 92618
Mailing: P.O. Box 61282, Irvine, CA 92602

Re: Meeting with Janie Mulrain

Tel 949.229.6193 Fax 949.393.2293

Janie@ethosfiduciary.com

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Subject: Re: Meeting with Janie Mulrain
From: William Wilson <William.H.Wilson@me.com>
Date: 5/22/2017 4:01 PM
To: Janie Mulrain <janie@ethosfiduciary.com>

Good Afternoon Janie,

Thank you for your followup. We are confirming that you have cancelled our meeting scheduled Wednesday 05/24/17 1PM.

Please let us know whether Dinny changes her mind regarding sharing information on her welfare in the near future.

Thank you,

Bill and Amy

On 5/22/2017 3:19 PM, Janie Mulrain wrote:

Good afternoon Amy and Bill,

I spoke with Dinny and she does not wish for me to share any information with either one of you. And thus, there's no need for us to meet so I'm cancelling our meeting at 1pm on Wednesday.

Although I am not able to share anything specific with you, as her agent under Durable Power of Attorney for healthcare and finance, it is my duty to ensure that Dinny receives proper care. I can assure you that Dinny's welfare is being tended to and her needs are being met.

Perhaps in the near future, Dinny may change her mind regarding whom she would like her information to be shared with. I do and will continue to check in with Dinny from time to time in case she changes her mind.

Janie L. Mulrain

CLPF #768, NCG

ETHOS FIDUCIARY SERVICES

15615 Alton Pkwy, Ste. 450, Irvine, CA 92618

Mailing: P.O. Box 61282, Irvine, CA 92602

Tel 949.229.6193 Fax 949.393.2293

[Janie@ethosfiduciary.com](mailto:janie@ethosfiduciary.com)

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From: William Wilson [<mailto:william.h.wilson@me.com>]

Sent: Sunday, May 21, 2017 9:05 AM

To: Janie Mulrain <janie@ethosfiduciary.com>

Subject: Re: Meeting with Janie Mulrain

Janie,

Here are the list of questions for our upcoming meeting

**DINNY FRASIER
QUESTIONS FOR MEETING WITH JANIE MULRAIN
MAY 24, 2017 1:00PM**

1. How is my Mother doing?
2. Has my Mother's pain level reduced or increased?
3. Is my mother taking any pain medication?
4. Is my Mother required to take the pain medication every day or just when she hurts?
5. To avoid the pain of going out to the doctor office, is it possible to have a doctor or medical support services come to her house?
6. Did my Mother start aqua therapy to help strengthen her muscles?
7. How are the dogs doing? Mandy? Lili? Abby?
8. Did my Mother receive the birthday cake and card I sent to her?
9. Is my Mother on a high protein diet and is she avoiding sugars/sweets as much as possible?
10. Are the caregivers cooking meals that follow the diet prescribed by her doctor?
11. Does my Mother enjoy their cooking?
12. Are the caregivers providing daily activities and mental exercises that help improve my Mother's memory and cognitive functions?
13. If my Mother requires being admitted to the hospital, will I be notified while she is in the hospital so I can come see her?
14. If my Mother reaches a life threatening stage, either in her house or at the hospital, will I be notified so I can come see her?
15. Are there any questions that my Mother has for me that I can answer for her?

Please confirm that you have received the list of questions.

We look forward to meeting with you.

Thank you,

Bill and Amy

On 5/12/2017 1:39 PM, William Wilson wrote:

Janie,

Thank you so much for your time today and setting up the meeting at your office Wednesday 5/24 1PM.

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Going forward, we will contact you at your office line 949-229-6193.

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We look to meeting with you.

Thank you

Bill and Amy

On 5/12/2017 10:56 AM, Janie Mulrain wrote:

Bill and Amy,

Per your request, this is to confirm our meeting at my office on Wednesday 5/24 1 pm.

I reiterate that there will be no discussion regarding trust matters and those inquiries needs to be directed to appropriate persons or to Dinny's attorney Barry Resnick. Additionally, please note that I have a duty of loyalty and confidentiality to my client – Dinny, so depending on what you're asking, I am limited to what I can share with you. In order to make our meeting productive, please reply with a list of questions that you are seeking answers to no later than noon, Monday 5/22 so that I may confer with my client.

Lastly, I reaffirmed that even though Nicole gave you my cell phone # (without my permission) as the means to reach me, going forward, please contact me on my office line 949.229.6193.

Janie L. Mulrain
CLPF #768, NCG

ETHOS FIDUCIARY SERVICES

15615 Alton Pkwy, Ste. 450, Irvine, CA 92618
Mailing: P.O. Box 61282, Irvine, CA 92602
Tel 949.229.6193 Fax 949.393.2293
Janie@ethosfiduciary.com

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Subject: Re: Meeting with Janie Mulrain
From: William Wilson <William.H.Wilson@me.com>
Date: 5/21/2017 9:04 AM
To: Janie Mulrain <janie@ethosfiduciary.com>
BCC: Amy Frasier <digitalmermaid8@gmail.com>

Janie,

Here are the list of questions for our upcoming meeting

**DINNY FRASIER
QUESTIONS FOR MEETING WITH JANIE MULRAIN
MAY 24, 2017 1:00PM**

1. How is my Mother doing?
2. Has my Mother's pain level reduced or increased?
3. Is my mother taking any pain medication?
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5. To avoid the pain of going out to the doctor office, is it possible to have a doctor or medical support services come to her house?
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Janie L. Mulrain

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

In the matter of Case No. PR16-00128
JORDAN DANA FRASIER FAMILY TRUST Dept. No. 15

ORDER REGARDING HEARING

This Court has reviewed all papers filed since the evidentiary hearing on May 9, 2017.¹ This Court will enter contemporaneously with this order the two post-hearing orders proposed by Premier Trust, Inc. This Court is concerned about Ms. Frasier's cognition and capacity, and the external influences that have been excluded from and introduced into Ms. Frasier's life. The alleged pattern of altered personal relationships, revolving professional relationships (to include the recent substitution of counsel), isolation, diminishing and episodic capacity, and vesting confidence in those spatially close (despite the absence of familial or friendship antecedents) is familiar to this Court. Given the unworkable relationship between the co-trustees, it appears that one trustee may be removed from service.

In response to the Inquiry of the Court, 1) no declarations or affidavits shall be admissible, 2) with one exception noted herein, no telephonic or audio-visual appearances will be allowed, 3) Ms. Frasier shall appear in person and be available for observation, cross-examination, and possible evaluation, and 4) this Court re-affirms that no change to

¹ Ms. Frasier indicated in her Inquiry of the Court that she would be filing an opposition to Premier's request for instructions. As of this date, no opposition has been filed. Any such opposition is now late and must be filed no later than Wednesday, July 12, 2017.

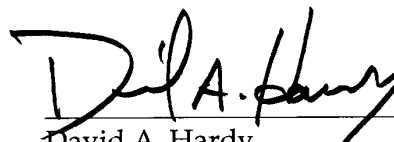
1 a trustee will be effective without order of this Court.

2 Further, based upon the current allegations, no amendment to any trust documents
3 will be effective without proof to this Court of Ms. Frasier's testamentary and contractual
4 capacity. The evaluation provided by Dr. Spar is not preponderant proof of Ms. Frasier's
5 capacity. The parties shall be prepared to argue the issue of trust payments for Ms.
6 Frasier's attorneys, financial fiduciary services, and litigation expenses. Ms. Frasier shall
7 be prepared to explain the anomaly of her signature and discrepancy of amount regarding
8 Mr. Resnick's retainer fee.

9 Premier Trust is authorized to engage a geriatric psychiatrist (or similarly situated
10 expert) to be present in court to make expert observations of Ms. Frasier's cognition and
11 capacity. This Court will decide at the conclusion of the proceeding if Ms. Frasier should
12 undergo further evaluation from a neutral expert regarding cognition and capacity. Ms.
13 Frasier may, at her expense, cause Dr. Spar to be present at the hearing to be examined
14 about his processes and conclusions. Dr. Spar may appear by audio-visual means only if
15 Premier Trust agrees the effectiveness of its witness examination will not be compromised.
16 Ms. Frasier shall notify Premier Trust no later than Monday, July 17, 2017, if Dr. Spar will
17 be present in court so Premier Trust can prepare its witness examination. This Court is
18 disinclined to rely upon Dr. Spar's report if Dr. Spar does not participate at the July 24,
19 2017, hearing. This Court may, upon persuasive legal authority, evidence, and argument,
20 require Ms. Mulrain to provide an accounting of all services rendered, fees charged, and
21 expenses paid since her appointment as Ms. Frasier's agent under a power of attorney
22 instrument.

23 The date of the hearing remains the same. However, the hearing shall begin at 9:00
24 a.m. and this Court is prepared to conduct proceedings until 3:00 p.m.

25 Dated: July 6, 2017.

26
27 
28 David A. Hardy
District Court Judge

CODE: 2700
G. DAVID ROBERTSON, ESQ. (NV Bar 1001)
RICHARD D. WILLIAMSON, ESQ. (NV Bar 9932)
JONATHAN J. TEW, ESQ. (NV Bar 11874)
Robertson, Johnson, Miller & Williamson
50 West Liberty Street, Suite 600
Reno, Nevada 89501
Telephone No.: (775) 329-5600
Facsimile No.: (775) 348-8300
Attorneys for Petitioners,
Co-Trustees Dinny G. Frasier and Premier Trust, Inc.

IN THE SECOND JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

In the Matter of the	Case No. PR16-00128
JORDAN DANA FRASIER FAMILY TRUST	Dept. No. 15 [PR]

ORDER GRANTING MOTION TO APPROVE AND ENFORCE SETTLEMENT
AGREEMENT AND VACATE TRIAL DATE

I. Procedural History

On April 14, 2017, Dinny Frasier, in her individual capacity, filed a Motion to Approve and Enforce Settlement Agreement and Vacate Trial Date ("Motion"), and, on April 17, 2017, further filed an Ex-Parte Motion for Order Shortening Time Regarding Motion to Enforce Settlement Agreement and to Vacate Trial ("Ex-Parte Motion"). On April 19, 2017, this Court ruled on the Ex-Parte Motion by issuing an Order vacating the trial date and setting an evidentiary hearing to commence on May 8, 2017 regarding enforceability of the Settlement Agreement. On April 21, 2017, the parties stipulated that the evidentiary hearing be continued to May 9, 2017, and the Court granted that continuance on April 24, 2107.

Prior to the hearing, the Court carefully reviewed the entire Court file, including the Pre-Hearing Statements submitted by the co-trustees (Premier Trust and Dinny Frasier in her trustee capacity), Bradley Frasier and Dinny Frasier in her individual capacity.

The hearing was held on May 9, 2017. Present at the hearing were Nicole Shrive, a representative of co-trustee Premier Trust, G. David Robertson, Esq. appearing on behalf of

ORDER GRANTING MOTION TO APPROVE AND ENFORCE SETTLEMENT AGREEMENT
AND VACATE TRIAL DATE
PAGE 1

1 Premier Trust and Dinny Frasier in her capacity as co-trustee, Barnet Resnick, Esq. and Courtney
2 O'Mara, Esq. appearing on behalf of Dinny Frasier in her personal capacity, Bradley Frasier and
3 his counsel Mike Sullivan, Esq. and Kristen Caverly, Esq., Nori Frasier, representing herself *in*
4 *pro per*, and Amy Frasier Wilson also representing herself *in pro per*. At the evidentiary hearing
5 the Court considered the Motion and multiple ancillary issues relating thereto. The Court took
6 evidence at the hearing in the form of oral statements from the three Frasier children, i.e., Amy,
7 Nori and Bradley. The Court further heard arguments from counsel on both the Motion and also
8 the ancillary issues. This Order addresses only resolution of the Motion; the ancillary issues are
9 addressed in a separate Order.

10 **II. Factual History**

11 Pursuant to Judge Polaha's Order at the December 6, 2016 status conference, co-trustees'
12 counsel arranged for a mediation to occur in Orange, California before the Honorable Justice
13 Jeffrey King (ret.). The primary purpose of the mediation was to resolve certain disputes
14 surrounding a medical building owned jointly by the Jordan Dana Frasier Family Trust, as
15 amended, and all other trusts created thereunder (collectively, the "Trusts") and Bradley Frasier,
16 son of Jordan Frasier and Dinny Frasier. Present at the mediation were Nicole Shrive, on behalf
17 of co-trustee Premier Trust, Dinny Frasier, in her capacities as both a co-trustee and personally,
18 G. David Robertson, Esq. appearing on behalf of Premier Trust and Dinny Frasier in her co-
19 trustee capacity, Barnet Resnick, Esq. appearing on behalf of Dinny Frasier in her personal
20 capacity, Bradley Frasier and his counsel Kristen Caverly, Esq., Nori Frasier, representing
21 herself *in pro per*, and Amy Frasier Wilson, also representing herself *in pro per*.

22 The mediation resulted in a two-page document entitled "Settlement Agreement" which
23 recited the material terms of the settlement reached and was ultimately signed by all of the
24 parties and, where applicable, their counsel.

25 The parties to the Settlement Agreement contemplated that a further agreement would be
26 prepared after the mediation to provide guidance regarding certain details of the settlement.
27 Although the parties were unable to agree upon the more detailed document, such was not
28 required by the Settlement Agreement. As a result of the parties' inability to reach a more

1 detailed agreement, Dinny Frasier, in her individual capacity, brought the Motion to enforce the
2 original two-page Settlement Agreement, asserting that it contains all material terms needed to
3 enforce the settlement.

4 **III. Findings of Fact**

5 In addition to the documents noted above, the Court has also reviewed all evidence and
6 argument presented at the May 9, 2017 hearing. After considering same, the Court makes the
7 following factual findings.

8 First, the parties do not dispute that they all signed the Settlement Agreement following
9 the mediation with Justice King. While Amy Frasier Wilson and Nori Frasier represented
10 themselves *in pro per* at the mediation, both have acknowledged that they had an opportunity
11 following the mediation to retain counsel to review the Settlement Agreement. In addition, the
12 Settlement Agreement provides substantial immediate – albeit initially unequal – benefits to all
13 three of the Frasier children, with a later equalization mechanism to resolve this inequity. Thus,
14 each of the children had a reasonable basis and incentive to agree upon the material terms set
15 forth in the Settlement Agreement.

16 The primary concerns and issues of fact now raised by certain of the parties regarding the
17 Settlement Agreement are: 1) whether the gerontologist must be Court appointed; 2) whether the
18 appraiser must be Court appointed; 3) who will bear the tax consequences of the transactions set
19 forth in the Settlement Agreement; 4) timing of the equalizing payments and 4) whether the
20 distribution to Amy Frasier Wilson will be free of trust.

21 The first three of these issues are easily resolved by reference to the Settlement
22 Agreement itself. The agreement does not require Court appointment of either the gerontologist
23 or appraiser. Further, the agreement specifically states that Trust B is to bear the tax
24 consequences of these transactions. Thus, there is no legitimate dispute regarding those issues.

25 The Settlement Agreement is silent as to the fourth issue regarding whether the
26 equalization payments will occur as part of this transaction or later upon the death of Dinny
27 Frasier. All parties at the hearing acknowledged that they contemplated the latter distribution,
28

1 and the Court accepts that representation. Regardless, the Court finds that the timing of this
2 event is not a material term of the Settlement Agreement.

3 Finally, as to distribution of the Mission Viejo property to Amy Frasier Wilson free of
4 trust, all parties at the hearing acknowledged this was the intent of the Settlement Agreement,
5 and the Court accepts that representation.

6 Because Dinny Frasier was not present at the hearing, the Court requested that after the
7 hearing Mr. Resnick inquire whether she agreed the equalizing payments should occur upon her
8 death and if the property distribution to Amy Frasier should be free of trust. The Court then set a
9 telephonic conference for April 16, 2017 to discuss her responses. As noted in the Minutes of
10 said conference, Mr. Resnick advised that Dinny Frasier agreed the equalizing payments should
11 be made upon her death and that the distribution to Amy Frasier Wilson under the Settlement
12 Agreement be outright and free of trust.

13 Thus, as to the five above-listed concerns and disputed issues of fact raised by the parties,
14 the Court finds as follows: 1) the gerontologist need not be Court appointed; 2) the appraiser
15 need not be Court appointed; 3) Trust B shall bear all tax consequences of the transactions set
16 forth in the Settlement Agreement; 4) the equalizing payments shall be made upon the death of
17 Dinny Frasier; and 5) the Mission Viejo property shall be distributed to Amy Frasier Wilson
18 outright and free of trust.

19 **IV. Conclusions of Law**

20 1. This Court has jurisdiction over the Trusts and co-trustees as established by prior
21 Order of this Court.

22 2. The parties to the Settlement Agreement required this Court to approve said
23 Agreement and therefore submitted to the jurisdiction of the Court with respect to such approval.

24 3. Significant Nevada law requires that the Settlement Agreement be enforced if the
25 parties thereto agreed to all of its material terms. See generally Grisham v. Grisham, 128 Nev.
26 ___, 289 P.3d 230 (2012); May v. Anderson, 121 Nev. 668, 119 P.3d 1254 (2005).

27 4. The Settlement Agreement contains all material terms required to effectuate the
28 settlement contemplated.

5. The Settlement Agreement shall therefore be enforced as written, subject only to the clarifications that all equalization payments shall occur upon Dinny Frasier's death, and that Amy Frasier Wilson shall receive the Mission Viejo property and her equalizing payment(s) outright and free of trust.

IT HEREBY IS SO ORDERED

Dated this 6th day of July, 2017.

District Judge

CODE: 2700
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IN THE SECOND JUDICIAL DISTRICT COURT
IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA

In the Matter of the	Case No. PR16-00128
JORDAN DANA FRASIER FAMILY TRUST	Dept. No. 15 [PR]

ORDER REGARDING ANCILLARY HEARING ISSUES

An evidentiary hearing was held on May 9, 2017, wherein the Court considered the Motion to Approve and Enforce Settlement Agreement and to Vacate Trial Date ("Motion") filed on April 14, 2017, and multiple matters ancillary thereto. Present at the hearing were Nicole Shrive, a representative of co-trustee Premier Trust, G. David Robertson, Esq. appearing on behalf of Premier Trust and Dinny Frasier in her capacity as co-trustee, Barnet Resnick, Esq. and Courtney O'Mara, Esq. appearing on behalf of Dinny Frasier in her personal capacity, Bradley Frasier and his counsel Mike Sullivan, Esq. and Kristen Caverly, Esq., Nori Frasier, representing herself *in pro per*, and Amy Frasier Wilson also representing herself *in pro per*.

Disposition of the Motion is by separate Order. This Order addresses the three ancillary matters also raised and ruled upon at the hearing, i.e.: 1) the continued service of Premier Trust as a co-trustee of the Jordan Dana Frasier Family Trust, as amended, and all other trusts created thereunder (collectively, the "Trusts"); 2) placement of a headstone on the grave of Jordan Frasier, the deceased husband of Dinny Frasier and father of Bradley Frasier, Nori Frasier and Amy Frasier Wilson; and 3) whether Dinny Frasier may amend Trust A.

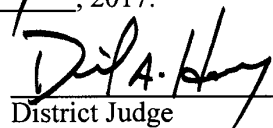
1 First, Premier Trust was confirmed by this Court as the primary co-trustee of the Trusts
2 on August 29, 2016 (adopting the Probate Commissioner's Recommendation for Order
3 determination at paragraph 11). At the May 9, 2017 hearing, counsel Resnick indicated that
4 Dinny Frasier may wish to hire a different corporate trustee. The Court hereby orders that
5 Premier Trust shall continue to act as primary co-trustee of the Trusts, and that status may not be
6 changed except by order of this Court.

7 Second, the Court agrees that conflicts about placement of a headstone on Jordan
8 Frasier's grave should be resolved promptly. The Court therefore orders that, to the extent the
9 structure of the Trusts so allows, counsel for the co-trustees shall work toward facilitating a
10 resolution of the headstone marker issues with Dinny Frasier and each of her children. If such a
11 resolution cannot be reached within a reasonable time, then the Court shall resolve the matter.

12 Finally, the Court finds that Dinny Frasier is not restricted from making alternate
13 distribution amendments to Trust A so long as she is capacitated.

14 IT HEREBY IS SO ORDERED

15 Dated this 6th day of July, 2017.

16 
17 District Judge

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Doyle Law Office, PLLC and that on the 11th day of June, 2019, a true and correct copy of the above **APPELLANT'S APPENDIX** was e-filed and e-served on all registered parties to the Nevada Supreme Court's electronic filing system as listed below:

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Wallace & Millsap LLC
510 W. Plumb Lane, Ste. A
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And by depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; to all participants not registered for electronic filing:

Nori Frasier
4372 Pacifica Way, Unit 3
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Bradley L. Frasier, M.D.
3609 Vista Way
Oceanside, CA 92056

DATED this 11th day of June, 2019.

_____/s Kerry S. Doyle
Kerry S. Doyle

Kerry S. Doyle, Esq.
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Attorneys for Appellant

IN THE SUPREME COURT FOR THE STATE OF NEVADA

IN THE MATTER OF THE JORDAN
DANA FRASIER FAMILY TRUST

AMY FRASIER WILSON,

Appellant,

v.

DINNY FRASIER; PREMIER TRUST,
INC.; JANIE L. MULRAIN; NORI
FRASIER; and BRADLEY L. FRASIER,
M.D.;

Respondents.

Case No. 77981

APPELLANT'S APPENDIX

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1 **CODE: 3975**
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7 **IN THE SECOND JUDICIAL DISTRICT COURT**
8 **IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA**

10 In the Matter of the Case No. PR16-00128
11 JORDAN DANA FRASIER FAMILY TRUST Dept. No. PR

14 **PRE-HEARING STATEMENT**

15 Pursuant to this Court's Order dated April 19, 2017 vacating the trial date and setting an
16 evidentiary hearing regarding whether the parties have reached a settlement, Premier Trust, Inc.
17 ("Premier") and Dinny Frasier ("Dinny"), co-trustees of the Jordan Dana Frasier Family Trust
18 (collectively "Trustees"), by and through their attorneys of record, the law firm of Robertson,
19 Johnson, Miller & Williamson, hereby file this Pre-Hearing Statement with respect to the
20 evidentiary hearing scheduled to commence on May 9, 2017.

21 **I. Procedural Background**

22 1. The Trustees brought this action on March 2, 2016, by filing a *Petition for*
23 *Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions.*

24 2. On April 21, 2016, the Probate Commissioner made several findings and
25 recommendations regarding the Petition.

26 3. The Court ultimately confirmed, approved, and adopted the Probate
27 Commissioner's recommendation in most respects, including the following points:

1 **III. Trust Summary**

2 9. Dinny and her husband, Jordan Frasier ("Joe") established the Frasier Trusts.

3 10. Joe died on October 22, 2014.

4 11. In or around May 2015, Dinny appointed Premier to serve as the corporate co-
5 trustee for the Frasier Trusts.

6 12. Joe and Dinny had three children, all of whom are still living: Brad, Nori Beth
7 Frasier Cady ("Nori"), and Amy Michelle Frasier Wilson ("Amy").

8 13. Until her death, Dinny is the sole income beneficiary of all of the Trusts.

9 **IV. Background**

10 14. Since assuming its role as corporate co-trustee, Premier has been the primary
11 administrator of the Frasier Trusts through its office located in Reno, Nevada.

12 15. The Third Amendment of the Jordan Dana Frasier Family Trust provides that:
13 "the corporate trustee shall have custody of all personal property of the trust estate and shall
14 maintain all records and accounts of the trust estate."

15 16. Premier has also provided periodic accountings to Dinny, and has worked with
16 Dinny on the evaluation, maintenance and disposition of the Trusts' assets.

17 17. Despite Premier conscientiously fulfilling its duties as authorized by the Trusts
18 and this Court, Dinny's children and others have interfered with Premier's efforts by regularly
19 criticizing Premier's decisions and providing conflicting opinions as to how the Trusts' should
20 be administered. Perhaps most problematic, however, is that the children do not agree among
21 themselves as to the methods of administration – each preferring the Trusts be administered in a
22 different manner – thus making Premier's job even harder.

23 18. Premier is a professional trust company, and takes its duties very seriously.

24 19. Premier wants to reasonably cooperate with all members of the Frasier family, but
25 is also mindful of its duties to properly account for the Trusts' assets, and to both administer and
26 dispose of such assets only as appropriate.

27 20. Although Premier has diligently tried to pursue a global resolution of the various
28 pending disputes, it has thus far been unable to achieve a global resolution.

21. In addition, each of the children has, at one time or another, questioned Dinny's competency. This is particularly problematic as various individuals appear to be encouraging Dinny to make changes to the Trusts or her estate plan designed to benefit themselves. Thus, whether Dinny makes a change or not, and, if so, how that change may or may not impact the other children, appears to affect each child's opinion regarding whether Dinny is competent at any given moment in time.

V. Frasier Family Disputes

22. As of this Pre-Hearing Statement, Dinny is 88 years old.

23. Brad, Nori and Amy do not always get along with Dinny or each other.

24. Unfortunately, Premier is often asked to get involved in intra-family disputes.

25. Premier's primary focus has been to administer the Frasier Trusts and their assets.

26. Although these disputes are outside of Premier's normal duties, Premier also believes that it cannot ignore these disputes, particularly given the allegations involved.

27. On March 16, 2016, two weeks after the original Petition in this matter, Brad sent an email to Premier and the undersigned, which accused Amy's husband of exerting undue influence on Dinny and further asserted that Dinny was taking medication for dementia and that she had cognitive impairment. *See* Exhibit 2.

28. During this time, however, Premier held regular telephone conferences with Dinny and repeatedly confirmed Dinny's thoughts, wishes, recollections, and financial decisions.

29. Nicole Shrive, Premier's trust officer, also personally met with Dinny in May 2016 to review all of the Frasier Trusts' finances and statements.

30. In her calls and meetings with Dinny, Ms. Shrive did not witness any signs of incapacity or undue influence.

31. Moreover, following the meeting in May, Brad's allegations regarding capacity and undue influence seemed to subside.

32. The trust administration proceeded through the late spring and early summer, during which time the parties focused on resolving the medical building dispute.

1 33. Unfortunately, in late July 2016, Dinny fell in her home, fractured her left leg/hip,
2 hit her head in the fall and lost consciousness.

3 34. While Dinny was trying to heal from these injuries, discussions over the medical
4 building reached an impasse.

5 35. Brad also renewed his allegations of undue influence and mental incapacity.

6 36. On August 29, 2016, Brad stated that “Dinny is not the mother that she used to be
7 before Alzheimer's dementia ravaged her brain and changed her personality.” *See* Exhibit 3.

8 37. On October 2, 2016, Brad re-sent his email from March 16, 2016. *See* Exhibit 4.

9 38. That same day, Nori wrote to state that she agreed with Brad. *See* Exhibit 5.

10 39. Brad and Nori also sent multiple other emails that day regarding Dinny being
11 cognitively impaired, alleging undue influence and threatening litigation. *See* Exhibit 6.

12 40. On October 6, 2016, Brad again wrote to accuse Amy and her husband of
13 isolating Dinny and hastening her cognitive impairment. *See* Exhibit 7.

14 41. On October 13, 2016, Nori wrote to state: “There seems to be something illegal
15 going on” and that Amy’s husband had supposedly moved into Dinny’s garage. *See* Exhibit 8.

16 42. In that same email, Nori made other allegations of isolation, undue influence,
17 financial exploitation, and other misconduct. *Id.*

18 43. Premier takes all such allegations very seriously.

19 44. Accordingly, on October 25, 2016, Nicole Shrive and one of the Trustees’
20 attorneys personally visited Dinny for several hours.

21 45. During that meeting, Ms. Shrive inspected Dinny’s new home. Ms. Shrive
22 confirmed that no one had moved into either of Dinny’s garages and that both were almost
23 entirely empty. There were no signs that anyone was living in the home, other than Dinny.

24 46. Premier is informed and believes that in October 2016, Nori began spending more
25 time with Dinny and that Dinny spent less time with Amy and her husband.

26 47. Amy and her husband then questioned whether Brad and Nori were unduly
27 influencing Dinny and convincing her to act in a manner that was contrary to her previously-
28 expressed wishes.

48. In late October 2016, Nori began telling Premier to provide Nori with accountings, to refrain from discussing finances with Amy and her husband, and to accept Brad's buyout of the medical building.

49. Nori's directions were contrary to Dinny's previous instructions, the terms of the Frasier Trusts, and the procedural posture of this case.

50. Moreover, it seemed to Premier that it was being pulled into many personal family disputes that did not affect the Frasier Trusts' assets, but that those personal disputes were hindering a proper resolution of the trust-related disputes.

51. On October 27, 2016, the Trustees' attorneys sent a letter to all of the Frazier children attempting to confirm the scope of Premier's duties and explain that Premier cannot act as a referee for the family's internal fights.

52. Unfortunately, the family disputes continued, and even seemed to escalate.

53. Thus, on November 29, 2016, Premier filed a *Supplemental Petition for Instructions* seeking guidance from this Court on several issues, including how it should proceed given conflicting allegations being made by the children regarding whether Dinny is mentally competent and capable of making decisions either for herself or the Trusts as a co-trustee.

VI. The Settlement Agreement

54. The Settlement Agreement, attached as Exhibit 1, is essentially a list of bullet points that the parties agreed to at the Mediation. As set forth in the April 14, 2017, Declaration of Barnet Resnick, Esq., who represented Dinny at the Mediation in her personal capacity, the parties agreed that a “further, more detailed settlement agreement” would be prepared by Mr. Resnick and circulated for review and comments. *See* Declaration of Barnet Resnick, attached as Exhibit 9, at page 2, paragraph 10. Mr. Resnick did circulate the further agreement, which was – from the Trustees’ perspective – intended to be the final definitive agreement, but the parties were unable to agree upon the terms thereof. *Id.* at pages 3-6. Amy did provide comments to the further agreement that were mostly acceptable to both the Trustees and Dinny Frasier in her personal capacity, but Brad’s attorney refused to respond to those comments and instead indicated that Brad no longer wished to discuss the further agreement.

1 55. Because the parties have been unable to agree on the further, more detailed
2 agreement, Dinny in her personal capacity moved the Court to enforce the bullet point
3 Settlement Agreement reached at the Mediation. *See* Motion to Approve and Enforce Settlement
4 Agreement and Vacate Trial Date filed on April 14, 2017. Briefing on that motion was stayed by
5 the Court's April 19, 2017 Order setting the evidentiary hearing.

6 56. The Trustees would much prefer that the parties resolve their differences on the
7 further, more detailed agreement so as to avoid future disputes regarding implementing the more
8 general bullet point Settlement Agreement. If that is not possible, then the Trustees join in
9 Dinny's request that the Court enforce the Settlement Agreement. In doing so, however, the
10 Trustees respectfully ask that the Court enforce the Settlement Agreement in such a manner so as
11 to discourage the potential for future lengthy and expensive litigation involving the Trusts.

12 57. The Settlement Agreement by its own terms must be approved by this Court
13 before it becomes binding. *See* Exhibit 1 at page 1, paragraphs 7 & 13. This provision was
14 inserted into the Settlement Agreement so that the Court would act as a check and balance to
15 ensure that the terms of the Settlement Agreement were fair to all parties and appropriate under
16 the circumstances. Thus, the Court has the power to require amendment or modification to the
17 Settlement Agreement before agreeing to approve same. In addition, regardless of whether the
18 Court believes the Settlement Agreement is satisfactory as written, the Trustees respectfully
19 request that the Court make certain findings before approving the Settlement Agreement terms.

20 **VII. Findings Needed to Discourage Future Litigation**

21 58. To understand the Trustees' concerns about future litigation, the Court must first
22 learn some background information about the Trusts and certain events that have occurred.

23 59. When Joe passed in 2014, the B Trust became irrevocable. The estate's attorneys
24 and accountants then divided the total assets and placed some of them in the A Trust and the
25 remainder in the B Trust. An estate tax return (the "706") was then filed listing the assets in each
26 Trust. Brad and the Trust are each 50% owners by deed of a medical building located in
27 Oceanside, California ("Medical Building"). The Trust's 50% ownership of the Medical
28 Building was placed in the irrevocable B Trust, and this information was reported on the 706.

1 60. The A Trust remains revocable by Dinny and she can therefore make any changes
2 to it she desires so long as she is competent and not under any undue influence.

3 61. The A Trust currently has assets totaling approximately \$3,000,000. Those assets
4 are primarily composed of marketable securities.

5 62. The B Trust currently has assets totaling approximately \$4,000,000. Those assets
6 are primarily composed of marketable securities and real estate. (It is difficult to value the 50%
7 interest in the Medical Building, so this estimate of asset values is just that, an estimate.)

8 63. At least Brad - and perhaps also Nori - apparently believe that under the original
9 A Trust the assets thereof were to pass in roughly equal shares to each of the children, but that
10 after Joe passed away Amy and her husband Bill exercised undue influence on Dinny to change
11 the A Trust to leave everything in that Trust to Amy.

12 64. As noted above, Brad has also repeatedly questioned whether Dinny is competent.
13 A competency evaluation of Dinny was performed on March 25, 2016 by the Amen Clinic which
14 showed her to be competent. *See* Exhibit 10. Brad has repeatedly stated, however, that he does
15 not recognize the Amen clinic examination as valid. Apparently, Brad has taken this position
16 because he has also repeatedly stated that he will pursue litigation and ultimately seek to
17 invalidate any amendment of the A Trust which Dinny may have signed if it leaves all of the A
18 Trust assets to Amy.

19 65. Additionally, Brad has been verbally abusive to Dinny on many occasions and
20 frequently threatened litigation against Dinny, Amy and the Trusts. The following transcriptions
21 are of just a few of the many voicemails left by Brad on Dinny's home answering machine. (The
22 actual voicemails will be available to play at the evidentiary hearing if the Court so desires.)

23 66. On February 9, 2015, Brad left the following voicemail for his mother Dinny:

24 Yea mom, it's 8:50. Please pick up the phone. I need to talk to you and Amy, if
25 you're screening the god damn calls, I'm going to beat the crap out of you when I
26 see you god damnit. Mom, pick up the phone. If you don't pick up the phone, I'm
27 going to call the police every single day to check on you. Okay? Dad told me to
check on you and-and take care of you not Amy and Bill. He told me. Okay? So,
I'm going to check on you every-f-every day and I'm going to send the police out
there every day if you don't answer the phone.

1 67. On January 6, 2016, Brad left another voicemail for his mother Dinny, an excerpt
2 of which follows:

3 I know Brooks [Travis] -you know-your-your attorney is a real idiot. -You know-
4 you don't recognize it, but he is a true idiot. The guy can't spell-he can't spell our
5 name right the same way in a document. He doesn't pay attention to details. He's
6 an ignorant idiot, okay? I've spoken with him he's an idiot, okay? and-and Bill
7 found him for you so -he's probably- he's built in Bills image basically and I
8 know he's on Bills side he's going to do everything for Bill and -um- you know
9 what it's going to be very messy and its going to cost you a lot of money and I
10 understand that um-um-you know it's probably not that important to you because
11 you've got a lot of money but -uh- you're making everybody's life miserable. -uh-
12 You know- your-your brain has changed and your personality has changed and
13 I'm not dead. I know you think I'm dead but I'm not dead. -uh- Bradley is not no
14 more Bradley is still here and -um-and-you know- my dad told me to defend
15 myself and I'm going to do that. I'm going to make my dad --uh I'm going to do
16 what my dad told me to do. I'm going to defend myself and -um- if it means
17 fighting you then that's what's going to happen.

18 68. On January 26, 2016, Brad left another voicemail for his mother Dinny, an
19 excerpt of which follows:

20 Yea, Hi -um-uh- Amy, Bill, and mom -um-yea- so-you know- it-it would be nice
21 if you guys would talk like adults and not be like children and-and not talk. -um-
22 It would be nice if we could come to an agreement but unfortunately, we can't. -
23 uh- So my next step, if we don't hear from you by Thursday, -uh- I'm going to
24 hire a litigation attorney and -um-um- we're going to go ahead and proceed and
25 go to court and you're going to have to talk in court and -uh- mom you're going
26 to have to -uh-you know- bring those papers that -uh- show that you're -uh-
27 competent, okay? and we're going to ask for some independent -um- papers.
28 There's a lot of things in the -um- cognitive impairment work up that -uh- I want
to make sure, as a doctor, -that you had- as your son or your former son -um- that
you had. So, -um- anyway -um- it's unfortunate that you all can't act like adults
but it-it has to come to this. -uh- We're all going to spend a lot of money um and-
and dad wouldn't like that. So, -uh- because of Amy and Bill's greed -uh- we're
going to have to spend a lot of money on-uh-on this and you're going to have to
answer the questions as-to write these down because you're going to have to
answer these in court you can't just give them the silent treatment.

29 69. On January 28, 2016, Brad left the following voicemail for his mother Dinny:

30 Yea Dinny, okay so, I answered Nicole's -um- recent -uh- message -um- I'm-I'm
31 really tired of this whole thing. I'm sure you are too. -uh- You and I agreed in
32 2014 that I would just pay you back the down payment and I gave you fifty
33 thousand dollars. You accepted it as part of the agreement. You agreed to it. You
34 accepted it and now you reneged on that agreement. Okay? -um- So, that's my-
35 that's still my agreement -um- I'll pay you two hundred and seventy-five
36 thousand dollars. You will sign a quit claim deed to the property and we'll-well
37 all move on with our lives. Okay? I gave Nicole-that's my-that's my final offer-
38 that was my offer in the beginning-that's my final offer. -um- If that's not
acceptable, *Starts Yelling* then we are going to court and you are going to pay

1 a lot of money in legal fees and so am I and the lawyers are going to win. We are
2 both going to lose. The lawyers are going to win. So, tell that asshole Bill and
3 stupid Amy that if they're going to be greedy they're going to lose. They're going
4 to lose a lot of money. Okay? Because they know that they're playing with your
5 money. They know they're going to get your money. Okay? Bill's got dollar signs
6 in his eyes. -uh- He's got your-he's got your money -you know- he's already
7 abused Amy once. -uh- He's already gone to jail for it. Dad had to bail him out
8 and it's going to happen again mom. So, -you know- if you want Bill to end up
9 with all your money, by all means let's keep going the way were going. -but-
10 anyway- I don't need any of your money. I told you that. -you know- We don't
11 have a relationship anymore but that's my final offer. Okay? So, just call Nicole
12 tomorrow. Tell her you agree with it. let's move on with our lives and let's avoid
13 this big litigation. okay? because it's going to happen if you guys don't wake up-

14
15 70. Next, on June 22, 2016, Brad left another voicemail for his mother Dinny, an
16 excerpt of which follows:

17 Yea mom, just for the record, -um-you know-y-you called Patty [Brad's wife] a
18 greedy selfish bitch. -uh- You're the one-dad left you seven million dollars in-in
19 estate money a-and you need me to pay back the loan with interest. -uh- So,
20 who's being the greedy bitch, mom? You tell me. I-I'm certainly willing to pay it
21 back the -uh- with the IRS recommended loan rate of 2.87 percent -uh- but
22 anything more than that is greedy, mom. And -uh- I know you don't need the
23 money. Dad gave you seven million dollars in -uh-a-at least seven million dollars
24 and the way you live that's going to last you another seventy years. So, -uh-
25 there's no way you're going to be able to spend seven million dollars. So, uh you
26 know who's being greedy, mom? Call the lawyer and tell him you want to get this
27 dispute resolved and I'll stop calling you.

28
29 71. Finally, on that same day, June 22, 2016, Brad left a second voicemail for his
30 mother Dinny, an excerpt of which follows:

31 Amy -you know- told you things about me that are totally untrue. -you know- talk
32 to me and you can find out what the truth is. -um- She has poisoned the
33 relationship. She has undue influence. You can tell Amy and Bill that I'm going
34 to sue them for undue influence and I'm going to take them for everything they
35 have and they're going to have to hire an attorney and they're going to have to
36 pay for this big time. They're going to pay for ruining our relationship and for
37 ruining our family. Okay?

38
39 72. So, as the Court can see, the Trustees are understandably concerned that the
40 Settlement Agreement may not prevent future litigation which has been repeatedly threatened by
41 Brad – primarily in relation to the Medical Building but also with respect to any changes Dinny
42 may have made to the A Trust distribution upon her death. Based upon these threats, such
43 litigation will likely allege both undue influence and Dinny's lack of capacity.

1 73. Further, although Amy has not threatened litigation, if in fact the A Trust was
2 amended after Joe's death to leave all of those A Trust assets to Amy, and then Dinny were to
3 make changes now to the A Trust which reduce or eliminate any distribution to Amy, then there
4 is certainly a substantial risk that Amy would file a lawsuit claiming that Dinny was subject to
5 undue influence or was not competent to make the subsequent change. If Amy prevailed in that
6 argument, then the subsequent change would potentially be declared invalid and any prior
7 amendment leaving all of the A Trust assets to Amy would potentially be enforced. Should that
8 occur, Brad is likely to challenge the prior amendment and claim that it, too, was invalid and that
9 the A Trust assets must instead pass as set forth in the Trust upon the date of Joe's death.

10 74. This latter problem is of particular concern because the competency evaluation
11 performed by Dr. Spar on February 28, 2017 was partially redacted before it was provided by
12 Mr. Resnick to all other parties (including Trust counsel), but the redaction failed to cover up a
13 portion of the language relating to her estate plan that references the "Irvine Shelter" -- an animal
14 shelter that Dinny greatly respects. *See* Exhibit 11. Accordingly, there is reasonable speculation
15 on the part of the children that Dinny has amended (or plans to amend) the A Trust to leave all of
16 its assets to the Irvine Shelter rather than to any of the children. While this is certainly within
17 Dinny's rights, the Trustees are concerned that such action will likely result in litigation by one
18 or more of the children against the A Trust and the Irvine Shelter to declare the gift invalid.

19 75. To avoid this problem, the Trustees respectfully request that the Court privately
20 interview Dinny -- either in person if she attends the evidentiary hearing or by Skype or Facetime
21 if she does not -- so that the Court can make findings based upon such interview that Dinny
22 understands the Trusts, the Settlement Agreement, impacts of the Settlement Agreement on her
23 estate plan, is competent to make changes to the A Trust and is under no undue influence. This
24 is no different than the questioning courts routinely perform when determining whether a person
25 understands the nature and extent of legal matters pending before the Court when making
26 significant decisions regarding those legal matters. Then, if the Court determines that Dinny has
27 full capacity and is not subject to any undue influence, and if no party to this action appeals those
28 findings, they will become final and thus hopefully discourage future litigation over those issues.

1 76. The Trustees are particularly concerned about a later challenge to Dr. Spar's
2 report because it is clear the evaluation was rushed and the conclusions reached by Dr. Spar
3 appear in some places to be contradictory. Unless the Court reaches its own conclusions about
4 Dinny's capacity and independence, and reduces those conclusions to findings, then the
5 Settlement Agreement could be subject to future attack even if the Court approves it. This is
6 because if someone can prove that Dinny did not have the capacity to sign the Settlement
7 Agreement, then it could ultimately be found invalid despite the Court's approval. To avoid this
8 outcome, the Trustees strongly encourage the Court to make its own independent evaluation of
9 both Dinny's capacity to understand the agreement and also her willingness to enter into it.

10 77. In addition, counsel for the Trustees respectfully requests the Court make a
11 further finding as to whether Dinny understands the difference in her roles as trustee, beneficiary
12 and her personal capacity. This concern arises from certain recent events.

13 78. After Mr. Resnick began representing Dinny in late 2016, Dinny chose to cut off
14 all contact with both her children and grandchildren. That is certainly Dinny's choice, but it has
15 caused concerns among the children and grandchildren as to the state of Dinny's mental and
16 physical health. And, while one can understand why Dinny might not wish to spend time with
17 her children while these disputes are pending, it is troubling that Dinny has also cut off all
18 contact with the grandchildren given that no disputes exist with them.

19 79. Normally, the Trusts would not be concerned if Dinny decided to cut off all
20 contact with her children, but in this case Dinny is one of the co-trustees. The co-trustees both
21 owe duties to not only the current income beneficiary (i.e., Dinny) but also to the contingent
22 remaindermen, who are the children. While it is true that such duties are limited, they are still
23 fiduciary duties nonetheless. Thus, for example, Premier and Dinny must make investment
24 decisions through the lens of looking out for not only providing income during Dinny's lifetime
25 but also seeking to simultaneously grow the principal corpus of the Trusts.

26 80. While the Trustees are not required to consult with the remaindermen about any
27 investment decisions, and may not even be allowed to share detailed financial information with
28 them during Dinny's lifetime, the Trustees' must still look out for their remainder interests.

1 81. Unfortunately, an argument could certainly be raised that if Dinny is not willing
2 to even communicate with her children in any way then this presents a question as to whether she
3 has any animosity against them, and, if so, whether she can properly fulfill her fiduciary duties to
4 them as one of the Trustees. Indeed, even if she harbors no animosity, should any investment
5 decision be challenged there could be an appearance of impropriety by Dinny. Obviously, the
6 Trusts wish to avoid this potential problem.

7 82. In addition, a new concern has recently arisen. Although Trust counsel have
8 enjoyed an excellent relationship with Dinny over the past year, with two pleasant in-person
9 visits and many lighthearted telephone calls, Mr. Resnick recently informed Trust counsel that
10 we may no longer speak to our client Dinny without him being present or on the telephone. Mr.
11 Resnick indicates that this decision was made by Dinny, but has provided no explanation for this
12 sudden and inexplicable request. *See* Exhibit 12.

13 83. Trust counsel have explained to Mr. Resnick that we represent Dinny in her
14 Trustee capacity and, as such, there may be discussions which cannot be reasonably held in his
15 presence because he represents her in her personal capacity and there are times when Dinny's
16 personal interests are not aligned with her obligations and duties as a Trustee. In those instances,
17 it is simply not appropriate for her personal counsel to be present because it may inhibit the free
18 flow of information about decisions which Dinny needs to make in her Trustee capacity while
19 setting aside her personal interests, which she must do.

20 84. Despite explaining this to Mr. Resnick, he claims that Dinny still refuses to allow
21 Trust counsel to speak with her without Mr. Resnick present. *See id.* This raises questions about
22 whether Dinny truly understands why she has separate counsel for her role as Trustee from
23 different independent counsel to advise her in her personal capacity.

24 85. Accordingly, and particularly since Trust counsel is no longer able to speak to
25 Dinny in confidence about issues where her personal interests are at odds with her obligations as
26 Trustee, Premier respectfully requests that the Court make a finding as part of any approved
27 settlement that Dinny understands both the different roles she must fulfill in making decisions,
28 and also the duties and obligations she has in each of those respective roles.

1 **VIII. Conclusion**

2 86. The Trustees agree with the terms of the Settlement Agreement, but are very
3 concerned that the parties' inability to convert the bullet point agreement into the further detailed
4 agreement - as anticipated at the Mediation - does not bode well for the future. Most
5 importantly, the Trustees want to ensure that this Settlement Agreement brings closure to the
6 pending disputes and, as much as possible, cuts off the potential for future litigation.

7 87. Accordingly, the Trustees' first choice would be for the Court to somehow bring
8 the parties together on the definitive, detailed agreement and thus hopefully eliminate some of
9 the confusion and uncertainty that will likely grow out of trying to carry out this settlement based
10 solely upon the bullet points alone. If that cannot be achieved, then the Trustees request that the
11 Settlement Agreement be enforced as written. In either case, however, the Trustees pray that the
12 Court make such findings as are appropriate before approving any settlement of these matters.

13 88. Finally, Premier Trust respectfully requests that the Court provide some guidance
14 as to whether Trust counsel must communicate with Dinny only through Mr. Resnick. Premier
15 has several concerns about such an arrangement, not the least of which is whether this will
16 inhibit the free flow of communications between the Trusts' counsel and Dinny. Rather, Trust
17 counsel should be allowed to speak freely, directly - and confidentially - to each Trustee.

18 **Affirmation**

19 Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding
20 document does not contain the social security number of any person.

21 Dated this 5th day of May, 2017.

22 ROBERTSON, JOHNSON,
23 MILLER & WILLIAMSON
24 50 West Liberty Street, Suite 600
Reno, Nevada 89501
(775) 329-5600

25
26 By: 

G. David Robertson, Esq.
Richard D. Williamson, Esq.
Jonathan Joel Tew, Esq., Esq.
Attorneys for Trustees

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of Robertson, Johnson,
3 Miller & Williamson, 50 West Liberty Street, Suite 600, Reno, Nevada 89501, over the age
4 of 18, and not a party within this action, and that on the 5th day of May, 2017, I electronically
5 filed the foregoing **PRE-HEARING STATEMENT** with the Clerk of the Court by using the
6 electronic filing system which will send a notice of electronic filing to the following:

7 Michael E. Sullivan, Esq.
8 Scott L. Hernandez, Esq.
9 Robinson, Belaustegui, Sharp & Low
71 Washington Street
Reno, Nevada 89503
Attorneys for Dr. Bradley L. Frasier

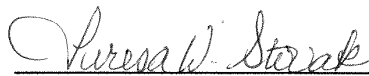
Kristen E. Caverly, Esq. *[pro hac vice]*
Henderson, Caverly, Pum & Charney
12750 High Bluff Drive, Suite 300
San Diego, CA 92130
Co-Counsel for Dr. Bradley L. Frasier

10 Bradley J. Richardson, Esq. *[pro hac vice]*
11 David Sherak, Esq. *[pro hac vice]*
12 Barnet Resnick, Esq. *[pro hac vice]*
13 Courtney Miller O'Mara, Esq.
c/o Fennemore Craig, P.C.
300 East Second Street, Suite 1510
Reno, NV 89501
Attorneys for Dinny Frasier, individually

15 I further certify that on the 5th day of May, 2017, I caused to be served by U.S. Mail a
16 true and correct copy of the foregoing document, addressed to the following:

17 Nori Frasier
4372 Pacifica Way, Unit 3
18 Oceanside, CA 92056

Amy Frasier Wilson
10 Via Sonrisa
Mission Viejo, CA 92692

19 

20 An Employee of Robertson, Johnson, Miller & Williamson

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EXHIBIT INDEX

Ex. No.	Date	Description	Pages
1	01/27/17	Settlement Agreement	2
2	3/16/16	E-mail communication from Brad Frasier	1
3	8/29/16	E-mail communication from Brad Frasier	5
4	10/2/16	E-mail communication from Brad Frasier re-send 3/16/16 e-mail	2
5	10/2/16	E-mail communication from Nori Frasier	3
6	10/5/16	E-mail communications from G. David Robertson, Esq.	6
7	10/06/16	E-Mail communication from Brad Frasier	1
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10	03/25/16	Amen Clinics evaluation	1
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12	05/02/17	E-mail communications between Barnet Resnick, Esq. and G. David Robertson, Esq.	9

EXHIBIT “2”

EXHIBIT “2”

EXHIBIT “2”

David Robertson

From: Brad Frasier <bfrasiermd@gmail.com>
Sent: Wednesday, March 16, 2016 12:05 AM
To: David Robertson
Cc: Nicole Shrive (nshrive@premiertrust.com)
Subject: Frasier Family Trust
Attachments: Undue influence.pdf

David,

I received the notice of hearing and read through the timeline that you provided. It's not entirely factual. Dinny Frasier did not choose 'Premier, a Nevada corporation, only doing business in Nevada.' Bill Wilson, and Bill Wilson alone, exerting undue influence on Dinny Frasier, chose Premier because I believe they have an office in Irvine. There may also be an underlying motive why he chose a Nevada Corporation because of differing laws than California corporations. Specifically, he wanted to change the instructions of my father's will and trust stating that my sister Amy's inheritance would be managed by a trustee, because my father felt Amy was unable to manage it herself. Bill told my wife and I that he was going to find a lawyer who would change this and Bruce Travis may have recommended the Nevada trust corporation. Believe me, my mother does not know the difference, but I don't think she would have chosen a Nevada corporation, if she did. And believe me, she is not going to be happy with all the legal fees that you are racking up, even if it is 'being paid by the "B" trust.' I guarantee you she doesn't know that you and the trustees 'can charge what you want.'

Along those lines, did you ever get the competency evaluation results? My mother told my friend that she was 'going to be tested again.' I never received those results, but if I am going to have a say in this matter, I would like to see them. Do I need to request those from the court or can you send them to me? I haven't received any "discovery" documents from you and I have been forthcoming with the information that I have. What financials do you actually want beyond what you already have? I believe the document you sent me questioning where it came from is a closing document from the escrow agent. I'm having my accountant work on whatever it is you want regarding the financials and I can bring it to the hearing.

There is one important fact that you are completely ignoring. My mother has been on medicine "for her memory" for about 4 years now. The bottle says the medicine indication is for "dementia." I know from talking with you that you personally know what that means. Bill Wilson is calling the shots for my mother and he isn't even listed as a beneficiary. The enclosed "undue influence" paper might as well be Bill's playbook. He and Amy have isolated my mother from the rest of her family. He and Amy have poisoned the lifelong relationships between my mother and my sister Nori, my mother and me, and my mother and all her grandchildren. Amy and Bill have isolated a lonely widow with cognitive impairment from the rest of her family, which is the worst thing you can do to someone in this condition. They did this for their own personal gain; to gain access to my mother's bank account and to be the sole beneficiaries of my mother's trust. Bill wasn't even named as a beneficiary. My father viewed him as a "con man and a leach." I suspect Bruce Travis changed this, as you initially told me Amy and Bill were the heirs of the "A" trust during our initial discussion.

As a physician, I ask you to read the literature on the Alzheimer's website to familiarize yourself with the signs and symptoms of stage 3 Alzheimer's dementia. How would you feel if someone did this to your mother? Okay, now you know how I feel.

Let's talk about this so we can come to a common ground. I don't want a long and drawn out legal battle. I just want fairness for everybody involved and want to respect my father's wishes. I would like a relationship with my mother again. I would also like her to see her grandkids again.

Best regards,

EXHIBIT “3”

EXHIBIT “3”

EXHIBIT “3”

David Robertson

From: Brad Frasier <bfrasiermd@gmail.com>
Sent: Monday, August 29, 2016 9:31 PM
To: David Robertson
Cc: Mike Sullivan (MSullivan@rbsllaw.com) <MSullivan@rbsllaw.com>,, Nicole Shrive (nshrive@premiertrust.com) <nshrive@premiertrust.com>,, Rich Williamson <rich@nvlawyers.com>,, H. BROOKS TRAVIS (HBTravis.Law@cox.net); Amy Frasier; Judy Hamilton; Dinny Frasier; Nori Frasier
Subject: Re: Frasier Trust

Mr. Robertson,

Thank you very much for your response. As you know, I called you twice last week and you failed to call me back. Judy Hamilton stated that the conferences had concluded some time ago and that she had not heard anything from you or Mr. Gonzalez. You had talked with Dinny, the accountants and have had plenty of time to formulate your conclusion, present a solution, and answer my previous questions about your response to my position and my offer. I was looking forward to moving toward a conclusion to this nightmare. I know all you lawyers and Trust companies get paid for dragging these things out and there is no financial interest for you to conclude things in an expeditious manner (what a conflict of interest you have). But you have to respect the lives of those who are affected by your legal tactics. We would like to get on with our lives. I concluded that you were simply continuing the delay tactics that have been going on since February 2016 and have been costing Dinny and my Family's Trust tens of thousands of dollars.

I'm glad Mr. Travis is stepping up to try to fix the mess he created for everybody. I was just thinking last night that I was going to communicate with him directly regarding the tax dilemma that he created for Dinny and the Form 706 problem that he created for Nicole that may cause her to lose her license. If he had acknowledged the true relationship that my parents had with me regarding the medical building, and the fact that my father and Dinny never claimed ownership of the building on their taxes, and that Dinny and I had a contract in place to have me pay her back the gift that my father intended for me as my future inheritance, we would have all saved a lot of time and aggravation. Dinny, the Trust, and I would have all saved a lot of money in legal and trust fees. We all would not be having ANY of these conversations.

The solution that provides the least tax consequences to all parties with the lowest risk of an IRS audit is the one Judy Hamilton has already proposed; namely, Dinny would file gift tax returns for the two houses and the medical building. This option, as both of Dinny's daughters might agree, is the one my father intended to happen after he passed away.

Unfortunately, I have heard that his option is not acceptable to Dinny. Dinny is not the mother that she used to be before Alzheimer's dementia ravaged her brain and changed her personality (that's what it does, look it up). I know you are unwilling to acknowledge this, so we will move forward on your terms. As her Trust's attorney, I hope you have informed her of the potential legal and financial consequences that she might face for filing fraudulent tax returns or a fraudulent Form 706 return. Maybe with this knowledge, she might reconsider her position.

If she still doesn't want to file the gift tax returns, an alternative solution might entail the following;

1) Mr. Travis reshuffles the assets of the A and B Trusts to an equitable allocation that gives the building the \$325,000 value that it should have and increases the value of the B trust by transferring assets from the A Trust to compensate for the amount that he overestimated the value of the building.

2) Ms. Shrive and Mr. Travis re-file the Form 706 to indicate the new values of the trusts and the new value of the building. Not doing so might have legal, criminal, and career-altering consequences for those involved in the fraudulent action.

3) Dinny, Ms. Shrive, and Mr. Gonzalez will file an amended tax return for 2015, if the Trust claimed the building on its 2015 tax return. If they didn't, then the Form 706 is truly fraudulent.

4) I will pay Dinny back the loan with the 2.87% interest rate that is an acceptable rate to the IRS for a family loan (it's from their website). Dinny will sign a quit claim deed on the building.

5) Dinny and Mr. Gonzalez may then file gift tax returns to the IRS for the years she allowed Amy and Nori to live in the Trust's properties without paying rent. The gift tax returns should have no tax consequences or IRS penalties.

If you agree with the aforementioned terms, or have a better, mutually acceptable alternative, I look forward to hearing from you. I was otherwise planning to go directly to the IRS because I was tired of the legal runaround. I was hoping the IRS would help Ms. Shrive make up her mind about what to do. This would also give you, Ms. Shrive, Mr. Travis, Mr. Gonzalez, and Dinny an opportunity to speak with them directly about your opinions regarding my previous claims.

I look forward to your prompt response and to continuing the perceived "momentum."

Dr. Frasier

On Mon, Aug 29, 2016 at 5:57 PM, David Robertson <gddavid@nvlawyers.com> wrote:

Dear Dr. Frasier:

I am a bit surprised by your below email.

The last we heard you wanted the accountants to work together to find the best solution. So, I dutifully encouraged the two accountants (Judy Hamilton representing you and John Gonzalez representing the trusts) to talk. They did, but then decided that they needed me on the phone to facilitate the discussions. I have thus participated in some of their calls.

As a result of their discussions, the accountants came up with a list of 6 questions that they agreed should be answered by them to help shed some light on the situation. I then circulated my email at 12:25 p.m. PDT on August 16, 2016 to all concerned, which listed those 6 questions as follows:

1. What would be the tax ramifications to Dr. Frasier, the Trusts and Dinny (and Joe?) of treating the Trusts' contribution to the medical building as a loan rather than as a purchase payment?;

2. What would be the tax ramifications to Dr. Frasier, the Trusts and Dinny (and Joe?) of treating the Trusts' contribution to the medical building as a purchase payment rather than as a loan?;
3. What would be the tax ramifications to Dr. Frasier, the Trusts and Dinny (and Joe?) if the medical building down payment is treated as a gift (or pre-death distribution)?
4. What would be the tax ramifications to Dr. Frasier, the Trusts and Dinny (and Joe?) if rent on the two homes is treated as gifts (or pre-death distributions) to Nori and Amy?
5. Which alternative would produce the least amount of adverse tax consequences?; and
6. What IRS amendment filings would need to occur for each alternative, and would any such filing be considered a red flag that might trigger an audit?

At 8:29 p.m. on that same day (August 16, 2016), you responded to my email by stating, *inter alia*, as follows:

Mr. Robertson:

Thank you for the update. I am looking forward to the accountants' analysis and recommendations.

So, my understanding was that we are all on the same page, i.e., the accountants would answer the 6 questions and then make recommendations as to how the issues should be addressed. Your below email, however, appears to now proceed directly to a solution that you prefer before we have the benefit of the accountants' analyses.

It has taken a great deal of effort for the accountants to boil down the situation to these 6 questions, which likely hold the key to deciding which approach to the medical building would yield the least tax ramifications for everyone concerned. It would be very unfortunate to now lose the momentum gained when we decided to have the accountants become involved.

My suggestion is that we hold another telephone conference with the accountants and also Mr. Travis to discuss how to proceed. Mr. Travis can be of assistance in discussing the 706, and he indicates that he may have some suggested solutions which he would like to present to the accountants.

Please advise if you and your counsel agree with this approach.

Best regards,

David

G. DAVID ROBERTSON, ESQ.

ROBERTSON, JOHNSON, MILLER & WILLIAMSON

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(775) 329-5600 (VOICE)

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Please visit our website at www.nvlawyers.com

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From: Brad Frasier [<mailto:bfrasiermd@gmail.com>]

Sent: Friday, August 26, 2016 5:20 PM

To: David Robertson

Subject: Frasier Trust

Mr. Robertson,

I called you for an update on the status of the negotiations several days ago and have not heard back from you. I left another phone message today. It's been almost 7 months (and tens of thousands of dollars in legal fees) since we started our initial conversation and we are not any closer to a resolution.

I proposed a fair settlement (please see my previous e-mail for details of my offer) some time ago and we still have not heard anything from you as to what you want and what Dinny and Nicole want. You have spoken with the accountants and with Dinny, and you should have had enough time to formulate a plan or counter proposal.

Please let Dinny, Nicole, and Mr. Gonzalez know that they have a problem with the IRS either way they go that does not involve simply filing a gift tax return. I know that Dinny does not want to give any gifts, but I would hope that you, as her attorney, would counsel her as to the ramifications of doing the alternative options. Please also tell her that we will make every effort to include all her possessions in her casket but there are obviously space restrictions that prevent us from including everything.

Dinny, Nicole and Mr. Gonzalez either have to file an amended tax return for 2015 or for 2008 - 2014. As her attorney, I hope you see the wisdom and advantage of amending one year's tax return vs. 7 years of tax returns. The former erroneous claim may be looked at as a mistake by a sympathetic IRS agent, while the latter would certainly draw the suspicion of tax fraud, and involve penalties, legal fees, accounting fees, and perhaps criminal prosecution. And if my parents committed tax fraud on their returns for 2008 - 2014, then I might be suspected to have done so, as well. This would leave me no choice but to file a lawsuit for the legal, accounting, and IRS penalties. We have ample evidence of what Joe Frasier did and what he wanted, so we would win that case.

Please make sure Dinny understands this dilemma. I have found that she has limited capacity to understand simple financial transactions and can't remember our conversations after we discussed them. Whether you want to acknowledge it or not, and I know that you don't, she has cognitive impairment and has been taking medication for "dementia" (that's what it says it is for on the bottle of medication that she takes) for about 5 years.

Please let me know your thoughts and disagreements with my previous position. Please let me know what Dinny and Nicole want. Let's move forward and resolve this issue.

Dr. Frasier

EXHIBIT “4”

EXHIBIT “4”

EXHIBIT “4”

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From: Brad Frasier [mailto:bfrasiermd@gmail.com]

Sent: Sunday, October 02, 2016 1:29 PM

To: David Robertson

Subject: Frasier Family Trust Hearing.

David,

I composed this earlier this year, but don't think I ever sent it.

I received the notice of hearing and read through the timeline that you provided. It's not entirely factual. Dinny Frasier did not choose 'Premier, a Nevada corporation, only doing business in Nevada.' Bill Wilson, and Bill Wilson alone, exerting undue influence on Dinny Frasier, chose Premier because I believe they have an office in Irvine. There may also be an underlying motive why he chose a Nevada Corporation because of different laws than those governing California corporations. Specifically, Bill wanted to change the instructions of my father's will and trust stating that my sister Amy's inheritance would be managed by a trustee, because my father felt she was unable to manage it herself. Bill told my wife and me that he was 'going to find a lawyer who would change this' and Bruce Travis may have recommended the Nevada trust corporation. Believe me, my mother does not know the difference. And believe me, she is not going to be happy with all the legal fees that you are racking up, even if it is from the "B" trust.

Along those lines, did you ever get the competency evaluation results? My mother told my friend that she was going to be tested again. I never received those results, but if I am going to have a say in this matter, I would like to see them. Do I need to request those from the court or can you send them to me? I haven't received any "discovery" documents from you and I have been forthcoming with the information that I have. What financials do you actually want beyond what you already have? I believe the document you sent me questioning where it came from is a closing document from the escrow agent. I'm having my accountant work on whatever it is you want regarding the financials and I can bring it to the hearing.

You have one important fact that you are completely ignoring. My mother has been on medicine "for her memory" for about 4 years now. The bottle says the medicine indication is for "dementia." I know from talking with you that you personally know what that means. Bill Wilson is calling the shots for my mother and he isn't even listed as a beneficiary. He has used the "undue influence" paper as a playbook to a tee and has isolated my mother from the rest of her family. He and Amy have poisoned the lifelong relationships between my mother and my sister Nori, my mother and me, and my mother and all her grandchildren. Amy and Bill have isolated a lonely woman with cognitive impairment from the rest of her family, which is the worst thing you can do to someone in this condition. They did this for their own personal

gain. Bill wasn't even named as a beneficiary. My father viewed him as a "con man and a leach." I suspect Bruce Travis changed this based on one of our previous discussions.

As a physician, I ask you to read the literature on the Alzheimer's website to familiarize yourself with the signs and symptoms of stage 3 Alzheimer's dementia. How would you feel if someone did this to your mother? Okay, now you know how I feel.

Let's talk about this so we can come to a common ground. I don't want a long and drawn out legal battle. I just want fairness for everybody involved and would like a relationship with my mother again. I would also like her to see her grandkids again.

Best regards,

Dr. Frasier

EXHIBIT “5”

EXHIBIT “5”

EXHIBIT “5”

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From: Nori Frasier [mailto:nori_frasier@hotmail.com]

Sent: Sunday, October 02, 2016 2:12 PM

To: David Robertson

Cc: Nicole Shrive (nshrive@premiertrust.com); Dinny Frasier; Rich Williamson; Amy Frasier (digitalmermaid8@gmail.com); H. BROOKS TRAVIS (HBTTravis.Law@cox.net); john@gonzalezcpa.com; Judy Hamilton (Judy.Hamilton@ht2cpa.com); Teresa Stovak; bfrasiermd@gmail.com; Mike Sullivan (MSullivan@rbsllaw.com); Nori Frasier

Subject: Re: Frasier Family Trust Hearing.

I agree 100% to what Brad has written. My sister has always been jealous of me for what I have and the solid family of my own including my children . Even Bill has confirmed this information. My kids are very upset as they want to talk with their grandma and miss more than words can express.

During this time of the year, family is very important and all I want is too hear from my mom. But Bill and Amy are feeding my mom incorrect information. My sister is bipolar and each day she is a different person.

I have written several emails to my sister with no response as I doubt she is even seeing them as Bill has access to her email. He is controlling us all and not even part of the core family.

I would like to hear from my sister. Also my mother's grad children are doing big things in like, like college, grad school in biomedical science and a new home all things they want to share.

Nori

Sent from my iPhone

On Oct 2, 2016, at 4:45 PM, David Robertson <gdauid@nvlawyers.com> wrote:

Hello Everyone:

Please note that a few moments ago Dr. Frasier sent me the below email.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
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From: Brad Frasier [<mailto:bfrasiermd@gmail.com>]
Sent: Sunday, October 02, 2016 1:29 PM
To: David Robertson
Subject: Frasier Family Trust Hearing.

David,

I composed this earlier this year, but don't think I ever sent it.

I received the notice of hearing and read through the timeline that you provided. It's not entirely factual. Dinny Frasier did not choose 'Premier, a Nevada corporation, only doing business in Nevada.' Bill Wilson, and Bill Wilson alone, exerting undue influence on Dinny Frasier, chose Premier because I believe they have an office in Irvine. There may also be an underlying motive why he chose a Nevada Corporation because of different laws than those governing California corporations. Specifically, Bill wanted to change the instructions of my father's will and trust stating that my sister Amy's inheritance would be managed by a trustee, because my father felt she was unable to manage it herself. Bill told my wife and me that he was 'going to find a lawyer who would change this' and Bruce Travis may have recommended the Nevada trust corporation. Believe me, my mother does not know the difference. And believe me, she is not going to be happy with

all the legal fees that you are racking up, even if it is from the "B" trust.

Along those lines, did you ever get the competency evaluation results? My mother told my friend that she was going to be tested again. I never received those results, but if I am going to have a say in this matter, I would like to see them. Do I need to request those from the court or can you send them to me? I haven't received any "discovery" documents from you and I have been forthcoming with the information that I have. What financials do you actually want beyond what you already have? I believe the document you sent me questioning where it came from is a closing document from the escrow agent. I'm having my accountant work on whatever it is you want regarding the financials and I can bring it to the hearing.

You have one important fact that you are completely ignoring. My mother has been on medicine "for her memory" for about 4 years now. The bottle says the medicine indication is for "dementia." I know from talking with you that you personally know what that means. Bill Wilson is calling the shots for my mother and he isn't even listed as a beneficiary. He has used the "undue influence" paper as a playbook to a tee and has isolated my mother from the rest of her family. He and Amy have poisoned the lifelong relationships between my mother and my sister Nori, my mother and me, and my mother and all her grandchildren. Amy and Bill have isolated a lonely woman with cognitive impairment from the rest of her family, which is the worst thing you can do to someone in this condition. They did this for their own personal gain. Bill wasn't even named as a beneficiary. My father viewed him as a "con man and a leach." I suspect Bruce Travis changed this based on one of our previous discussions.

As a physician, I ask you to read the literature on the Alzheimer's website to familiarize yourself with the signs and symptoms of stage 3 Alzheimer's dementia. How would you feel if someone did this to your mother? Okay, now you know how I feel.

Let's talk about this so we can come to a common ground. I don't want a long and drawn out legal battle. I just want fairness for everybody involved and would like a relationship with my mother again. I would also like her to see her grandkids again.

Best regards,

Dr. Frasier

EXHIBIT “6”

EXHIBIT “6”

EXHIBIT “6”

David Robertson

From: David Robertson
Sent: Sunday, October 02, 2016 1:27 PM
To: Mike Sullivan (MSullivan@rbsllaw.com)
Cc: Nicole Shrive (nshrive@premiertrust.com); Dinny Frasier; Rich Williamson; bfrasiermd@gmail.com; Nori Frasier (nori_frasier@hotmail.com); Amy Frasier (digitalmermaid8@gmail.com); H. BROOKS TRAVIS (HBTravis.Law@cox.net); john@gonzalezcpa.com; Judy Hamilton (Judy.Hamilton@ht2cpa.com); David Robertson
Subject: Threatening Email From Dr. Frasier

Importance: High

Hi Mike:

Dr. Frasier states in his below email that you no longer represent him. Please advise if this is correct. We have not seen any withdrawal of representation nor a substitution of counsel filed with the Court.

If you do still represent him, please advise Dr. Frasier that his threats are ultimately counter-productive to advancing a negotiated resolution of this dispute. In addition, I would appreciate you assuring him that we are carrying out consistent instructions from both trustees. Indeed, I personally met with Dinny for several hours just recently and confirmed once again that we are proceeding exactly on the course she wants us to take towards resolving this matter.

Conversely, if you no longer represent him, then we would appreciate you filing the appropriate documents with the Court before the Wednesday status conference.

Thanks.

Best regards,
David

From: Brad Frasier [mailto:bfrasiermd@gmail.com]
Sent: Sunday, October 02, 2016 12:26 PM
To: David Robertson
Subject: Re: Response from you.

Mr. Robertson:

I am no longer represented by Mr. Sullivan, so please direct your response to me. I have offered a resolution to this matter on multiple occasions and you have failed to offer any response. You have not included the main trustee, Dinny Frasier, in your decisions, which I feel is unethical and illegal. You are draining funds from the Frasier Family Trust and dragging out this matter for your own financial benefit. I am going to contact the California and Nevada Bar associations to ask their opinion regarding your behavior and that of your inexperienced junior partner. I am going to contact the IRS to report the tax fraud, to which you are now an accomplice. Finally, I am going to notify the FBI regarding your systematic robbery of funds from the Frasier Family Trust, under the guise of legal representation, because you are not listening to the desires of your main client Dinny Frasier.

As you clearly know, Dinny and I have an agreement for me to pay her back the money that my father provided as 50% of the down payment for a concrete shell building. We agreed on that and were trying to negotiate a fair

interest rate, although my mother initially did not want interest on the repayment. I offered the IRS Family loan rate for the period of the "loan" origination.

While Joe and Dinny provided \$350,000 as 50% of the down payment, I provided several hundred thousand dollars beyond that of my money for tenant improvements and other expenses and Joe and Dinny did not provide any additional money. How is the Trust now entitled to claim 50% ownership of the money that I provided? In what scenario, is that fair? You and everybody else heard Dinny say that my father was not my partner. He did not want to participate in any aspect of the building. My father did not claim the building on his income taxes as an asset or liability. So either he and Dinny committed tax fraud all those years or what I'm saying is true.

You can't have it both ways. You can't claim 50% ownership of the building and then not pay any taxes.

Because of your actions, this case is going to litigation. In my lawsuit, I plan to sue you personally for legal fees and damages. When the time comes and I am a beneficiary of the Trust, I will sue you for legal malpractice for not respecting my mother's wishes, or those of my father. You will have to deal with the IRS directly regarding your involvement in the tax fraud scheme.

I'm sorry that you allowed the negotiations to deteriorate by your lack of communication and actions. You did tell me during our initial conversation in February 2016, that any legal fees would be paid from the B trust funds. I saw then and I clearly see now why you had no urgency to settle this dispute. Being a lawyer is truly "having a license to steal." I hope you get personal satisfaction from that and in the overall scheme of things, you get what's coming to you.

Best regards,

Dr. Frasier

On Sun, Oct 2, 2016 at 8:30 AM, David Robertson <gddavid@nvlawyers.com> wrote:

Hi Dr. Frasier:

I have responded to your below email by communicating directly with your counsel.

Best regards,

G. DAVID ROBERTSON, ESQ.

ROBERTSON, JOHNSON, MILLER & WILLIAMSON

BANK OF AMERICA PLAZA

50 W. LIBERTY ST.

SUITE 600

David Robertson

From: Nori Frasier <nori_frasier@hotmail.com>
Sent: Sunday, October 02, 2016 5:44 PM
To: David Robertson
Cc: Nicole Shrive (nshrive@premiertrust.com); Dinny Frasier; Rich Williamson; Amy Frasier (digitalmermaid8@gmail.com); H. BROOKS TRAVIS (HBTravis.Law@cox.net); john@gonzalezcpa.com; Judy Hamilton (Judy.Hamilton@ht2cpa.com); Teresa Stovak; bfrasiermd@gmail.com; Mike Sullivan (MSullivan@rbsllaw.com); Nori Frasier
Subject: Re: Frasier Family Trust Hearing.

David,
I understand your point but I know if documentation which states differently.

Her primary doctor before she changed doctors has it documented, she had a test which we laughed about as she was unable to remember 3 animals, and my father asked us as his last wish to take care of her as he knew what her state of mind was from the doctors. On the early stages of Alzheimer's.

Also, if she is prepared she can answer questions but my father explained the papers and finances to her on many occasions and she would get mad at him as he would say "Dinny I just explained that to you " she would get offended and tell him it was not true. I was always sitting there first hand to hear this.

At this time I will not fight her competency as she is my mother and will not put her in that situation. There will be a later time to bring in the documentation.

I know if you sat there and talked with her in a conversation versus answering questions results would be different. This information will be called into question later.

I agree with Brad's email, we just want our mother back. Amy and Bill have been working on my mom for 2 years now.

If this was your mom maybe you could understand better, nori

Sent from my iPhone

On Oct 2, 2016, at 7:49 PM, "David Robertson" <gddavid@nvlawyers.com> wrote:

Hi Nori:

I'm sorry that the family is experiencing some difficulties, but please understand that I was not hired to help resolve the family's internal personal relationships.

My **sole assignment** from the trustees right now is to help reach a resolution of the medical building issue. That is not easy. There are many complicating factors and differing points of view – particularly among the accountants - and, perhaps most importantly, there are IRS regulations which must be considered before a final solution can be achieved. Hopefully, the accountants can still work this out among themselves, and then my assignment will be completed.

Based upon my conversations with your mother she appears to understand the complicated medical building issue and, like me, is hopeful that the accountants can work out a solution which will be fair to everyone and not require any amended tax returns to be filed.

Finally, as of our recent meeting, Dinny appeared to be competent to make her own decisions, and I also understand that she passed a competency examination given at the time she was admitted for injuries from her fall, although I have not seen the results of that exam. At our meeting she appeared oriented, pleasant, quite humorous, able to answer questions about current events -- and even voluntarily expressed some fairly strong opinions about the current presidential candidates. She further pointed out articles in the newspaper she was reading and cogently commented on those articles. All of this was witnessed by both myself and an independent law student intern who accompanied me at the meeting. So, while I cannot comment upon your past interactions with her, I can say that as of my recent meeting with Dinny both the law student intern and I were satisfied that she was competent and understood the complex legal issues that we discussed with her -- and gave us clear direction on how to proceed.

Amy -- I would appreciate you providing your telephone number to Nori if you are comfortable doing so.

Best regards,
David

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From: Nori Frasier [mailto:nori_frasier@hotmail.com]
Sent: Sunday, October 02, 2016 3:26 PM
To: David Robertson
Cc: Nicole Shrive (nshrive@premiertrust.com); Dinny Frasier; Rich Williamson; Amy Frasier (digitalmermaid8@gmail.com); H. BROOKS TRAVIS (HBTravis.Law@cox.net); john@gonzalezcpa.com;

Judy Hamilton (Judy.Hamilton@ht2cpa.com); Teresa Stovak; bfrasiermd@gmail.com; Mike Sullivan (MSullivan@rbsllaw.com); Nori Frasier
Subject: Re: Frasier Family Trust Hearing.

David,

You were only seeing 1 day below are a few examples:

1. My son and his wife went to visit my mom about 8 months ago when they were in town. Amy and Bill were there as well, he told me that she seemed very different as if she was on a drug. Not talking much and always looking over at Amy and Bill.
2. I saw my mom on July 4th, we talked for over an hour and when I left she hugged me and told me she loves me.
3. I stopped over to see my mom on her birthday in March, my sister was telling my mom stuff about me to my mom the whole time she was getting out of the car.

You saw what you wanted to see. The last time I saw my mom, we talked about the same 3 subjects over and over again for the 1 hour. I told her my daughter was in college at CSU. A few minutes later she asked where Sara was going to school . All 3 of my kids and my husband have personally witness this behavior and willing testify to this upon asked. After about 10 minutes of asking the same questions for my kids, they just want to hear her voice.

I was with my parents 24/7 until I took a job and lived with them 100% of the time for 1.5 years and my sister and I always fought. My mom would take my side and it angered my sister.

My sister has fed my mom miss information for her own good and I have proof which I am saving for later.

You need to get my mom alone on a day she does not expect you and then evaluate. When she knows someone is coming over, she gets prepared.

I asked my mom if she was told to not answer the phone and she said she was never told that. I have called the house when my family was at the house and the ring tone close to her was off.

The only time she would hear the ring was in the kitchen. My sister and Bill set up my ring tone to be ignored. I know this as when my sister calls, it comes in at a certain ring tone. She would say, that is bill and Amy .

Also, she is upset with me because my father had agreed to return \$10,000 to me for a website I had a 3rd party design. I have a written contract signed by my father with his partner Russell.

My sister convinced my mom I stole \$30,000. And kept telling here ever day. So my mom started to believe it. My mom called my husband and asked him how much my son's wedding was and my sister convince my mom I took money from her to pay for it. But I once again have documents showing I paid for my son's wedding and he was married in sept and I lived in the house in August . The wedding was paid in full by then - also I did not start paying my fathers bills until the following February.

My mom has so much Miss information. Also I asked my father's partner to pay my mom back as he was a partner of my father, he wrote my mom a letter, and she told him There was no need. I have this letter as well.

If you ask my mom why she is upset with me after 59 years, I can prove the reason is incorrect!

You are not seeing the truth and I have proof. Also like I have said before I have many recording of my father.

This will go to trial one day, and you will be accountable .

Amy and bills phone as no longer active, request for numbers.

Nori

Sent from my iPhone

On Oct 2, 2016, at 5:26 PM, David Robertson <[gdavid@nvlawyers.com](mailto:g david@nvlawyers.com)> wrote:

Hi Nori:

Thanks for your email. As previously noted, I recently met with your mom personally for several hours and held a discussion with her when neither Amy nor Bill were in the room -- to make sure that your mom was not being influenced by them as you and Dr. Frasier have suggested might be occurring.

As a result of that discussion, I can assure you that we are proceeding exactly as your mom desires and is directing us to.

As far as communication with your mom, I have previously sent you her new telephone number so you are free to call her at any time. There is nothing more I can do on this issue.

As far as communication with your sister, I understand that you already have Amy's telephone number. If you do not, then I will obtain it and send it to you.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
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SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
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Please visit our website at www.nvlawyers.com

IMPORTANT NOTICE:

PERSONAL AND CONFIDENTIAL. This message originates from the law firm of Robertson, Johnson, Miller & Williamson. This message and any file(s) or attachment(s) transmitted with it are confidential, intended only for the named recipient, and may contain information that is a trade secret, proprietary, protected by the attorney work-product doctrine, subject to the attorney-client privilege, or is otherwise protected against unauthorized use or disclosure. This message and any file(s) or attachment(s) transmitted with it are transmitted based on a reasonable expectation of privacy consistent with

EXHIBIT “7”

EXHIBIT “7”

EXHIBIT “7”

David Robertson

From: Brad Frasier <bfrasiermd@gmail.com>
Sent: Thursday, October 06, 2016 7:47 AM
To: David Robertson
Cc: Nori Frasier; Nicole Shrive (nshrive@premiertrust.com); Dinny Frasier; Rich Williamson; Amy Frasier (digitalmermaid8@gmail.com); H. BROOKS TRAVIS (HBTravis.Law@cox.net); john@gonzalezcpa.com; Judy Hamilton (Judy.Hamilton@ht2cpa.com)
Subject: Re: Frasier Family Trust Hearing.

Nori,

Craig Wood, my childhood friend since age 5, went by to visit Mom last week, with his mother, who Mom has known for as many years. A neighbor told him, "Bill moved Dinny to a house in San Juan Capistrano." He called Bill on the phone, but Bill would not speak to Craig to tell him where Dinny lived, so they were unable to visit her.

So, not only have Bill and Amy isolated Mom from her family, but now they have isolated her from her friends and neighbors. From a medical and psychological standpoint, this is the worst thing you can do for a person with cognitive impairment. Isolation has been shown to hasten the progression of Alzheimer's disease (I'm sure Bill already knows this. He's not only an "internet lawyer," but he's an "internet doctor" too).

It's sad and unfortunate that she will have to live her life like this and will miss out on holidays and other gatherings with her family, her grandchildren's weddings, as well as the birth of her great-grandchildren. This, all because Bill and Amy, with the apparent help of H.B.Travis, have conspired to isolate Mom and control her so they can inherit her portion of our parent's estate. How pathetic.

Amy and Bill,

For us this is not about money, it's about having a relationship with our mother. You have spoiled that and have used the "Undue Influence" treatise to a tee for your own financial gain. How pathetic.

To everybody else,

I'm sorry that our dysfunctional family matters have to be aired in a relatively public forum such as this. Sorry to subject you all to this garbage. Everybody should also know that Dinny likely does not check her e-mails, even though we are copying her on all the communications. I doubt that she knows what is going on. Amy and Bill monitor everything that she sees and hears.

Let's have a conference in Orange County to settle this dispute to stop all these e-mails and move on with our lives.

Dr. Frasier

On Thu, Oct 6, 2016 at 6:07 AM, David Robertson <gddavid@nvlawyers.com> wrote:

Nori:

EXHIBIT “8”

EXHIBIT “8”

EXHIBIT “8”

David Robertson

From: Nori Frasier <nori_frasier@hotmail.com>
Sent: Thursday, October 13, 2016 12:21 AM
To: David Robertson; Nicole Shrive; Nori Frasier
Subject: Important - Dinny Frasier and concerns

Mr. Robertson and Nicole,

I have had 3 conversation with my mother the last few days (plus a forth today) and I am very worried about her because I feel decisions are being made in her name that she has NOT been informed about. See below what was discussed during each conversation. Brooks T lawyer seems to have set up her "Will" with Bill and Amy, yet when I told her she left her estate to them she was upset and told me NO WAY she did that. There seems to be something illegal going on and I am turning to you both to get it cleared up. My brother has been trying to pay my mom back the loan with interest since January 2015, she had not clue that he even offered yet we were told she refused it. I am scared for her as she plans to confront Bill on why he moved into her garage. Both Bill and Amy have a violent temper. Please help me protect my mother!!

Thursday Brook is planning on talking to my mother, who will be on the line with my mother to protect her and watch over the trust!

During the conversation the points below were talked about (caregiver was there and heard it all)

Friday 10/7/16

- I told her that Brad's kids had many happy occasions coming up and he wanted her to be a part of it all
- 1. Her response was that he should have thought of this before he was going to sue me and not pay back the loan.
- 2. YOU LAWYERS KNOW THIS IS NOT TRUE!! **BRAD HAS BEEN TRYING TO PAY IT BACK SINCE JANUARY 2015 why does she NOT know this.**
- 3. Not sure what you all are feeding her, she mentioned her B of A account was down and she was going to have to go back to work.
- 4. She deserves to know every penny that was taken from or paid by her. . An itemized list you MUST provide her
- She was very upset that Bill had taken her car and credit card and had not returned it. She did not know what he had been spending the money on. The care giver told my mom that the Credit card had been returned but did not know what was charged. She had to check for it immediately as there was no trust he returned it.
- She told me that Amy (my sister) and Bill had become very very greedy and are using her for their retirement plan
- She talked about how Bill **moved into the garage** and she did not like that and wanted him out
- She also talked about the garage was his new office. This is part of the "Undue Influence" document. By being in the garage he will be able to see the comings and goings of people and listen in on who calls her. He just wants her to depend on Bill and monitor her life. She did not want this
- Craig Wood and his mother stopped by my mom's house in Irvine to see her; they ran into a neighbor who contacted Bill. Once Bill knew why she was calling (for these friends), he stopped talking and hung up. He is pushing away her long time friends. She said "They have no right to do that"
- Over and over again she said Amy and Bill were greedy and did not want to leave them anything
- She also told me that they emptied her house and took stuff without her permission and she was upset. They had NO right to take her stuff. And she was going to tell him.
- She wanted to tell Bill to leave, but if she does I am scared he will hurt her
- The organ in the house was left to me by my father, so where is it?
- When we hung up she told me it was great to hear from me
- Also, Russell has not been paying my mom back what he owes her and said "I do not want Russell to sell my house"
- **I DID NOT SLEEP ALL NIGHT as Bill had tried to kill my sister and I did not want him to touch my mom**
- The lawyers want to drag this out to drain the Trust funds. Please make sure she knows this and knows what has been spent and why?
- I think it is important to know what has been taken out of the house and what is still there. My father and mother had very valuable pieces of Art. Where is that art? This was so poorly executed. They are stealing from her!!!

Saturday 10/8/16

- Once again we started to talk about how she was doing and she was good
- We talked in a few high level discussion but nothing specific
- Not sure who the care givers work for my mom or Bill. Afraid to be open and do not my mom to be at risk to being hurt. I feel like the caregiver reports back to Bill and Amy but I hope not.

Tuesday 10/11/16

- I told her about her grandchildren and what had been happening
- My mom then asked me if I took \$30,000 and I said no and why was she asking and where the information came from. The care giver stepped in and told my mom that Amy and Bill tell her all of the time that I took the \$30,000 with no proof. And told her enough times she believed it. I explained that my sister never liked me and would do anything to make me look bad.
- The care giver told my mom that Amy and Bill are always negative and talking bad about me and my brother.
- The care giver has also observed my brother and I are the good guys.
- I told her I had heard that she left her part of the estate (1/2) to Bill and Amy. She immediately said NO SHE DID NOT. She has left them nothing.

1. My mom's "Will" needs to be reviewed with her immediately. Whatever she thought 2 years ago, her opinion has changed.
2. Please take care of this immediately!
3. My mom's 3 kids were to be her beneficiaries, no one else

- When it was time to hang up she told me it was great from me and to call again
- She told me her first lawyer was coming over on Thursday to explain the situation, someone better be on the call and record and documents this meeting!! And NOT Amy or Bill. Not sure of his name.
- You all have been telling me you are watching over my mom, it seems to me you are just taking her money and doing nothing. As she has been out of the loop

Wednesday 10/12/16

- I told her about her grandchildren and what had been happening
- General information and about what was on TV
- I told her I loved her very much, and she said "I love you too Nori". My heart melted
- She sounds like she could have a cold

After conversation with her the following was observed

1. Although she has been copied on the email, she has NOT read any of them
2. We had set up my mom to pay her bills on line, but Amy later said Mom didn't want to use the online account because she liked to write checks. By paying the bills via a check, this allowed Amy and Bill control the checking account. It doesn't surprise me that her leach husband is using Mom's credit card and car.
3. Bill was taking inventory of the estate for the lawyer after my Dad died. He told Patty (Brad's wife) that he found an attorney who would "work around" the requirement of Amy needing a Trustee for her inheritance. That person was Brook Travis, who told my Mom not to answer the phone when anyone called. I am not sure why unless trying to dissociate her from others. Bill and Amy systematically isolated my Mom from her family and friends and now control everything she does, and who she sees and talks to. Now that she has a caregiver she picks up the phone or care giver screens the calls. My children have called her and she is picking up the phone. I'm sure Travis helped them. This is all described in the "Undue Influence" papers you have been sent. By talking bad about me and Brad to Mom, Amy and Bill have poisoned the lifelong relationship that we had with her.
4. I have many cards from Mom before 2012, where she wrote me 'how proud she was of me and my family.' I will cherish those memories.
5. My mom was unaware that Brad wanted to pay her back for the loan. Seems like whoever was supposed to tell her did not! Amy is really a sick individual. She wants the world to be as miserable as she is.
6. My mom needs stimulation from her family and friends or her Alzheimer's disease will progress.
7. Someone needs to NOT allow Bill and Amy into my mom's house if there is still stuff in it

I am expecting you to take action immediately and protect my mother!!

Brad and I miss her tons and want to see her again.

Nicole,

You should call my mom to go over her finances and reassure her that my Dad left her plenty of money, so she doesn't think she needs to go back to work. There also has to be some system of checks and balances so Amy and Bill don't drain her funds to support themselves.

Make sure my mom knows that we are in this mess because Brook Travis wouldn't let Brad pay back the money. The lawyers have dragged this out for their own financial benefit. I am speaking up because this now is affecting me directly because the lawyers are getting some of my future inheritance. If Travis had listened to Brad in January 2015, we would never have had all this heartache, expense, and aggravation.

Brook needs to make this right. My mom needs to tell Brook Brad wants to pay this loan back with interest and stop the thousands of dollars to all these attorneys. I feel Brook and Bill/Amy are in this together.

I know there is more but these are the main things which were talked about.

Thank you, Nori

EXHIBIT “9”

EXHIBIT “9”

EXHIBIT “9”

1520
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(Pro Hac Vice Pending)
Attorneys for Dinny Frasier, Individually

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the matter of

CASE NO. PR16-00128

JORDAN DANA FRASIER FAMILY
TRUST

DEPT. NO. 15

DECLARATION OF BARNET RESNICK, ESQ.

I, BARNET RESNICK, declare as follows:

1. I am an attorney duly licensed to practice law before all courts in the State of California for over 40 years and have applied to be admitted pro hac vice in this matter.
2. I am a partner at the law firm of Vogt, Resnick & Sherak, LLP ("VRS"), California counsel for Dinny G. Frasier, a party in the above-captioned matter.
3. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.
4. Pursuant to this Court's order, all interested parties in the Matter of the Jordan Dana Frasier Family Trust, namely, Dinny G. Frasier ("Dinny") and myself as Dinny's attorney; Nicole Shrive, trust officer of Premier Trust, Inc. and its attorney G. David Robertson, Esq.

1 of Robertson, Johnson, Miller & Williamson ("Mr. Robertson"); Bradley Frasier ("Bradley")
2 and his attorney, Kristen Caverly, Esq. of Henderson, Caverly, Pum & Charney, LLP ("Ms.
3 Caverly"); Amy Frasier-Wilson ("Amy") in pro per (attended with her husband Bill Wilson);
4 and Nori Frasier ("Nori") in pro per, attended mediation at JAMS in Orange County,
5 California, mediated by Justice Jeffrey King (ret.) ("Justice King") on January 27, 2017.

6 5. Prior to the mediation, the unrepresented parties (Amy and Nori) were urged to
7 consult with independent legal counsel and were admonished during the mediation for not so
8 doing, including by Mr. Robertson, counsel for Premier. Attached hereto as Exhibit 1 is a
9 true and correct copy of a January 20, 2017 email to the parties making clear that the
10 mediation would impact the rights of Nori, Amy and Brad.

11 6. Attached hereto as Exhibit 2 is a true and correct copy of January 26, 2017
12 correspondence to all parties of the mediation making clear they are free to bring counsel to
13 the mediation. However, both Amy and Nori voluntarily chose to attend, and to continue
14 with, the mediation without representation.

15 7. Dinny had to leave the mediation after about six hours, due to emotional distress
16 caused by her children.

17 8. After a nine-hour long mediation, the parties reached a tentative settlement agreement
18 (the "Agreement"), which would be contingent on this Court's approval and subject to
19 Dinny's capacity assessment by a qualified gerontologist. A true and correct copy of the
20 Agreement is attached to the Motion as Exhibit 2.

21 9. At the mediation, Amy and Nori wanted to include a provision that would provide
22 them a gift of ten thousand dollars from Trust A to be divided equally between them. Said
23 provision was written into the Agreement, and Amy and Nori both initialed next to the
24 provision to express their consent to the term.

25 10. At the mediation, the parties agreed that I would draft the further, more detailed
26 settlement agreement based on the Agreement and circulate to all parties for review and
27 comments.

28 11. The parties agreed that Justice King would retain the original Agreement that was

1 signed by all the parties and that he would release the original to me upon his receiving
2 authority from Nori to do so (she subsequently sent him such authorization).

3 12. On or about February 1, 2017, I was informed by John Ryan of Berkshire Ross ("Mr.
4 Ryan") and Nori that Mr. Ryan represents Nori with respect to this matter and that all parties
5 should communicate to Nori through him as her attorney.

6 13. On February 1, 2017, Gina Kim, my associate, emailed the draft settlement agreement
7 to Mr. Robertson, Ms. Caverly, Mr. Ryan, and Amy.

8 14. Attached hereto as Exhibit 3 is a true and correct copy of the email transmitting the
9 draft Further Agreement.

10 15. On February 2, 2017, Mr. Ryan of Berkshire Ross of Chicago, Illinois, called VRS
11 and I spoke to him. Mr. Ryan stated that he was the "counsel of record" for Nori in all
12 matters related to the Frasier Family Trust. He also stated that Nori is willing to sign the
13 draft settlement agreement but with a modified term. He stated that he would modify the
14 agreement with respect to Nori's change and circulate it to all parties for review. That is the
15 last time VRS heard from Mr. Ryan, despite numerous emails to him. Later, I was informed
16 that Mr. Ryan was not an attorney but was in fact a paralegal at Berkshire Ross.

17 16. On February 3, 2017, Gina Kim received comments from Ms. Caverly, counsel to Dr.
18 Brad Frasier, requesting certain changes to the draft agreement. Attached hereto as Exhibit
19 4 is a true and correct copy of the mentioned email.

20 17. On February 6, 2017, Gina Kim sent a reminder email to Mr. Robertson, Mr. Ryan,
21 and Amy to provide comments with a specific due date. No comments were received.
22 Attached hereto as Exhibit 5 is a true and correct copy of the mentioned email.

23 18. On February 10, 2017, Gina Kim circulated via email to all parties the fully executed
24 Agreement signed by Dinny, and reiterated the request for comments to the draft Further
25 Agreement with a specific due date.

26 19. Attached hereto as Exhibit 6 is a true and correct copy of the February 10, 2017 email.

27 20. No comments to the draft settlement agreement were received from Mr. Robertson or
28 his partner, Mr. Williamson, on behalf of Premier Trust.

- 1 21. On March 1, 2017, Gina Kim sent another email to all parties requesting comments to
2 the draft settlement agreement, to be provided no later than 5pm on March 6, 2017 or that
3 their right to comment would be deemed waived.
- 4 22. Attached hereto as Exhibit 7 is a true and correct copy of the March 1, 2017 email
5 from Gina Kim to all parties.
- 6 23. On March 1, 2017, Mr. Robertson emailed that he was not available to review the
7 draft settlement agreement until after March 15, 2017. A true and correct copy of Mr.
8 Robertson's March 1, 2017 email is attached hereto as Exhibit 8.
- 9 24. On March 3, 2017, I emailed all parties of my intent to seek court intervention on
10 March 24, 2017, to implement the terms of the Agreement should the parties not agree with
11 the terms of the draft Further Agreement. Attached hereto as Exhibit 9 is a true and correct
12 copy of the March 3, 2017 email to all parties.
- 13 25. On March 4, 2017, Nori emailed Gina Kim confirmation that Mr. Ryan should no
14 longer be considered her attorney. She further informed Gina Kim that she would be out of
15 the country until March 20, 2017 and that she needed additional time to review the
16 agreement upon her return. Gina Kim inquired to Nori as to why she had sat on the
17 agreement for over a month without reviewing or providing comments. Attached hereto as
18 Exhibit 10 is a true and correct copy of the March 4, 2017 email chain between Gina Kim
19 and Nori.
- 20 26. Gina Kim responded to Mr. Robertson to suggest that his colleague, Rich Williamson,
21 who is familiar with the Frasier Family Trust issues, review and provide comments in his
22 stead before the March 15 date. Mr. Robertson replied that he would consider this option but
23 never relayed a subsequent answer to VRS' proposal. Attached hereto as Exhibit 11 is a true
24 and correct copy of the referenced email chain between Gina Kim and Mr. Robertson.
- 25 27. On March 6, 2017, VRS obtained the original signed Agreement released by Justice
26 King and circulated it via email to all parties. By the same email, Gina Kim again requested
27 comments to the draft settlement agreement but extended the deadline to comment to
28 5:00pm on March 10, 2017, and reiterated VRS' intent to seek court if the parties were

1 unable to agree on the terms of the draft settlement agreement. Attached hereto as Exhibit 12
2 is a true and correct copy of the referenced March 6, 2017 email to all parties.

3 28. On the same day, Gina Kim emailed all parties about its decision to move forward
4 with the plan to file the instant Motion. A true and correct copy of that email is attached
5 hereto as Exhibit 13.

6 29. On March 15, 2017, I spoke to Aaron Fricke ("Mr. Fricke") who represented himself
7 as new counsel for Amy. During the conversation, Mr. Fricke stated that Amy does not
8 consent to the terms of the Agreement nor the draft Further Agreement. He also accused me
9 of unethical conduct and threatened to file three separate petitions with this Court if VRS
10 does not agree to the new terms proposed by his client, which include, but are not limited to,
11 making the terms of Trust A non-amendable and irrevocable by Dinny, and to "lock in" the
12 current value of Dinny's current residence (located in San Juan Capistrano, California, to
13 which Dinny was unhappily moved into after leaving the rehabilitation facility) so that Amy
14 receives more money upon Dinny's death. I am informed and believe that this proposal is a
15 tactical ploy by Amy to ensure that she gets more money out of Dinny against Dinny's
16 wishes by robbing Dinny of her right to leave her share of the trust estate to her chosen
17 beneficiaries.

18 30. I am informed and believe that Amy and Bill have been sending surrogates to call and
19 visit Dinny to persuade her to fire all of her "team," that she should leave everything to Amy
20 and Bill, and that Amy and Bill are the only people who are watching out for Dinny's best
21 interest.

22 31. VRS made numerous requests for others to provide comments and provided sufficient
23 time to the parties to comment so that the terms to which everyone agreed at the mediation
24 could be implemented and this matter be resolved once and for all. Despite such efforts, the
25 parties have refused to cooperate and some appear to be trying to back out of the terms to
26 which they had previously agreed.

27 32. On or about March 27, 2017, I was informed that Mr. Fricke moved to withdraw as
28 counsel for Amy.

1 33. On April 7, 2017 a conference call was held and was attended by myself, Ms. Gina
2 Kim of my firm, our Nevada counsel, Ms. O'Mara, Ms. Caverly, Mr. Robertson, Nicole
3 Shrive of Premier, Nori Frasier, and Amy Frasier Wilson. Mr. Aaron Fricke, who was still
4 counsel of record to Amy Frasier at the time, also participated.

5 34. Nori indicated stated her desire to execute the Further Agreement and finally resolve
6 this case.

7 35. Mr. Robertson took the position that the Agreement may not be enforceable because
8 Nori and Amy were without counsel at the January mediation.

9 36. Amy stated her issues with the Further Agreement, which issues were consistent with
10 the written comments she provided to VRS. She informed the parties that she was not ready
11 to sign because she wants to "keep her options open."

12 37. On April 14, 2017, Gina Kim emailed all counsel of record, Amy and Nori a redacted
13 copy of Dinny's capacity evaluation as well as a marked up copy of the Further Agreement,
14 which copy included the comments from Amy and incorporated comments from Ms.
15 Caverly. A true and correct copy of that email is attached hereto as Exhibit 14.

16 38. All parties were informed of their right to bring independent counsel or anyone else
17 who would be helpful in reaching a resolution to the mediation and to consult with counsel
18 with respect to the settlement agreement. Brad, Amy, and Nori were all informed of and
19 were aware of the significant impact the mediation could have on their inheritance rights.
20 Despite such communications, Amy and Nori chose to attend the mediation without
21 representation. In particular, Amy, having waived her right to legal counsel on multiple
22 occasions, is now seeking to overturn the agreement that all parties had reached after the
23 nine-hour long mediation.

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

26 Executed this 14th day of April, 2017, at Newport Beach, California.


27
28

6 BARNETT RESNICK

EXHIBIT 1

Barnet Resnick

From: David Robertson <gdavid@nvlawyers.com>
Sent: Friday, January 20, 2017 1:08 PM
To: Barnet Resnick; kcaverly@hcesq.com; MSullivan@rbsllaw.com; Rich Williamson
Cc: nshrive@premiertrust.com; dinnyfrasier@juno.com; nori_frasier@hotmail.com;
digitalmermaid8@gmail.com; bfrasiermd@gmail.com; john@gonzalezcpa.com; Teresa
Stovak
Subject: Mediation Details

Dear Counsel and Interested Parties:

This will confirm that the mediation is going forward next Friday, January 27, 2017, at the offices of JAMS located at 500 North College Blvd., 14th floor, Orange, California 92868 (714) 939-1300 beginning at 9:30 AM. The mediation will be conducted by Judge King. The purpose of the mediation is to resolve disputes relating to the medical office building. Everyone is encouraged to attend, and particularly Brad, Nori and Amy as the outcome of the mediation will likely have an impact on their inheritances.

As indicated in my prior email, anyone may submit a mediation brief with no page limits on or before Tuesday, January 24, 2017. The mediation brief can be confidential to the Judge or available for review by everyone. Alternatively, anyone may submit two mediation briefs, one of which is intended to be confidential and the other to be shared with all parties. Mediation briefs should be submitted by email to Judge King's assistant Karla Adams at her email address kadams@jamsadr.com, with a copy to everyone on this email if you intend for your mediation brief to be public. Conversely, if you prefer your mediation brief to be confidential, then only submit it to Karla and advise her in the email that you are requesting your brief be confidential. If you have any questions or concerns, you can call Karla at (213) 253-7786.

Also, if you have any questions or comments that you would like to share with the entire group of interested parties, then please use the "reply all" feature in response to this email. You may also call me with any questions or comments at (775) 329-5600.

We are looking forward to seeing you all next Friday.

Best regards,
David

Sent from my iPad

EXHIBIT “10”

EXHIBIT “10”

EXHIBIT “10”



03/25/2016

Ref: Dinny Frasier

To Whom It May Concern:

This letter is in reference to Dinny Frasier and her evaluation and treatment at our clinic.

Dinny was evaluated at our clinic in March of 2015. She came in for the assessment of her memory problems, cognitive abilities, and depression.

Her goals and objectives were to improve her memory and cognitive abilities which started to decline starting in 2010. At the time, her husband had become ill and she gave up much of her physical and emotional strength to care for him until he passed away in October of 2014. She also complained of insomnia and sleep difficulties since then.

After completion of full evaluation including Beck Depression Inventory, Web-Neuro, Connor's Continues Performance Test, Amen Symptoms Checklist, Mental Status Exam, SPECT scans and cognitive testing Montreal Cognitive Assessment (MOCA), she was diagnosed with Mild Cognitive Impairment (331.83) and Adjustment Disorder with Depression.

Her MOCA test score was 25 and her repeat MOCA test score of 2/15/2016 was 26, which classifies her in a Mild Cognitive Impairment category.

It is my clinical opinion that Dinny suffers from mild cognitive impairment but retains the capacity to make decisions.

Please don't hesitate to contact me at 949-266-3700 if you should have any questions or concerns.

Sincerely,

Arsalan Darmal, M.D.

Diplomate American Board of Psychiatry & Neurology
Board Certified Child, Adult and Adolescent Psychiatrist
Amen Clinics, Inc.

Amen Clinics Southern California
3150 Bristol St. Suite 400
Costa Mesa, CA 92626
P (949) 564-2700
F (949) 266-3700

EXHIBIT “11”

EXHIBIT “11”

EXHIBIT “11”



April 7, 2017

JAMES E. SPAR, M.D.
PROFESSOR, DEPARTMENT OF PSYCHIATRY
& BIOBEHAVIORAL SCIENCES
DIVISION OF GERIATRIC PSYCHIATRY
DAVID GEFKEN SCHOOL OF MEDICINE AT UCLA
760 WESTWOOD PLAZA
LOS ANGELES, CALIFORNIA 90024-1759

Barnet Resnick
Vogt Resnick Sherak, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849

Dear Mr. Resnick:

At your request I evaluated Mrs. Dinny Frasier, an 87-year old woman, in my office on February 28, 2017. Mrs. Frasier was accompanied to my office by Janie Mulrain, a professional fiduciary, and Desaraï Broyles, her caregiver, both of whom, at Mrs. Frasier's insistence, remained in the office during the evaluation, but did not interfere with the evaluation in any way. Mrs. Frasier arrived 22 minutes late for the evaluation, so the information I was able to gather was somewhat limited. I asked Mrs. Frasier why she was being evaluated, inquired about her estate and her estate plans, and administered a general mental status examination, a Folstein Mini-Mental State Examination (MMSE) and several additional tests of naming, remote memory, and frontal executive function as reflected by clock drawing.

Mrs. Frasier initially thought she was being evaluated for pain in her left hip and back, which began when she fell down a flight of 13 stairs a few months ago. But when I asked her about recent contact with attorneys, she told me that she had seen Mr. Brooks, her regular attorney, and you, and was working on changes in her will and trust. She told me that she has three children: Brad, Amy, and Nori, and she has become estranged from all three [REDACTED]

[REDACTED] She has already given each of her five grandchildren \$100 thousand for college, and the existing version of her estate plan would distribute her estate among the three children. [REDACTED]

[REDACTED] the Irvine Shelter. [REDACTED]

Mrs. Frasier told me that her estate includes her half (the other half is in her late husband's trust) of three houses: the one in which she is living, located in San Juan Capistrano (which she said her daughter, son-in-law and son directed the purchase of with her funds, for approximately [REDACTED]) the house in which she had been living before the fall, at 3 Pinewood Avenue, in



Irvine, CA; and a house in Palm Springs. She could not recall the address of the house in San Juan Capistrano because she only moved there recently. She also has about [REDACTED] in cash.

On general mental status examination Mrs. Frasier was well dressed and groomed, alert and in no distress, and quite cooperative with the examination. Her mood was euthymic, her affect was appropriate in direction and degree, but she was visibly anxious and shaky and was unable to come up with several personal details until later in the evaluation, when she had calmed down a bit. There were no abnormalities of the form, flow or content of thought, and her psychomotor behavior was unremarkable. She scored 18/30 on the MMSE, losing one point each on orientation to the year, month, date, day, season, place, three on recall (although she correctly recalled one item with a category prompt), one on three-step command, and one on figure copying. This score is consistent with moderate cognitive impairment for her age and advanced education. Her performance on the other tests was mixed: her naming and clock drawing were mildly impaired, and her recall of remote, impersonal information was more moderately impaired. I do believe that her performance was negatively affected by anxiety, and if the evaluation were less rushed and I had the opportunity to help her relax and settle down, she would have performed somewhat better.

Based upon this evaluation I believe that Mrs. Frasier has mild to moderate global cognitive impairment. However, despite this impairment, she was able to identify her assets and her heirs, and clearly understood that her trust and will would determine the distribution of her wealth after she dies. Further, I did not elicit any thought content that suggested a delusional basis for her proposed estate plan changes. Accordingly, I believe that she retains the testamentary capacity (as defined in Cal. Probate Code §6100.5) required to modify her estate plan [REDACTED]. I also believe that she retains the capacity to enter into contracts, *as long as she is not required to rely on her unaided recall alone.*

Since I evaluated her, I have learned that Mrs. Frasier is serving as co-trustee (with Premier Trust of Nevada) of her living trust, and I was asked if, in my opinion, she is capable of continuing in that role. I believe she does retain the capacity to serve as co-trustee, as long as she has a competent co-trustee with whom she can consult in the management of trust assets.

Sincerely,

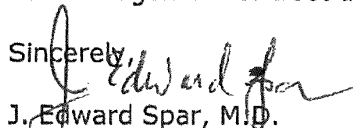

J. Edward Spar, M.D.
Professor of Psychiatry
Division of Geriatric Psychiatry

EXHIBIT “12”

EXHIBIT “12”

EXHIBIT “12”

David Robertson

From: Barnet Resnick <bresnick@VRSLaw.net>
Sent: Tuesday, May 02, 2017 7:37 PM
To: David Robertson
Cc: Gina Kim; Rich Williamson; Nicole Shrive (nshrive@premiertrust.com); comara@fclaw.com
Subject: Re: Dinny Frasier

David: your e mail does not deserve a response. I am not negotiating how I represent my client.

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

On May 2, 2017, at 7:29 PM, David Robertson <gddavid@nvlawyers.com> wrote:

Barry - it sure is funny that when I spoke with her last week she was very pleasant and happy to speak with me. After I got off the call I sent you an email saying that I had a pleasant conversation with her. A day or so later I got an email from your office that she does not want to speak with me anymore. So, yes, I believe you are somehow involved in telling her not to speak to me without you on the phone or present. To resolve this, I would be willing to hold a joint call with her where we both tell her that she should speak to me alone. If you are willing to do that, then I am willing to accept your position that you are not influencing her. Otherwise, no, I do not accept that position. Please advise if you are so willing. David

Best regards,

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gddavid@nvlawyers.com
Please visit our website at www.nvlawyers.com

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any tax-related matter addressed herein. TRANSMISSION OF THIS INFORMATION IS NOT INTENDED TO CREATE, AND RECEIPT DOES NOT CONSTITUTE, AN ATTORNEY-CLIENT RELATIONSHIP.

From: Barnet Resnick [<mailto:bresnick@VRSLaw.net>]
Sent: Tuesday, May 02, 2017 5:09 PM
To: David Robertson
Cc: Gina Kim; Rich Williamson; Nicole Shrive (nshrive@premiertrust.com); comara@fclaw.com; Gina Kim
Subject: RE: Dinny Frasier

David: let me repeat. I am not insistent, dinny is.
She wants me to be present when she speaks to and/or Nicole.
I am following my client's direction.
When you speak to her with me present, I assure you that you can speak in confidence.
barry

From: David Robertson [<mailto:gdavid@nvlawyers.com>]
Sent: Tuesday, May 02, 2017 11:02 AM
To: Barnet Resnick
Cc: Gina Kim; Rich Williamson; Nicole Shrive (nshrive@premiertrust.com); comara@fclaw.com
Subject: RE: Dinny Frasier

Hi Barry:

No offense intended.

As you know, certain of the beneficiaries believe that you are influencing Dinny's decisions. So, in addition to the reasons already noted, it is important that I speak with her without you present or on the phone to ensure that I have addressed those expressed concerns and allay those fears.

I don't see why you are so insistent that I not speak with my client in confidence.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
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Email: gdavid@nvlawyers.com
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From: Barnet Resnick [<mailto:bresnick@VRSLaw.net>]
Sent: Tuesday, May 02, 2017 10:56 AM
To: David Robertson
Cc: Gina Kim; Rich Williamson; Nicole Shrive (nshrive@premiertrust.com); comara@fclaw.com
Subject: Re: Dinny Frasier

David: I find your comment offensive and unprofessional.
I represent dinny and have no other agenda.

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

On May 2, 2017, at 9:46 AM, David Robertson <gddavid@nvlawyers.com> wrote:

Hi Barry:

As previously explained, there are conflicts between Dinny acting in her personal capacity and her trustee capacity.

As to speaking freely, that is a two-way street. Besides me not feeling comfortable consulting with Dinny on decisions she needs to make in her trustee capacity while her personal counsel is present, I also need to be assured that Dinny is not being influenced in any way in the conversation. She may feel like she has to give different answers if you are present or on the phone.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
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Please visit our website at www.nvlawyers.com

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From: Barnet Resnick [<mailto:bresnick@VRSLaw.net>]
Sent: Tuesday, May 02, 2017 8:07 AM
To: David Robertson
Cc: Gina Kim; Rich Williamson; Nicole Shrive (nshrive@premiertrust.com); comara@fclaw.com
Subject: Re: Dinny Frasier

David: I will speak to her again.
You can speak freely with her with or without my presence.
I truly do not understand your logic.
Is there something that you will say to her that you do not want her personal counsel to hear?

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

On May 2, 2017, at 8:00 AM, David Robertson <gddavid@nvlawyers.com> wrote:

Hi Barry. It is unfortunate that Dinny is no longer willing to communicate with her trust counsel in a manner which allows us to speak freely. This will obviously make it difficult to prepare for the hearing, and may also be an issue at the hearing. I would ask that you strongly encourage her to reconsider her position. Thanks, David

Sent from my iPhone

On May 2, 2017, at 6:57 AM, Barnet Resnick <bresnick@VRSLaw.net> wrote:

David: I have now been able to speak with my client, dinn,y since your renewed request of yesterday. She advised me that her position has not changed.
Let me be perfectly clear that I am not taking any position regarding your communications with my client. My client is taking the position, to wit: she does not wish to communicate with the corporate co trustee or it's counsel without her personal attorney present. Please advise when you wish to have this call. I will make it happen.

BARRY RESNICK, ATTORNEY

VOGT/RESNICK/SHERAK, LLP
949-851-9001

On May 1, 2017, at 4:34 PM, David Robertson
<gddavid@nvlawyers.com> wrote:

Hi Gina:

I would like to contact Dinny but have not heard back from you or Barry in response to our below email of 4/21.

Please advise ASAP whether you are still taking the position that trust counsel cannot speak to Dinny without Barry participating in the call.

We would appreciate a response today if possible.

Thanks,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER &
WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gddavid@nvlawyers.com
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From: David Robertson
Sent: Friday, April 21, 2017 11:04 AM
To: 'Gina Kim'; Rich Williamson; Nicole Shrive (nshrive@premiertrust.com)
Cc: Barnet Resnick; comara@fclaw.com
Subject: RE: Dinny Frasier

Hi Gina:

We cannot abide by the request in the letter. My communications with Dinny are privileged and we would be waiving that privilege if Barry participates in those communications because he represents Dinny in an entirely different capacity. It is not in the Trusts' best interests to allow such a waiver.

Dinny's role as Co-Trustee differs markedly from her role as a beneficiary of the Trusts, as well as her personal role. Thus, decisions she makes as a Co-Trustee may - and likely will - differ from decisions she would otherwise make which are based strictly upon her own personal interests.

For example, she has clearly stated that she is "estranged" from her children, and therefore may not feel any obligations to them in her personal capacity. She does, however, have such obligations to them in her Co-Trustee capacity, and also obligations to protect the Trusts -- even if what is necessary to protect the Trusts runs counter to her own interests.

Best regards,

David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER &
WILLIAMSON
BANK OF AMERICA PLAZA
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From: Gina Kim
[\[mailto:gkim@VRSLaw.net\]](mailto:gkim@VRSLaw.net)
Sent: Friday, April 21, 2017 10:28 AM
To: David Robertson; Rich Williamson;
Nicole Shrive
[\[mailto:nshrive@premiertrust.com\]](mailto:nshrive@premiertrust.com)
Cc: Barnet Resnick; comara@fclaw.com
Subject: Dinny Frasier

David/Rich, and Nicole:

Please see attached letter dated
April 20, 2017 from Dinny Frasier.

Please acknowledge receipt of this
letter and confirm that you will all
abide by Dinny's wishes as stated in
said letter.

Thank you for your cooperation and
courtesy.

Sincerely,

Gina H. Kim
Attorney
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849
T. 949.851.9001
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gkim@vrslaw.net
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<image001.png>

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David Robertson, Premier Trust
Gentlemen

As you are aware, I have a
personal attorney, Barry Resnick,

I have utmost confidence in him,
and depend on him to assist me in
all legal matters.

In the future, when you communicate ~~with~~ ^{with me,}
in any form, I insist in any form
I insist that you advise Mr. Resnick of your
intentions as well as what time and date
you would like to take place.

I do not want to communicate with you
without my personal attorney,
Mr. Resnick present. (phone or in person)
Please acknowledge receipt of this, as
well as your agreement.

Thank you for understanding

Dinny Frasier

April 20, 2017

1 **3975**
2 BRADLEY J. RICHARDSON, ESQ.
3 Nevada Bar No. 1159
4 COURTNEY MILLER O'MARA, ESQ.
5 Nevada Bar No. 10683
6 FENNEMORE CRAIG, P.C.
7 300 East Second Street, Suite 1510
8 Reno, NV 89501
9 Telephone: (775) 788-2200
10 Facsimile: (775) 786-1177
11 e-mail: brichard@fclaw.com
12 comara@fclaw.com

13 BARNET RESNICK, ESQ. (*Pro Hac Vice*)
14 California Bar No. 599096
15 DAVID A. SHERAK, ESQ (*Pro Hac Vice*)
16 California Bar No. 202801
17 VOGT RESNICK & SHERAK, LLP
18 4400 MacArthur Blvd., Suite 900
19 Newport Beach, CA 92658
20 Telephone: (949) 851-9001
21 Fax: (949) 833-3445
22 Email: dsherak@vrslaw.com
23 brednick@vrslaw.com

24 *Attorneys for Dinny Frasier, Individually*

25 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

26 **IN AND FOR THE COUNTY OF WASHOE**

27 In the matter of

CASE NO. PR16-00128

28 JORDAN DANA FRASIER FAMILY
TRUST

DEPT. NO. 15

29 **PRE-HEARING STATEMENT OF DINNY FRASIER, INDIVIDUALLY**

30 COMES NOW, Dinny Frasier, individually, by and through her counsel of record, Bradley J.
31 Richardson and Courtney Miller O'Mara of the law firm of Fennemore Craig, P.C., and David A.
32 Sherak and Barnet Resnick of the law firm of Vogt Resnick & Sherak, LLP and hereby submits her
33 pre-hearing statement in advance of the evidentiary hearing on the motion to enforce the January 27,
34 2017 settlement agreement of the parties.

35 //

1 **I. INTRODUCTION**

2 The Court should approve the written mediation agreement and dismiss the case because all
3 material terms were agreed to, and the current areas of disagreement involve those material terms to
4 which all parties agreed but which Amy Frasier Wilson has asked to change.

5 **II. BACKGROUND**

6 Pursuant to this Court's order, all interested parties in the Matter of the Jordan Dana Frasier
7 Family Trust, namely, Dinny G. Frasier and her attorney Barnet Resnick, Esq. of Vogt, Resnick &
8 Sherak, LLP, Nicole Shrive, trust officer of Premier Trust, Inc. and its attorney G. David Robertson,
9 Esq. of Robertson, Johnson, Miller & Williamson, Bradley Frasier and his attorney, Kristen
10 Caverly, Esq. Of Henderson, Caverly, Paum & Charney, LLP, Amy Frasier Wilson in pro per, and
11 Nori Frasier in pro per, attended a court-ordered mediation at JAMS in Orange County, California,
12 mediated by Justice Jeffrey King (ret.) on January 27, 2017 and ended the mediation by signing a
13 binding mediation agreement (the "Agreement").

14 At the January 27, 2017 mediation at which all parties participated in pro per or through
15 their counsel, all material terms of the settlement among the parties were negotiated and reduced to
16 writing. Since the mediation, ongoing efforts have been made to finalize and sign a more detailed
17 Further Agreement which include the material terms to which the parties agreed at the mediation.

18 Vogt, Resnick & Sherak ("VRS") has made numerous requests for parties to provide their
19 comments to the draft Further Agreement since the mediation. After much delay, VRS received
20 comments from all the parties as late as April 21, 2017.

21 Dinny moved the Court for enforcement of the Agreement (the "Motion to Enforce") on
22 April 14, 2017. Concurrent with filing the Motion to Enforce, Dinny filed an ex parte motion for
23 order shortening time regarding briefing on the Motion to Enforce. On April 19, 2017 the Court
24 entered its Order Setting Evidentiary Hearing and Vacating trial, setting an evidentiary hearing
25 regarding the Motion to Enforce for May 8, 2017. The evidentiary hearing was later reset to May 9,
26 2017, after a stipulation and order regarding same was filed.

27 //

28 //

1 **III. ALL MATERIAL TERMS HAVE BEEN AGREED TO AND THE AGREEMENT**
2 **SHOULD BE ENFORCED**

3 The Court should approve the mediation agreement and dismiss the case because all material
4 terms were agreed to, and the current areas of disagreement involve those material terms to which
5 all parties agreed but which some of the parties are trying to change.

6 Despite the agreement that the parties reached at the mediation, Amy Frasier Wilson is
7 attempting to back out of and change the material terms to which they previously agreed. Mr.
8 Robertson has indicated to the other counsel that Premier is unwilling to move forward with the
9 Agreement if Amy does not want to do so. For the reasons set forth in the Motion to Enforce and
10 those provided here, Dinny believes the Agreement is enforceable.

11 **A. Dinny's Evaluation by a Qualified Gerontologist**

12 One of the material terms which some of the parties are trying to back out of is the validity
13 of Dr. Spar's assessment of Dinny and his letter dated April 7, 2017 ("April 7, 2017 Letter"), which
14 redacted copy was provided to all parties on April 14, 2017. The settlement agreement required
15 only that Dinny be evaluated by a qualified gerontologist to assess her capacity to contract and to
16 make testamentary disposition of her estate. Dr. Spar opined in his April 7, 2017 letter that Dinny
17 possessed testamentary and contractual capacity. Some of the parties have questioned and attacked
18 Dr. Spar's qualifications, impartiality, and sufficiency of knowledge of Dinny's circumstances to
19 provide an informed medical opinion. Same parties are attempting to change this material term,
20 which requires only that Dinny be assessed by a qualified gerontologist, to require that the
21 gerontologist be court-appointed. The requirement that the gerontologist be court-appointed was
22 not brought up by any of the parties at the mediation. Despite the satisfaction of Dinny's capacity
23 assessment, VRS contacted Dr. Spar to inform him of the issues that some parties brought up with
24 respect to his assessment letter. Dr. Spar revised his April 7, 2017 letter to address said concerns
25 ("April 26, 2017 Letter"). A redacted copy of the April 26, 2017 Letter was provided to all parties
26 on April 28, 2017, and is attached hereto as EXHIBIT 1. This letter was obtained not because it was
27 required, but in an effort to address and alleviate the parties' concerns about the validity of Dinny's
28 assessment in order to help resolve outstanding disputes among the parties.

A.

1 **B. Appraisal of Real Property in Trust A**

2 Another material term to which all parties agreed is the selection of an appraiser to appraise
3 the value of certain real properties in Trust A. All parties agreed that the appraisal would be agreed
4 to by and between Barnet Resnick, Esq. and Kristen Caverly, Esq. and that the values obtained
5 would be binding on all parties. Despite this agreement, Ms. Amy Frasier Wilson has tried to back
6 out of the agreement and wants to require that the appraiser be court-appointed. The selection of an
7 appraiser was a material term which all parties had the opportunity to negotiate at the mediation.
8 However, in the spirit of reaching a global resolution to end this litigation, Dinny is willing to
9 modify the Agreement to have the appraiser selected by this Court.

10 **C. Discount Percentage to Apply to the Trust's Tenant-in-Common Interest in**
11 **Vista Way Property**

12 Another material term to which all parties agreed is calculation of the Vista Way property's
13 tenant-in-common interest based on the average between a discounted fifty percent interest and a
14 partitioned interest. Despite this agreement, Ms. Amy Frasier Wilson has indicated she wants to
15 change the material term to require a maximum rate of discount. In the spirit of reaching a global
16 resolution to end this litigation, Dinny is willing to modify the Agreement to agree to a maximum
17 discount rate to be applied to the Vista Way property.

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1 **IV. CONCLUSION**

2 For the foregoing reasons and those set forth in the Motion to Enforce, Dinny believes the
3 Agreement should be enforced and the case dismissed.

4 The undersigned does hereby affirm that the preceding document does not contain the social
5 security number of any person.

6 DATED: May 5, 2017

7 **FENNEMORE CRAIG, P.C.**

8 By: /s/ Courtney Miller O'Mara

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Nevada Bar No. 1159
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19 *Attorneys for Dinny Frasier, Individually*
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of FENNEMORE CRAIG, P.C., and that on this date, pursuant to NRCP 5 (b), I am serving a true copy of the foregoing PRE-HEARING STATEMENT OF DINNY FRASIER, INDIVIDUALLY on the parties set forth below by:

XX	Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices
	Certified Mail, Return Receipt Requested
	Via Facsimile (Fax)
	Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered
XX	By Notice of Electronic Filing via the electronic filing system as maintained by the Court Clerk's Office

addressed as follows:

Michael Sullivan, Esq.
Scott L. Hernandez, Esq.
ROBISON BELAUSTEGUI, SHARP &
LOW
71 Washington Street
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Attorneys for Bradley Frasier

G. David Robertson, Esq.
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WILLIAMSON
50 W. Liberty Street, Suite 600
Reno, NV 89501
Attorneys for Premier Trust, Inc. and Dinny Frasier

Via U.S. Mail Only:

Amy Frasier Wilson
10 Via Sonrisa
Mission Viejo, CA 92692
Pro Se

Kristen Caverly, Esq.
HENDERSON CAVERLY PUM & CHARNEY
1750 High Bluff Drive, Suite 300
San Diego, CA 92130

Nori Frasier
4372 Pacifica Way, Unit 3
Oceanside, CA 92056

DATED: May 5, 2017

/s/ Meg Byrd

An employee of Fennemore Craig, P.C.

TABLE OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	<u>Pages</u>
1	Letter dated April 26, 2017 from James Spar, University of California, Los Angeles to Barnet Resnick	4

FILED
Electronically
PR16-00128
2017-05-05 10:29:02 AM
Jacqueline Bryant
Clerk of the Court
Transaction # 6086295 : pmsewell

EXHIBIT 1

EXHIBIT 1



April 26, 2017

JAMES E. SPAR, M.D.
PROFESSOR, DEPARTMENT OF PSYCHIATRY
& BIOBEHAVIORAL SCIENCES
DIVISION OF GERIATRIC PSYCHIATRY
DAVID GEFKEN SCHOOL OF MEDICINE AT UCLA
760 WESTWOOD PLAZA
LOS ANGELES, CALIFORNIA 90024-1759

Barnet Resnick
Vogt Resnick Sherak, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849

Dear Mr. Resnick:

At your request I evaluated Mrs. Dinny Frasier, an 87-year old woman, in my office on February 28, 2017. Mrs. Frasier was accompanied to my office by Janie Mulrain, a professional fiduciary, and Desarae Broyles, her caregiver, both of whom, at Mrs. Frasier's insistence, remained in the office during the evaluation, but did not interfere with the evaluation in any way. Mrs. Frasier arrived 22 minutes late for the evaluation, so the information I was able to gather was somewhat limited. I asked Mrs. Frasier why she was being evaluated, inquired about her estate and her estate plans, and administered a general mental status examination, a Folstein Mini-Mental State Examination (MMSE) and several additional tests of naming, remote memory, and frontal executive function as reflected by clock drawing.

Mrs. Frasier initially thought she was being evaluated for pain in her left hip and back, which began when she fell down a flight of 13 stairs a few months ago. But when I asked her about recent contact with attorneys, she told me that she had seen Mr. Brooks, her regular attorney, and you, and was working on changes in her will and trust. She told me that she has three children: Brad, Amy, and Nori, and she has become estranged from all three [REDACTED]

[REDACTED] She has already given each of her five grandchildren \$100 thousand for college, and the existing version of her estate plan would distribute her estate among the three children. [REDACTED]

Mrs. Frasier told me that her estate includes her half (the other half is in her late husband's trust) of three houses: the one in which she is living, located in San Juan Capistrano (which she said her daughter, son-in-law and son directed the purchase of with her funds, for approximately [REDACTED] the house in which she had been living before the fall, at 3 Pinewood Avenue, in



Irvine, CA; and a house in Palm Springs. She could not recall the address of the house in San Juan Capistrano because she only moved there recently. She also has about [REDACTED] in cash.

On general mental status examination Mrs. Frasier was well dressed and groomed, alert and in no distress, and quite cooperative with the examination. Her mood was euthymic, her affect was appropriate in direction and degree, but she was visibly anxious and shaky and was unable to come up with several personal details until later in the evaluation, when she had calmed down a bit. There were no abnormalities of the form, flow or content of thought, and her psychomotor behavior was unremarkable. She scored 18/30 on the MMSE, losing one point each on orientation to the year, month, date, day, season, place, three on recall (although she correctly recalled one item with a category prompt), one on three-step command, and one on figure copying. This score is consistent with moderate cognitive impairment for her age and advanced education. Her performance on the other tests was mixed: her naming and clock drawing were mildly impaired, and her recall of remote, impersonal information was more moderately impaired. I do believe that her performance was negatively affected by anxiety, and if the evaluation were less rushed and I had the opportunity to help her relax and settle down, she would have performed somewhat better.

Based upon this evaluation I believe that Mrs. Frasier has mild to moderate global cognitive impairment. However, despite this impairment, she was able to identify her assets and her heirs, and clearly understood that her trust and will would determine the distribution of her wealth after she dies. Further, I did not elicit any thought content that suggested a delusional basis for her proposed estate plan changes. Accordingly, I believe that she retains the testamentary capacity (as defined in Cal. Probate Code §6100.5) required to modify her estate plan [REDACTED]. I also believe that she retains the capacity to enter into contracts, *as long as she is not required to rely on her unaided recall alone.*

Since I evaluated her, I have learned that Mrs. Frasier is serving as co-trustee (with Premier Trust of Nevada) of her living trust, and I was asked if, in my opinion, she is capable of continuing in that role. I believe she does retain the capacity to serve as co-trustee, as long as she has a competent co-trustee with whom she can consult in the management of trust assets.

After the above portion of this report was written, I was contacted by your office on April 24, 2017, to discuss several issues that had been raised about this report. These issues were: That my gathering of information was limited due to Ms. Frasier's late arrival to the appointment; that I did not mention that Ms. Frasier hit her head and suffered a subdural hematoma when she fell; my conclusion that, in spite of her "moderate cognitive impairment" Ms. Frasier retains contractual capacity so long as she is not required to rely on her "unaided recall" alone, and my conclusion that she can act as co-trustee so long as she has the assistance of a co-trustee.



With respect to her late arrival, I believe I elicited enough information to support my conclusions. With more time, I may have been able to settle her down a bit and possibly elicited a better performance on the formal cognitive testing, but I doubt that any of my conclusions would have been different. Regarding the subdural, as I mentioned in our discussion, exactly *how* Mrs. Frasier arrived at the state she was in on February 28, 2017 is a matter of utter indifference to me, as I was asked only to render an opinion about her mental and cognitive status on that date. Her medical history could be extremely important if I were a treating physician, as it could be relevant to her treatment and prognosis. But since I am not her treating physician, her medical history is irrelevant to me. Regarding my conclusions, it is important to note that most of her cognitive impairment is in the area of memory, not receptive language ability or intelligence. Accordingly, it was my opinion that, as of February 29, 2017, she retained the ability to understand the language of contracts, and to make an informed and self-interested decision to enter into a contract, as long as her recall of facts and information relevant to the contract could be aided (via notes or the assistance of her attorney or other adviser) at the time she enters into the contract. Finally, I believe that, because of her cognitive impairment, she would be at significant risk of making errors of recall, impulse control, and judgment if she were acting as sole trustee of her trust and required to make a lot of day-to-day decisions without assistance. But *with* the assistance of a co-trustee with whom she can work, who can "look over her shoulder" and prevent errors of recall, impulse control, and judgment, I believe she can continue to serve as co-trustee of her trust despite her cognitive impairment.

Sincerely,

J. Edward Spar, M.D.

Professor of Psychiatry

Division of Geriatric Psychiatry

1 Code No. 4185

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3
4
5 IN THE SECOND JUDICIAL DISTRICT COURT
6 OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8 THE HONORABLE DAVID A. HARDY

9 -o0o-

10 IN RE:)
11 JORDAN DANA FRASIER FAMILY) Case No. PR16-00128
12 TRUST)
13)
14)

15 TRANSCRIPT OF PROCEEDINGS
16 Evidentiary Hearing
17 Tuesday, May 9, 2017
18 RENO, NEVADA
19
20
21

22 Reported By: RANDI LEE WALKER, CCR #137
23
24

1 RENO, NEVADA, TUESDAY, MAY 9, 2017, 10:00 A.M.

2 -000-

3
4 THE COURT: And let's see if I have the seating
5 arrangements. Ms. O'Mara with Mr. Resnick.

6 MS. O'MARA: That's right.

7 MR. RESNICK: Yes, Your Honor.

8 THE COURT: Wonderful. I'm blanking a little
9 tiny bit on who you are.

10 MR. ROBERTSON: David Robertson, on behalf of the
11 trustees, Your Honor. And this is Nicole Shride, on
12 behalf of Premier Trust, one of the co-trustees.

13 THE COURT: Mr. Sullivan, Mr. Frasier, and I
14 believe Ms. Caverly.

15 And behind you would be Ms. Amy Frasier, with
16 another name, and forgive me --

17 MS. FRASIER: Wilson.

18 THE COURT: Ms. Reporter, how about if I turn on
19 the microphone?

20 And then Ms. Nori Frasier Cavey?

21 MS. CAVEY: Yes.

22 THE COURT: Counsel, I have read everything. And
23 as I refer to counsel, I acknowledge that Ms. Wilson and
24 Ms. Cavey are unrepresented by counsel. I will include

1 | them in the record.

2 | I have read everything. The question, before we
3 | begin, through evidence, if necessary, is whether the
4 | agreement for an appraiser contemplated Court appointment.
5 | And if so, whether it's material or immaterial; whether
6 | the use of the gerontologist for an evaluation requires
7 | Court appointment; whether there's agreement as to how the
8 | tenant-in-common interest will be calculated through what
9 | I believe was agreement between the discounting partition.

10 | Ms. Dinny Frasier is not here; is that correct?

11 | MR. RESNICK: Correct, Your Honor.

12 | THE COURT: I'm also interested, counsel, in what
13 | appears to be the global resolution, in that the Trust
14 | A -- really, the agreement speaks to a true-up of
15 | distributorships known to each other.

16 | Once property -- specific real property is given
17 | to each of the three children, with its valuations,
18 | whether there's an equal distribution from Trust A, if
19 | I've read that correctly, I'm interested to know if that
20 | is a locked-in distribution, or whether Ms. Dinny Frasier
21 | contemplates an additional amendment to the distribution
22 | scheme of Trust A.

23 | I also want to speak about whether Ms. Frasier
24 | should continue in her trusteeship, based upon her

1 insistence that personal counsel be part of conversations
2 of trust counsel.

3 Besides those issues this morning, is there
4 anything else that I'm missing?

5 MR. ROBERTSON: Not on behalf of the trustees,
6 Your Honor.

7 MR. RESNICK: Nothing, Your Honor.

8 MR. SULLIVAN: Nothing that I'm aware of, Your
9 Honor.

10 THE COURT: Ms. Wilson, Ms. Cavey, anything else?
11 I can't hear you.

12 MS. WILSON: I have a hearing statement that --

13 THE COURT: If it wasn't filed, I haven't read
14 it.

15 What would you like me to do?

16 MS. WILSON: I'd like to read it, if it's okay.
17 I have copies.

18 THE COURT: In a minute. Let me see how far we
19 get into evidence. The requirement is that -- the Court
20 order is that prehearing statements be filed in advance,
21 so the Court can be prepared when it takes the bench.

22 With these, the issues I've identified, is there
23 a need for evidence? Because my initial inclination is
24 that the appraisers are to be selected by counsel, with

1 competing interests, which filters in the same way a
2 Court-appointed appraiser would, and the two attorneys
3 contemplated have their boots on the ground in the area
4 that I do not. It appears to me immaterial filling
5 provision.

6 I don't know if there is angst about what Dr.
7 Spar concluded, particularly as it relates to something
8 that wasn't blacked out, that should have been blacked
9 out. But I don't see the need -- I do not consider the
10 Court appointment to be material.

11 Does anybody -- I'm going to get to Ms. Amy
12 Wilson, because she wants to be heard. Is there any
13 evidence that needs to be presented from either of those
14 two first issues?

15 MR. ROBERTSON: Not on behalf of the co-trustees,
16 Your Honor.

17 THE COURT: It's my understanding that there has
18 been a concession regarding how that tenancy -- excuse
19 me -- tenant-in-common interest is going to be calculated.
20 Is there a post-agreement agreement that takes that away
21 from me?

22 MR. RESNICK: No, Your Honor.

23 THE COURT: I thought I read --

24 MR. ROBERTSON: I think what the Court is

1 referring to is Amy Frasier Wilson suggested a slight
2 modification of that discount, to which I understood Dinny
3 Frasier, through Mr. Resnick, indicated they were
4 agreeable to that, but I believe Dr. Frasier was not.

5 THE COURT: Oh. So we'll take some evidence and
6 arguments on that.

7 Do I understand correctly that this agreement
8 contemplates the final change to the distribution scheme
9 in Trust A? Or is Dinny Frasier reserving her ability to
10 change the distribution scheme according to her capacity
11 and convenience in her future?

12 MR. RESNICK: My client, Dinny Frasier, reserves
13 any right to amend Trust A.

14 THE COURT: Doesn't that render the entire
15 grievance superfluous, then?

16 MR. RESNICK: No, Your Honor, because she could
17 have the ability to leave the remaining assets to her
18 children or other donees.

19 THE COURT: My understanding is that each of
20 these three children are going to receive --

21 MR. RESNICK: Real property.

22 THE COURT: -- real properties. Two in
23 Oceanside. Property in Oceanside is to go to Ms. Nori.
24 The Mission Vallejo property is to go to Ms. Amy. And the

1 Vista Way in Oceanside is to go to Mr. Bradley Frasier.

2 MR. RESNICK: Correct, Your Honor.

3 THE COURT: And then there will be a true-up
4 according to values, to equalize the distributions?

5 MR. RESNICK: Yes.

6 THE COURT: Was it, or was it not, the intent
7 that all of Trust A would be equalized and distributed to
8 the three children?

9 MR. RESNICK: No, because the assets of Trust A
10 would be used to purchase Trust B assets. And Trust B
11 assets would go into A and distributed pursuant to
12 settlement agreement. But there's other assets besides
13 that. That's not the only assets.

14 THE COURT: I understand. How much of A do these
15 three properties compose? Is it 60 percent? 80 percent?

16 MR. RESNICK: Your Honor, I couldn't tell you.
17 We don't have an accounting from the trust company.

18 THE COURT: We don't have appraisals, either.

19 MR. RESNICK: Correct.

20 THE COURT: Do you know, trust, generally?

21 MR. ROBERTSON: Generally, yes, Your Honor.

22 THE COURT: How much do these three parcels
23 advocate to having a percentage?

24 MR. ROBERTSON: Well, two of them are in Trust B.

1 There was an error in my prehearing statement at paragraph
2 61, where I listed the assets of Trust A as being about
3 three million in marketable securities. I failed to also
4 include in that the three real properties in that trust.

5 So the total value of the A Trust is about
6 four-and-a-half million. The total value of the B Trust
7 is about four million. So about eight-and-a-half million,
8 total.

9 The Mission Vallejo property is worth about
10 \$600,000. The Oceanside property, we think, is worth
11 about \$325,000. So roughly a million, between those two.

12 We don't know the value of the medical building.
13 We believe the market value is probably not relevant,
14 because of the way that they've agreed to do the
15 discounting.

16 I believe the market value is about three
17 million, and the loan against it about a million. So
18 roughly two million in equity, but of which half would be
19 the trust, roughly a million. Maybe two million out of
20 eight-and-a-half million is in these real properties.

21 THE COURT: So when these properties go from
22 Trust B to Trust A, if Trust -- I'm not trying to be
23 precise, I'm just trying to get a picture -- if Trust A
24 has four or four-and-a-half million dollars now, and two

1 will be distributed, according to this agreement, it
2 leaves two, subject to Ms. Frasier's continuing
3 dispositive control.

4 MR. ROBERTSON: Correct.

5 MR. RESNICK: Approximate.

6 THE COURT: And I have no interest whatsoever in
7 whether she gives this money to her attorneys, to an
8 animal shelter, or her children. Trust me, I have read
9 everything, and I don't care. I'm just trying to
10 understand what was agreed to in January.

11 Mr. Sullivan, is it your understanding that
12 beyond the distribution of these three real properties
13 from Trust A, that Ms. Frasier retain the ability to make
14 amendments to the balance of the Trust A distributions to
15 you?

16 MR. SULLIVAN: Yes, that's our understanding.

17 THE COURT: Ms. Nori, is that your understanding,
18 as well?

19 MS. NORI FRASIER: I'm kind of lost in this whole
20 thing, so --

21 THE COURT: Sure. I'm going to have the three
22 children stand and be sworn, please.

23 (The Clerk swore them in.)

24 THE COURT: Thank you. Please be seated. We

1 don't swear the attorneys, because they are subject to an
2 ongoing oath when they were admitted to practice.

3 Ms. Nori, you don't understand my question?

4 MS. NORI FRASIER: I don't understand the whole
5 thing going on.

6 THE COURT: Your mother has Trust A and Trust B.
7 Do you understand that?

8 MS. NORI FRASIER: Yes.

9 THE COURT: And you understand Trust B is
10 irrevocable? Whatever she and your father decided would
11 happen to the proceeds of Trust B is fixed, it's frozen.

12 The question is: What does your mother do with
13 Trust A? If I enforce this agreement, it appears that she
14 has agreed that each of her three children will get some
15 real property; and depending upon the appraisals, some
16 money.

17 But the balance of Trust A is available for
18 whatever she wants to do at any time. Do you agree or
19 disagree?

20 MS. NORI FRASIER: I agree. It's her money.

21 THE COURT: Ms. Wilson, I'm not asking whether
22 you like it, I'm not asking -- I'm just asking if that's
23 your agreement about what happened in January: that she
24 reserved the right to distribute the balance in Trust A in

1 any way she wanted?

2 MS. WILSON: I believe that --

3 THE COURT: Let me just say: It's a beautiful
4 room, it was built in 1911. We can't hear anything in
5 this room, and my reporter and I -- so almost yell at me,
6 please, so we can hear you.

7 MS. WILSON: I agree that she was told about
8 this, and that she was -- I don't know whether or not --
9 because I haven't seen her and had contact with her. I
10 don't know --

11 THE COURT: Ma'am, that's not my question. You
12 were there in January when this agreement was reached?

13 MS. WILSON: I was in a separate room, isolated,
14 for about nine hours.

15 THE COURT: I am not going to talk about who
16 likes whom this morning, or who had better Christmas
17 presents in 1967. I take notice that these three children
18 and their mother have a fractured relationship. You were
19 there at the settlement conference; correct?

20 MS. WILSON: Yes, I was.

21 THE COURT: The settlement judge spoke to you;
22 correct?

23 MS. WILSON: Yes, he did.

24 THE COURT: I'm just trying to understand what

1 your understanding was about the balance of Trust A.

2 MS. WILSON: What I understood was they were
3 going to switch out assets from B to A, and A to B.
4 That's what I understood, that these properties would be
5 taken out of the trust.

6 THE COURT: Okay.

7 MS. WILSON: That's what I understood.

8 THE COURT: And that everything that wasn't taken
9 out of A Trust would remain in the A Trust?

10 MS. WILSON: Yes, that's right.

11 THE COURT: And was there any discussion or
12 agreement about how your mother could give away the
13 balance of the A Trust that was not --

14 MS. WILSON: There was no discussion.

15 THE COURT: Okay. Thank you, ma'am.

16 THE COURT: Ms. -- is it Nori, or is it --

17 MS. NORI FRASIER: It's Frasier, actually.

18 THE COURT: Okay. That will make it easy for me.
19 Yes, Ms. Frasier?

20 MS. NORI FRASIER: I agree that there was no
21 mention of what she would do with Trust A.

22 THE COURT: Okay.

23 MS. NORI FRASIER: My recollection, I mean.

24 THE COURT: The attorneys were there. Were there

1 any discussions of the balance of Trust A?

2 MR. ROBERTSON: If by "the balance" you mean the
3 remainder after the equalizing payments set forth in -- I
4 think it's paragraph 8?

5 THE COURT: Yes, that's what I'm referring to.

6 MR. ROBERTSON: Then I would say there was
7 discussion about it, but there was never any agreement
8 reached about it.

9 MR. RESNICK: That's correct, Your Honor. There
10 was discussions about a gerontologist, because of --
11 probably implied issue as to whether she could change, but
12 nothing express.

13 THE COURT: I wondered why a gerontologist was
14 needed. It was either to confirm her ability to make the
15 decision in January, despite what the settlement judge
16 would find, or whether it was to confirm her ability to
17 make changes in the future.

18 MR. RESNICK: You'd have to ask Mr. Robertson,
19 who brought the issue up.

20 MR. ROBERTSON: I believe it was both. If you
21 look at Dr. Spar's letter, he makes two separate findings:
22 One, the ability to contract; and the other, the ability
23 to dispose.

24 And so I believe that he was retained on both

1 fronts, Your Honor.

2 THE COURT: I'm going to mispronounce your name.
3 Ms. Caverly, do you agree or disagree?

4 MS. CAVERLY: I agree that Mrs. Frasier did not
5 give up her ability to dispose. So if she has capacity
6 later and she makes changes, we did not discuss her giving
7 up that right.

8 THE COURT: I'm going to hear from you, Ms.
9 Wilson, but that seems, to me, to be the logical
10 conclusion of law, that if I agree that she might have
11 frozen some parts of Trust A, but by omission all else was
12 available to her, if capacitated. That's the way it seems
13 to me.

14 All right. Are you still Wilson?

15 MS. WILSON: Yes.

16 THE COURT: Okay. Ms. Wilson.

17 MS. WILSON: You can call me Frasier, Wilson,
18 Amy; it's the same.

19 THE COURT: If you'll come forward and stand
20 between these two attorneys, so we can all hear you. And
21 speak up. If there's something you would like to say, I'm
22 happy to hear from you. I'm not going to read it; it
23 would be unfair to the attorneys.

24 Ms. Wilson.

1 MS. WILSON: Your Honor, my name is Amy Frasier
2 Wilson. I'm the daughter of Jordan and Dinny Frasier,
3 settlors of the Jordan Dana Frasier Family Trust.

4 I'm respectfully in front of the Court today to
5 express my position as an interested party regarding
6 Court-ordered mediation and the resultant issues that have
7 prevented submitting a final settlement agreement to the
8 Court for review and approval.

9 Number one, the collaborative agreement. The
10 Court ordered mediation concerns the medical building
11 dispute between my mother, Dinny Frasier, and brother, Dr.
12 Bradley Frasier. The Court required this mediation to
13 take place no later than February 4th.

14 THE COURT: Let's stop for a minute. We have a
15 lawn mower going. So speak into that microphone.

16 MS. WILSON: The Court ordered mediation concerns
17 the medical building dispute between my mother, Dinny
18 Frasier, and my brother, Dr. Bradley Frasier.

19 The Court required that the mediation take place
20 no later than February 4, 2017. The mediation conference
21 took place January 27, 2017, in Orange, California.

22 The mediator was Retired Judge Jeffrey King. The
23 Jordan Dana Frasier Family Trust, and Premier Trust
24 attorneys, Mr. David Robertson, Mr. Rich Williamson,

1 indicated to both my sister, Nori Frasier Cavey, and
2 myself, that we should take place in this mediation
3 conference, since solving the dispute could affect our
4 future inheritance.

5 They also indicated that the scope of the
6 mediation, if possible, would be expanded to help solve
7 additional inter-family issues.

8 The goal was to have a global settlement, one
9 that would provide framework to solving problems in the
10 future, and to release all from future litigation claims.

11 They also indicated that if no mediation
12 agreement was reached, the unanimous -- with the unanimous
13 support of the parties, the matter would go to trial
14 May 8, 2017.

15 Both Nori and I were told that it was not
16 mandatory to have legal counsel to attend the mediation,
17 but we would need to have legal counsel to review any
18 mediation framework agreement before it's finalized into
19 the formal agreement that would be submitted to the Court
20 for review and approval.

21 I have remained on the sidelines during this
22 longstanding dispute. I believe that if I answered all of
23 the lies and allegations against me, it would only detract
24 from important issues.

1 I went into the mediation conference in good-
2 faith, to work towards a collaborative agreement, not to
3 just reiterate old issues, that have not been acceptable
4 to all parties.

5 When Judge King asked me for my opinion, I told
6 him that the simple solution was that Brad should be
7 gifted his building, Nori should be gifted her house, and
8 I should be gifted my house.

9 This way, there would be no trial, and Brad could
10 avoid the cost of paying back a loan or buying the
11 interest at fair-market value. It benefitted both mom and
12 Brad to avoid the legal fees from going to trial.

13 However, the situation went from a simple concept
14 to a complex agreement. I spent nine hours in isolation
15 and have no idea what was going on, and only seen Judge
16 King less than 10 minutes.

17 The framework agreement, to cover 15 points, that
18 Judge King said was the best he could do in addressing the
19 concerns from all the parties.

20 Judge King said that if I did not sign this
21 agreement that day, that everything was for waste and they
22 would have to start all over.

23 There was no mention that I would be allowed to
24 leave and sign the following week, just like Dinny had

1 | been granted.

2 | My blood sugar had dropped, my dogs had been home
3 | alone for 10 hours, it was time for me to leave.

4 | Given that this was a framework agreement, I
5 | thought it would be best for everyone that I sign the
6 | agreement, knowing that it still needed to be defined and
7 | finalized into a formal agreement.

8 | Per my statement on page -- per the statement on
9 | page 2 of the framework agreement, it indicates in bold
10 | letters that each party has been urged to consult with an
11 | independent legal counsel regarding this agreement. And
12 | its failure to do so prior to Court approval shall be
13 | deemed a waiver of its right to seek counsel.

14 | I knew Nori did not have an attorney at that
15 | point, and that both of us would need to obtain legal
16 | counsel, or waive our right before the final agreement was
17 | submitted to the Court for review and approval.

18 | I retained Mr. Aaron Frick as my legal counsel in
19 | late February, 2017. Mr. Frick renewed the framework
20 | agreement and advised me not to sign the final agreement
21 | until changes were incorporated, to protect both Nori and
22 | myself.

23 | THE COURT: Is that Mr. Frick in Chicago?

24 | MS. WILSON: No, he's here in Reno.

1 MR. ROBERTSON: Aaron Fricke, Your Honor.

2 MS. WILSON: I'm sorry. I pronounced the name
3 wrong. Told you I was nervous.

4 I waited to see what the comments from the other
5 parties would be, including Nori, in the event that my
6 concerns might have been covered.

7 I noticed tension in e-mail communications
8 between Mr. Robertson and Mr. Barnet Resnick, Dinny's
9 personal attorneys, how comments were being circulated.

10 The question of transparency had become an issue.

11 During the month of March, Nori traveled out of
12 the country, and Mr. Robertson was busy with a Federal
13 Court trial. I thought my comments would begin to be
14 circulated when they both returned.

15 During this time, Mr. Fricke indicated that this
16 matter would involve more of his practice time, and it
17 would require an additional retainer to remain on my case.
18 The retainer was beyond my resources at the time. So Mr.
19 Fricke agreed to withdraw from representing me.

20 Given that I had not seen anyone's comments as of
21 March 31st, 2017, I submitted my comments to Mr.
22 Robertson, since he had returned from court trial. None
23 of the recent filings with the Court have included my
24 framework of comments, e-mails sent March 31st, 2017, to

1 all parties. My comments were the first comments to be
2 circulated to all parties.

3 Ms. Kristen Caverly, Brad's attorney, California
4 attorney, sent her comments to Mr. Resnick February 3rd,
5 2017, but did not include any of the other parties.

6 I had no knowledge of Ms. Caverly's comments
7 until e-mail contents was included in the April 14, 2017,
8 motion to enforce an approved statement filing.

9 During April 16, 2017, a teleconference, Mr.
10 Robertson indicated that he would prefer a red-line
11 document with my comments or changes.

12 I complied with this request, and submitted, on
13 April 11th, 2017, my red-line version of settlement
14 agreement, slash, VRS draft 2.12017, which was circulated
15 February 1st, 2017, by Ms. Gina Kim, attorney for Vogt,
16 Resnick, Sherak, LLP.

17 On April 14, 2017, I received Dinny's objections
18 and comments to my red line for Ms. Kim.

19 On April 21st, 2017, Mr. Robertson then
20 circulated to all parties the comments which were made by
21 the trustees.

22 In his circulation, Mr. Robertson also addressed
23 concern that Mrs. Caverly expressed, regarding released
24 matters and liability for Premier Trust.

1 Mr. Robertson stated that these points were not
2 addressed in the signed framework agreement.

3 On April 25th, 2017, I responded to Dinny's
4 objections and comments to all parties, by noting my
5 acceptance for withdrawal to seven of the 11 points.

6 My comments to the remaining four points
7 indicated that I was reviewing the trustees' comments.
8 The four points remaining include three points from the
9 capacity of the evaluation, and one point of the court
10 jurisdiction being in Nevada.

11 On April 25th --

12 THE COURT: What are your three concerns about
13 the capacity?

14 MS. WILSON: I wanted to read what my parents'
15 intention was. Do you just want those three?

16 THE COURT: I can't hear you.

17 MS. WILSON: I had another part regarding Trust A
18 I wanted to --

19 THE COURT: The reason why the judge often
20 interrupts is because I listen, and then when I have
21 questions about what you're saying, I want you to clarify
22 it.

23 You just told me that this agreement, you have
24 four disagreements?

1 MS. WILSON: Yes.

2 THE COURT: I'm just trying to figure out what
3 the four are. One is the jurisdiction of the court, and
4 three are relating to capacity?

5 MS. WILSON: Yes.

6 The Dr. Spar evaluations performed February 28,
7 2017, it was submitted to all parties April 14, 2017.

8 On April 28th, 2017, the revised evaluation was
9 circulated to all parties. The evaluation did not include
10 my mother's medical history.

11 THE COURT: Doctor Spar responded to that, by
12 saying that the medical history was irrelevant. He was
13 looking at her in the moment -- I'm not quite done yet --
14 that he was not her treating physician but, instead, was
15 taking a snapshot of her capacity on that day.

16 MS. WILSON: Correct.

17 THE COURT: If we get into evidence this morning,
18 do you have anything to show me that her medical
19 condition, prior to that interview, was relevant?

20 MS. WILSON: She was examined and had a whole
21 bunch of tests and brain scans and things from a
22 psychiatrist, a board certified psychiatrist, prior to
23 this. So she had the capacity for -- she was able to.

24 But my point is, number one, given that the

1 settlement agreement hinged on capacity evaluation, why
2 was she late? She was 22 minutes late for the evaluation.

3 Dinny thought she was being evaluated for pain in
4 her left hip and back. Why was she not told where she was
5 going? And if she was told, why did she not comprehend?

6 THE COURT: I'm just trying to follow you, ma'am.
7 What's the point, though? What is it that you want me to
8 conclude?

9 Let's assume, for a moment, that you prove that
10 she had no capacity whatsoever with Dr. Spar. Then what?

11 MS. WILSON: I had something really important
12 prior to this about -- regarding Trust A.

13 THE COURT: I can't hear you.

14 MS. WILSON: I had something really important,
15 and then give you my conclusion.

16 THE COURT: I'll just sit back and listen to you,
17 then, and not be involved.

18 MS. WILSON: Thank you, sir.

19 This is regarding Trust A. Mr. Resnick has
20 stated that he has personal knowledge of our family
21 matters. But this knowledge does not include the insight
22 that my father and mother wanted to make global changes to
23 their family trust, when my father was alive.

24 My father and mother met with Henry Coopersmith,

1 their long-time trust attorney, at their home in Irvine,
2 on February 28, 2014.

3 Mr. Coopersmith's meeting memo was provided to my
4 mother when he turned over the files to her.

5 Mr. Coopersmith's memo from this meeting stated
6 that my father and mother indicated that they wanted to
7 change their trust completely, providing 50 percent to
8 Nori, and 50 percent to Amy, and only give Brad the
9 medical building.

10 My father and mother indicated that they did not
11 like Brad's life. They considered Brad to be a rich
12 doctor, who had more money than they did, and he did not
13 need their money.

14 The prime reason these changes were never made
15 was due to my father's failing health. And I do have the
16 document in this package.

17 This knowledge is relevant, because Brad and Nori
18 have both falsely accused me of using undo influence over
19 my mother.

20 My mother -- during the time frame where my
21 mother was making changes to the trust, the A Trust, she
22 stated that these were the things that dad and I wanted to
23 change, but dad wasn't well enough, so we couldn't make
24 them together.

settlers and the settlers' children. All principal and undistributed income of any trust so terminated shall be distributed to the current income beneficiaries of that trust in the proportions in which they are, at the time of termination, entitled to receive the income immediately before termination; provided, however, that if the rights to income are not then fixed by the terms of the trust, distribution under this clause shall be made, by right of representation, to such issue of the settlers, in equal shares to those beneficiaries who are then entitled or authorized to receive income payments.

G. Controlling Law

The validity of this trust and the construction of its provisions shall be governed by the laws of the State of California. If any provision of this trust is unenforceable, the remaining provisions shall remain in full effect.

H. Definitions

As used in this trust:

1. The masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the other whenever the context so indicates.
2. The terms "issue", "child", and "children": (a) shall refer only to the persons conceived during a valid marriage, and (b) shall not include adopted children, step-children, children born out of wedlock unless born to a female issue of the settlers, or unless born to a male issue of the settlers and said male parent marries the mother of such child, regardless of whether a parent and child relationship existed between any such person and his deceased parent. Unless stated elsewhere to the contrary in this Trust, in no event shall the term "issue", "child", or "children" include any adopted children, foster children, or step-children regardless of the existence of a parent-child relationship between the adopted child, foster child or stepchild and any other person.

3. The terms "current income beneficiary" and "current income beneficiaries" shall include any person then entitled or authorized to receive income from the trust estate, whether in the discretion of the trustee or otherwise.
4. The words "disability" or "disabled" shall include any physical or mental condition that renders a person unable to conduct his or her regular affairs, and that is likely to extend for a period longer than ninety (90) days. Such condition of disability, other than minority, shall be evidenced by a written certificate or statement of the disabled person's regularly attending physician filed with and accepted by the trustee, or for a disabled trustee, filed with and accepted by the successor trustee. For the purposes of proving a change of trustees, the disability (or lack of competence) of a trustee (including one who is a settlor) may be evidenced by joint or separate notarized statements of opinion signed (i) by a licensed physician and the remaining trustee or trustees or (ii) by two licensed physicians; third parties may rely on such evidence in dealing with the trustees (including in transfers of property or documents of ownership or control to, or otherwise dealing with, a successor trustee appointed by this declaration or in accordance with its terms) and shall have no liability to the trust(s) or any trust beneficiaries for good faith dealings based on such reliance.
5. Distribution is to be made "by right of representation" the property is to be divided and distributed in equal shares as follows: one share shall go to each living member of the nearest generation of the descendants living at the time of distribution; and one share shall

be divided by right of representation, in like manner, among the then living descendants of each member of the same generation who is then deceased leaving such descendants.

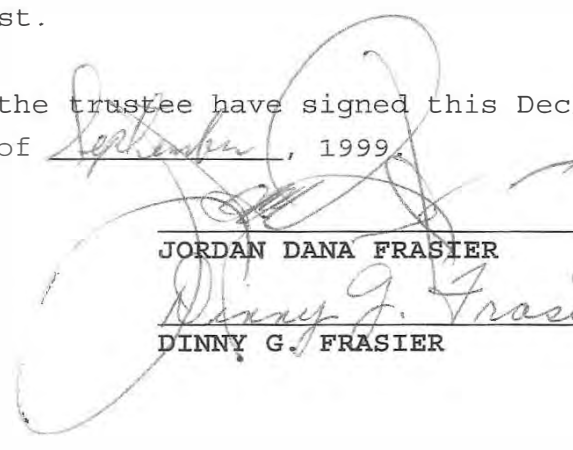
6. The term "support" as used in ARTICLE TWO as applied to the support of the settlors includes (but is not limited to) maintaining either or both of the settlors during their joint lifetimes and the surviving settlor thereafter and the settlors' or settlor's regular residences, or elsewhere as may be appropriate, despite a need for extensive medical or personal care at cost that may exceed the cost of care at a home for the elderly, a health care institution or the like. The settlors wish the trustees, to the extent practical, to exercise their discretion under these provisions to enable the settlors, or the survivor of them to live at home in a familiar circumstance if the settlor wishes and is reasonably able to do so with nursing, household and other assistance.

I. Headings

The headings in this trust are inserted for convenience of reference and shall not be considered in the construction of the provisions of this trust.

The settlors and the trustee have signed this Declaration of Trust this 21 day of September, 1999.

"settlors/trustee"



JORDAN DANA FRASIER



DINNY G. FRASIER

APPROVED this 21st day of September, 1999.

HENRY J. COOPERSMITH, INCORPORATED

BY [Signature]

Henry J. Coopersmith, Attorney for settlors

STATE OF CALIFORNIA)
COUNTY OF Orange)

ON 9-21-99 BEFORE THE UNDERSIGNED PERSONALLY APPEARED
JORDAN DANA FRASIER and DINNY G. FRASIER

PERSONALLY KNOWN TO ME, OR PROVED TO ME ON THE BASIS OF
SATISFACTORY EVIDENCE TO BE THE PERSONS WHOSE NAMES ARE
SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT
SAID PERSONS EXECUTED THE SAME IN THEIR AUTHORIZED CAPACITY, AND
THAT BY THEIR SIGNATURES ON THE INSTRUMENT THE PERSONS, OR THE
ENTITIES UPON BEHALF OF WHICH THE PERSONS ACTED EXECUTED THE
INSTRUMENT.

WITNESS MY HAND AND OFFICIAL SEAL

[Signature]



**FOURTH AMENDMENT to the
JORDAN DANA FRASIER FAMILY TRUST**

This Declaration of Trust is made by **JORDAN DANA FRASIER and DINNY G. FRASIER**, husband and wife ("settlers" or "husband" or "wife"), and **JORDAN DANA FRASIER and DINNY G. FRASIER** ("trustee"), originally entered into December 29, 1980, firstly amended December 31, 1984, secondly amended April 8, 1987, thirdly amended and restated in its entirety on September 21, 1999, and fourthly amended this date by amending in its entirety Paragraph B, Trustees, of ARTICLE ONE to read as follows:

"B. Trustees

On the death, resignation or legal disability of Jordan Dana Frasier or Dinny G. Frasier, the survivor shall succeed as the trustee, provided, however, if Dinny G. Frasier is the survivor, she shall then serve as co-trustee with Merrill Lynch Trust Company of California as co-trustee. Notwithstanding anything to the contrary, Jordan Dana Frasier may serve as sole trustee without Merrill Lynch Trust Company of California serving as co-trustee. Additionally, the then current income beneficiary, or if more than one, those receiving a majority of income of any trust or trusts may at any time, from time to time, in writing, change corporate trustees by appointing another corporate trustee as trustee of the Trust."

Except as amended herein, the **JORDAN DANA FRASIER FAMILY TRUST** originally entered into December 29, 1980, firstly amended December 31, 1984, secondly amended April 8, 1987, thirdly amended and restated in its entirety on September 21, 1999, and fourthly amended this date is hereby ratified and reaffirmed as to all its terms and conditions not otherwise inconsistent with this Fourth Amendment.

1 AA 99

FIFTH AMENDMENT
to the
JORDAN DANA FRASIER FAMILY TRUST

The **JORDAN DANA FRASIER FAMILY TRUST** ("Trust") was originally entered into by **JORDAN DANA FRASIER and DINNY G. FRASIER**, husband and wife ("settlers" or "husband" or "wife"), and **JORDAN DANA FRASIER and DINNY G. FRASIER** ("trustee") on December 29, 1980, firstly amended December 31, 1984, secondly amended April 8, 1987, thirdly amended September 21, 1999, fourthly amended March 15, 2000 and fifthly amended this date by amending in its entirety ARTICLE TWO as follows:

"ARTICLE TWO

DISTRIBUTION OF INCOME AND PRINCIPAL

A. Husband and Wife's Trust

During the joint lifetimes of the settlers, the trustee shall hold, administer and distribute the trust estate as follows:

- a. The trustee shall pay to or apply for the benefit of the settlers as much of the net income and principal of the community estate, up to the whole of it, as either settlor shall direct from time to time by written notice delivered to the trustee. The trustee shall also pay to either settlor, as his separate or quasi-community property, as the case may be, or apply for his benefit as much of the net income and principal of his separate estate, up to the whole of it, as he shall direct from time to time by written notice delivered to the trustee. Any net income not distributed shall be accumulated and added to principal.
- b. If the trustee deems such payments to be insufficient, the trustee may also from time to time pay to or apply for the benefit of the settlers as much of the net income and principal of the community estate as the trustee in the trustee's discretion deems necessary for their proper support, care and maintenance in their accustomed manner of living, without taking into consideration any income or other resources of the settlers outside this trust. If the trustee deems such payments to be insufficient, the trustee may also from time to time pay to either settlor, as his separate property or quasi-community property, as the case may be, or apply for his benefit as much of the net income and principal of his separate estate as the trustee

in the trustee's discretion deems necessary for his proper support, care and maintenance in his accustomed manner of living, without taking into consideration any income or other resources of the settlor outside this trust.

B. Upon the Death of Either Settlor

1. Upon the death of the first settlor (hereinafter called "deceased settlor"), the trust estate shall be divided into separate trusts for the primary benefit of the other settlor (hereinafter called "surviving settlor") as provided below, these trusts (hereinafter called "survivors trust", the "marital trust", if applicable, and the "tax exemption trust").

a. Survivor's Trust

The survivor's trust shall consist of (i) the surviving settlor's share of the community estate and (ii) the surviving settlor's separate estate, both of which include any property that is received by the trustee (from insurance, pension plans and other sources) upon or by reason of the deceased settlor's death; provided, however, that this fractional share of the community property shall be satisfied by allocating to the survivors' trust any residential properties or tangible personal properties selected by the surviving settlor, and otherwise by division and allocation pursuant to the trustees' powers set out hereinafter in ARTICLES TWO, THREE and FOUR.

- (i) The trustee shall pay to or apply for the benefit of the surviving settlor, in quarter-annual or more frequent installments, all the net income of the survivors' trust and as much of the principal of that trust as the trustee deems appropriate for the surviving settlor's support, comfort, health, care and general welfare, taking into account the surviving settlor's accustomed standard of living and other resources reasonably available for these purposes.

- (ii) If in the trustee's judgment the surviving settlor is under disability, whether or not disability or the need for a conservator has been declared by a court (but subject to the surviving settlor's right to petition a court for a determination that no disability exists), the trustee may withhold income payments that are directed by the above subparagraph (i), and shall instead

pay to or apply for the benefit and care of the surviving settlor as much of the trust income and principal the trustee deems appropriate for the same purposes stated above, any income not so distributed to be added to the principal of the survivors' trust.

b. Marital Trust

The marital trust shall be established if and as provided herein, and distribution shall be made as provided below:

- (i) If the surviving settlor survives the deceased trust settlor for a period of six (6) months, the marital trust shall consist of the smallest fractional share of the remaining trust estate (after making allocation to the survivors' trust and including property received upon and by reason of the deceased settlor's death and tax exemption trust if applicable) necessitates a marital deduction to eliminate (and reduce to the extent possible) any federal estate tax by reason of the deceased settlor's death, and taking into account of: a) the net value of all their property included in deceased settlor's gross estate which passes or is passed to or for the benefit of the surviving settlor, under this declaration of trust, by will or otherwise (including payments to the trustees to be added to this marital trust), and which qualifies for the federal estate tax marital deduction; b) all federal estate tax deductions; and c) all federal credits other than those for state death taxes and for death taxes paid in the estate of one whose death occurs after that of the deceased settlor. In determining this fraction, final federal estate tax values and computations, elections and values for the deceased settlor's estate shall control, except that transfers under this declaration of trust, or by will or otherwise for which the marital deduction would have been allowed but for disclaimer by the surviving settlor or non election under Internal Revenue Code Section 2056(b)(7) by the deceased settlor's executor shall be treated for this purpose as if the deduction had been allowed. Assets of the trust estate may be allocated to the marital trust (and, if applicable, to each independent share thereof) by either pro rata or non pro rata division in cash or in kind,

including undivided interest, or any combination of these ways; only assets eligible for the federal estate tax marital deduction shall be used, and assets eligible for a foreign death tax credit shall be used only if other property of the trust estate is insufficient to fund the marital trust.

(ii) If the surviving settlor disclaims his or her interest in all or any portion of this marital trust, the trust estate or affected portion thereof shall be added to and administered and distributed as part of the tax exemption trust set forth hereafter. If an election is properly made to qualify only a fractional portion for the marital trust for the federal estate tax marital deduction, this marital trust shall be divided accordingly into separate qualified and nonqualified portions, each portion shall be administered respectively either as a separate "qualified marital trust" or "nonqualified marital trust" during the lifetime of the surviving settlor.

(iii) The trustee shall pay to or apply for the benefit of surviving settlor, in quarter, annual or more frequent installments all the net income of the marital trust (meaning the income of the qualified or nonqualified trust, if the trust is so divided) and as much of the trust principal as the trustee deems appropriate (from the qualified trust before the nonqualified trust, if the trust is divided into two trusts) for the surviving settlor's health and support in the surviving settlor's accustomed manner of living, taking account of the surviving settlor's other resources known to the trustee and reasonably available for these purposes, and particularly including the availability of principal payments the trustee can make from the survivor's trust.

(iv) The settlors intend that this trust qualify for the federal estate tax marital deduction, and all powers of the trustee and all provisions of this declaration, as applied to this trust, shall be interpreted and restricted to achieve that purpose.

c. Tax Exemption Trust

The tax exemption trust shall consist of all the rest of the trust estate, after

allocations have been made to the survivors' trust and, if applicable, to the marital trust and including any disclaimed property passing to the tax exemption trust as provided above.

(i) The trustee of the tax exemption trust shall respect and comply with any directions given and provisions made by the deceased settlor's will for the payment of debts of deceased settlor and the expenses and other obligations of deceased settlor's estate, and for the payment and allocation of any death taxes resulting from deceased settlor's death. To the extent these matters are not covered by the deceased settlor's will: the trustee shall pay from and charge against the tax exemption trust all federal, state, and foreign estate, inheritance or other death taxes payable (including under Internal Revenue Code Section 4980(A)) on or with respect to any property which passes or has passed under this declaration, under the deceased settlor's will or otherwise and which qualifies for the federal estate tax marital deduction; in all other respects the liability for and the burden of federal, state, and foreign death taxes imposed by reason of the deceased settlor's death shall be paid by the person or from the property upon which an inheritance tax is specifically imposed or, in the case of estate (and other) taxes, shall be apportioned in accordance with the federal and California law; and the trustees of the trust of the deceased settlor may, in the trustees' discretion, pay debts, last illness and funeral expenses of the deceased settlor and the administrative expenses and other obligations of his estate.

(ii) The trustee shall pay to or apply for the benefit of the surviving settlor during his lifetime quarterly or at more frequent intervals, the entire net income of the tax exemption trust and as much of the principal as is required for the surviving settlor's health and support in the surviving settlor's accustomed manner of living, taking account of the surviving settlor's other resources known to the trustee and particularly the availability of principal payments from the survivor's trust and marital trust. If the surviving settlor disclaims any interest (but not all of his interest) in all or

any portion of this trust, the trust or the affected portion thereof shall be administered and distributed as if the disclaimant had died as to the fraction of the disclaimed interest, but if the surviving settlor disclaims all the survivor's interest, then the entire trust shall be administered as if the surviving settlor had died immediately before the deceased settlor, and the assets shall pass to the children's trust as if the surviving settlor was then deceased.

C. Children's Trust

Upon the death of surviving settlor, the separate trusts established by this declaration of trust, together with any additions thereto (including additions by reason of the surviving settlor's death), and with any undistributed income, shall then be administered and distributed by the trustee as follows:

1. The trustee of the survivors' trust shall respect and comply with any directions given and provisions made by the surviving settlor's will for the payment of debts of the surviving settlor and the expenses and other obligations of his estate, and for the payment and allocation of death taxes resulting from his death. To the extent these matters are not covered by the surviving settlor's will, the trustee shall pay from each separate trust (without charge to any beneficiary) all federal, state and foreign death taxes (including interest and penalties) that are either attributable to that particular trust estate by reason of the surviving settlor's death (such as under an inheritance tax) or a portion to it pursuant to applicable federal and California law; and the trustee may, in the trustee's discretion pay first from the surviving settlor's trust and second, if necessary, from (as the trustee may decide, either any or all of) the marital trust (or trusts) or the tax exemption trust any debts, last illness and funeral expenses of the surviving settlor and the administration expenses and other obligations of his estate.
2. Surviving settlor's power to appoint the remainder of the survivor's trust.
The trustee shall distribute or retain the survivors' trust (including undistributed income) or the survivors' trust to or for such one or more persons and entities,

without limitation and including the surviving settlor's own estate, as he appoints by specific reference to this power (or powers of appointment generally) in his will; the appointment may be outright or in trust, in present or future interest, or in any combination of these, and upon such terms, conditions and new powers of appointment as he may provide. Any portion of the survivors' trust not effectively appointed by the surviving settlor shall be distributed as provided in the following paragraph.

3. Upon the death of the surviving settlor, the trustee shall hold, administer and distribute the tax exemption trust, the marital trust (or, if divided, both the qualified and nonqualified marital trust, and the remaining and unappointed trust estate, if any, of the survivor's trust), as the case may be as follows: the trustee shall distribute the tangible personal property as set forth on Schedule B attached hereto. The trustee shall allocate the settlors' principal residence (or the proceeds thereof if it has been sold) to the trust for Amy Michelle Frasier Wilson. The trustee shall divide the remaining trust estate into as many equal shares as there are children of settlors then living, and children deceased leaving living issue. The trustee shall allocate one (1) such equal share to each living child of settlors and one (1) such equal share to each group composed of the living issue of a deceased child of the settlors. Each share allocated to a group composed of the living issue of a deceased child of settlors shall be distributed to such issue, by right of representation (subject however, to the provisions of Paragraph J of ARTICLE THREE). Each share allocated to a living child of settlors shall be retained and administered by the trustee in a separate trust hereinafter provided.
4. The trustee shall pay to or apply for the benefit of the child the entire net income of the child's trust, quarter-annually or at more frequent intervals (or in the case of a child who is under twenty-one (21), as much of the net income as the trustee deems appropriate, the excess to be accumulated and added to principal). If the trustee deems such income payments to be insufficient, the trustee may also pay to or apply for the benefit of the child as much of the

principal of the child's trust as the trustee in the trustee's discretion deems necessary for the child's proper support, care, maintenance, education, purchase of a home and start of a business or professional career, after taking into consideration, to the extent the trustee deems advisable, any income or other resources of the child outside of the child's trust, known to the trustee, and reasonably available for these purposes.

5. In making payments for the benefit of settlors' children pursuant to this Paragraph C, the trustee shall construe its authority liberally to permit payments reasonably necessary to ease the financial burden on the guardian of the person of settlors' children or other suitable individual with whom they reside and on his family, resulting from settlors' children's presence in his household.
6. When Bradley L. Frasier and Nori Beth Frasier Cady attain age twenty-five (25), the trustee shall distribute to the child one-third ($\frac{1}{3}$) of the principal of the child's trust as then constituted; when the child attains age thirty (30), the trustee shall distribute to the child one-half ($\frac{1}{2}$) of the undistributed balance of his trust. When the child attains age thirty-five (35), the trustee shall distribute to the child the undistributed balance of his trust. If the child has already attained age twenty-five (25), thirty (30), or thirty-five (35) at the time the trust estate is divided into separate shares pursuant to this Paragraph, the trustee shall, upon making the division, distribute to the child one-third ($\frac{1}{3}$), two-thirds ($\frac{2}{3}$), or all of his share, respectively.
7. The trustee desires that the fund set aside for Amy Michelle Frasier Wilson shall last her lifetime so that the trustee will not rapidly dissipate the corpus of this share by distributing the principal and interest of the trust to her. It is the settlors' desire that the trustee be mindful of the fact that Amy Michelle Frasier Wilson has physical limitations that prevent her from obtaining gainful employment, and may have certain spendthrift disabilities, although they do not amount to any legal disability, or a sufficient disability at this time to qualify for public programs. In the event that she does qualify for public

assistance, the trustee shall have the absolute discretion whether or not to distribute income or principal to her at the trustee's unfettered discretion. In making the foregoing decisions, Amy Michelle Frasier Wilson shall not participate as a trustee. The trustee shall have unlimited authority to expend funds for her medical care, any therapy that she should ever need, any medical treatment, and other related matters in the trustee's discretion. The settlors are mindful of the subjective nature of determinations required, and the burden on the trustee, and the anguish that the recipient may have in withholding funds, and the difficulty of making an absolutely correct and perfect decision in making the trust funds last over her lifetime which is not predictable, but has the confidence in the trustee, that the trustee from time to time will try to exercise such good faith and judgment as the trustee deems to be in the interest of Amy Michelle Frasier Wilson, and that the settlors would have made had they been in the position to make such a decision. Amy Michelle Frasier Wilson is the primary beneficiary of her trust and the settlors' hope that she will not need public assistance, public benefits, but in the event that she does qualify for such benefits, these trust funds are intended to supplement and not to diminish the benefits these programs provide, so the trustee is authorized to utilize trust funds for therapies, supplies, recreation, special food, travel, insurance, transportation, and other items in the trustee's discretion that do not, or are not provided for public benefits that would not, to the extent feasible and possible, diminish the beneficiary's right to public benefits and public programs. The trustee is further authorized to buy a suitable residence and keep such title in the name of the trust for the benefit of Amy Michelle Frasier Wilson and to pay such expenses. The trustee is to be mindful that it is the settlors' desire that this trust fund be preserved primarily for the benefit of Amy Michelle Frasier Wilson, and not for any remainder beneficiaries. With that in mind, notwithstanding anything else to the contrary, as part of the share that Amy Michelle Frasier Wilson shall receive, she shall receive the settlors' primary residence, but not the contents of the residence (which are to be

divided according to the settlors' known wishes). The settlors' residence shall be subject to any loans, liens and encumbrances. The trustee is authorized to sell such residence and purchase another suitable residence for Amy Michelle Frasier Wilson. The primary beneficiary of this trust is Amy Michelle Frasier Wilson, and she is to be preferred to more remote beneficiaries. Upon Amy Michelle Frasier Wilson's death, the proceeds of this trust, if any, shall be distributed to the settlors' then living grand children and great grand children, if any, or the further remote issue, with each such then living grandchild, great grandchild, receiving one (1) equal share of the proceeds. Such amount shall be distributed to such grandchild, great grandchild, or further remote issue, with the preference that such funds be utilized for their education, with any unused funds distributed to each respective grandchild (or more remote issue) at age twenty-five (25), further provided, however, that such amount or amounts may be distributed if the trustee thinks advisable to their respective parent related to the settlors as custodians under the California Uniform Gifts to Minors Act. For administrative convenience, efficiency, the trust for Amy Michelle Frasier Wilson, may be merged into another trust for her benefit established by the settlors, if it is substantially similar to this Trust.

8. If at any time before full distribution of the trust estate, both settlors and all of settlors' issue are deceased and no other disposition of the property is directed hereunder, the trust estate or the portion of it then remaining shall thereupon be distributed one-half ($\frac{1}{2}$) to those persons who would then be husband's heirs, and one-half ($\frac{1}{2}$) to those persons who would then be wife's heirs, the identities and respective shares of the heirs of each of them to be determined as though the death of each of them had then occurred and according to the laws of the State of California then in effect relating to the succession of separate property not acquired from a parent, grandparent or predeceased spouse.

D. Special Generation-Skipping Provisions.

1. Definitions: The expression "generation-skipping" in this trust relates or refers to the federal generation-skipping transfer tax in Chapter 13 of the Internal Revenue Code of 1986, as amended (hereafter simply "IRC"), and is used hereafter in terminology associated with various provisions of that tax; for example, "generation-skipping exemption" refers to the exemption provided in Section 2631(a) (or any successor provision) of that tax, and "generation-skipping 'reverse QTIP election'" (or simply "reverse QTIP election") refers to the election provided for qualified terminable interest property under Section 2652(a)(3) (or successor provision) of that tax in this ARTICLE TWO, and the generation-skipping context throughout this trust.

(i) The term "exempt" refers to (or "Exempt" may be added to the title of) a trust or property that has a generation-skipping inclusion ratio (or "IR") of zero (that is, an applicable fraction of zero); and the adjective "**nonexempt**" (or the additional titling "Nonexempt") indicates a trust or property that has a generation-skipping inclusion ratio (or "IR") of one (applicable fraction of one);

(ii) References to trusts refer also to arrangements that are treated as trusts for generation-skipping purposes and to separate shares of a trust, when appropriate to the context, if the shares are, as "substantially separate and independent shares of different beneficiaries" or otherwise, entitled to be treated as separate trusts for generation-skipping purposes; and

(iii) The term "executor" refers to the person or persons authorized by IRC provisions or Treasury regulations to make the reverse QTIP election under IRC Section 2652(a)(3) and to allocate the exemption under IRC Section 2631(a).

2. Exemption Allocation. In allocating the settlors' generation-skipping exemption, the settlors' executor may include in or exclude from that allocation any property of which the settlor is the transferor for generation-skipping purposes, including property transferred prior to the settlor's death. These decisions may be based on transfers, gift tax returns, and other information known to the executor, with a requirement of good faith but no requirement that allocations benefit various transferees or beneficiaries of such property equally, proportionally, or in any other particular manner.

No person acting as executor, however, shall make or participate in any generation-skipping election or allocation decision if the power to do so would result in his or her having a

general power of appointment (for federal estate and gift tax purposes) over property with respect to which he or she would (or might) not otherwise have such a general power; should this prohibition leave no executor able to make such an election or allocation, the office of executor for this limited purpose shall be filled in the manner that other vacancies in the office of or trustee of this trust would be filled.

(i) Section 2652(a)(3) election. If an election is to be made to qualify all or part of the Marital Trust for the federal estate tax marital deduction, and if a generation-skipping reverse QTIP election is to be made, the Marital trust so qualified shall, if and as necessary, be divided and established as two separate trusts rather than one in order to permit the reverse QTIP election to be made with respect to one of these trusts (the "Reverse Marital Trust," of which the first settlor to die rather than the surviving settlor will be transferor for generation-skipping purposes) but not with respect to the other (still, simply, the "Marital Trust"), with the latter (the Marital Trust) receiving the minimum dollar amount necessary to leave the Reverse Marital Trust with a corpus of the desired value.

(ii) Separate trusts, 0 or 1 inclusion ratios. If some or all of a settlor's generation-skipping exemption is to be allocated to any trust that is otherwise to be established under this trust, or if some or all of surviving settlor's generation-skipping exemption is later to be allocated to any such trust of which the surviving settlor is transferor for generation-skipping purposes, unless the trust in question will thereby have a generation-skipping inclusion ratio of zero, that trust shall be divided and two separate trusts shall instead be established so that each will have a generation-skipping inclusion ratio of either zero (an "exempt" trust) or one (a "nonexempt" trust), with the nonexempt trust receiving the minimum dollar amount necessary to leave the exempt trust with an inclusion ratio of zero.

(iii) Manner of division: satisfying bequests in kind: payment of interest. Unless otherwise expressly provided in this trust any bequest or funding requirement of a dollar (i.e., pecuniary) amount as opposed to a fractional amount or residual transfer under the two preceding subparagraphs or any other provision of this trust may be satisfied in cash or in kind, in undivided interests, or partly in each; any assets that are used to satisfy the dollar amount shall be valued for this purpose at their date or dates of distribution; and each such dollar amount bequest or funding requirement in this trust shall bear interest from the date specified under applicable

local law (and, if none, from the date of my death) to the date of payment, such interest to be at the statutory rate applicable to pecuniary bequests under state law governing the administration (and, absent such statutory rate, at 80 percent of the rate applicable under IRC Section 7520, or successor provision, at the date of my death). The foregoing interest requirement shall be interpreted and adapted to meet the "appropriate interest" requirement imposed by applicable proposed or final generation-skipping regulations (or by substitute or successor provision of the IRC or regulations).

(iv) QTIP taxes. Except as the surviving settlor directs otherwise in accordance with IRC Section 2207A (or successor provision), any estate or gift tax or other transfer tax attributable to the Exempt Reverse Marital Trust, by reason of surviving settlor's death or an assignment by the surviving settlor shall be paid or recovered, entirely or to the extent possible, first (i) from any or proportionately from all nonexempt trust(s) (inclusion ratio of one) created by this trust due to the death of the first settlor (creator of the trust for generation-skipping purposes), and then (ii), if necessary, from the nonexempt Marital Trust, if any, rather than from the Exempt Reverse Marital Trust (inclusion ratio of zero) or its distributee(s).

Separateness of Exempt and Nonexempt Trusts. Except as otherwise expressly provided in this trust:

(i) When a trust is divided under the provisions of this ARTICLE TWO into exempt and nonexempt trusts or otherwise into separate trusts, each trust shall have the same provisions as the original trust (the "divided trust") from which it is established, and references in this trust to that divided trust shall collectively refer to the separate trusts derived from it; nevertheless, the Trustee may exercise administrative and distributive discretion, and donees of powers of appointment may exercise their powers, differently with respect to each of the separate trusts (even otherwise identical trusts) derived from the divided trust.

(ii) On termination, partial termination, division, subdivision or distribution of any of the various trusts created by this trust, and when it is provided (or appears to be provided) in this trust that various trusts are to be combined, the nonexempt (inclusion ratio of one) or exempt (zero inclusion ratio) or even partially exempt (should any have an inclusion ratio between zero and one) generation-skipping character of the property of the trusts shall be preserved.

(iii) Accordingly, when property is to be added to or combined with the property of

another trust or other trusts, or when additional trusts are to be established from one or more sources, nonexempt property or trusts shall not be added to or combined with exempt property or trusts, even if this requires additional separate trusts to be established with the same terms and provisions. (If, for example, the terms of a divided trust direct that on termination, or on nonexercise of a power of appointment, the trust property is to be added to another trust, then the exempt property of a separate trust that had been derived from the terminating trust shall be added only to an exempt trust derived from the recipient trust, and nonexempt property shall be similarly added only to a nonexempt recipient trust; and if no appropriate recipient trust exists for either exempt or nonexempt property, then a new trust of that character shall be established with the same terms and provisions as those of the trust that would otherwise have received that property.) Furthermore, in any case not covered by the foregoing directions (such as that of a partially exempt trust), if the generation-skipping inclusion ratio of any property that is to be added to or combined with a trust has a different inclusion ratio than that trust, the Trustee shall refrain from making the addition or combination and shall instead establish for that property a trust with provisions identical to those of the trust to or with which the property would have been added or combined.

Authority to Combine or Divide. The Trustee of any trust shall have sole discretionary authority to combine that trust with any other trust or trusts having the same inclusion ratio, including trusts established (during life or at death) by either settlor or any of their issue; and the Trustee shall establish shares within a trust if and as necessary to preserve the rights and protect the interests of the various beneficiaries (such as when trusts being combined do not have identical terms) or if the Trustee otherwise believes that separate shares are desirable (such as because different portions of the trust have different perpetuities periods). Conversely, the Trustee shall have sole discretionary authority to divide separate shares or separable portions of a trust and administer them as separate trusts. In addition (and as an exception to subparagraphs (ii) and (iii) of the immediately preceding paragraph), trusts with different generation-skipping inclusion ratios may be combined if the Trustee makes a discretionary judgment that economic efficiency or other considerations justify sacrificing their separate generation-skipping characteristics. These powers to combine and divide trusts may be exercised from time to time, and may be used to modify or reverse their prior exercise. In deciding whether and how to

exercise the authority granted in the paragraph, the Trustee may take account of efficiencies of administration, generation-skipping and other transfer tax considerations, income tax factors affecting the various trusts and their beneficiaries, present and future financial and other objectives of the trusts and beneficiaries, the need or desirability of having the same or different trustees for various trusts or shares, and any other considerations the Trustee may deem appropriate to these decisions.

Efficient and Tax-Conscious Administration. It is the settlors intention to encourage the Trustee to administer separate trusts under this trust in ways that, in the long run, are intended to reduce unnecessary income and transfer taxation among trusts and their beneficiaries and to make efficient utilization of available tax privileges, such as generation-skipping exemptions. Without limiting the foregoing, the settlors particularly authorize (but do not require) the Trustee, in administering different trusts wholly or in part for the benefit of a particular beneficiary or group of beneficiaries, to adopt different investment strategies and objectives for different trusts based on their generation-skipping ratios, and to prefer making distributions from nonexempt trusts to beneficiaries who are non-skip persons for generation-skipping purposes and from exempt trusts to those who are skip persons. Consistent with these objectives, the Trustee of any trust may share information, consult, and in all reasonable ways coordinate decisions and actions with other trustees and with personal representatives under this trust, under other dispositions made by me, and under the wills and trusts of others when the various trusts or estates have, in whole or in part, similar beneficiaries or objectives.

"Interpretation". All provisions of this trust, except to the extent inconsistent with the marital deduction objectives of the Marital Trust or other transfer, shall be construed to provide for or to permit division, distribution and administration of trusts and other dispositions in a timely manner consistent with objectives of efficiently using available generation-skipping exemptions and of establishing and maintaining trusts that have inclusion ratios of either zero or one and are thus entirely exempt or entirely nonexempt.

Contingent general power of "Child's Nonexempt Trust". If all or any portion of the assets held in a Child's Nonexempt Trust would otherwise be subject to the generation-skipping tax on the child's death, then the child shall have a general testamentary power of appointment, provided this power will serve to prevent any generation-skipping tax on the appointive property

at the child's death. This general power of appointment (which shall not apply to a Child's Trust that is only partially nonexempt) may be exercised in favor of any one or more persons or entities, including the child's own estate, either outright or in trust and on such terms, conditions and further powers (including general powers of appointment), as the child may appoint by specific reference to this particular power (not merely to powers of appointment generally) in his or her last will (or a codicil thereto); provided, however, if the child has no issue living at his or her death, the child shall have instead of the foregoing unlimited testamentary power (but in addition to any other power of appointment he or she may have) the testamentary power to direct that the same assets or portion thereof be applied to the payment of the claims of the creditors of his or her estate.

IN WITNESS WHEREOF, the Settlers/Trustee have executed this FIFTH AMENDMENT to the **JORDAN DANA FRASIER FAMILY TRUST** originally entered into December 29, 1980, firstly amended December 31, 1984, secondly amended April 8, 1987, ~~thirdly amended~~ September 21, 1999, fourthly amended March 15, 2000, and fifthly amended this 6/7/00, 2000.

"Settlers/Trustee"

JORDAN DANA FRASIER

DINNY G. FRASIER

STATE OF CALIFORNIA)
COUNTY OF Orange)

On 6-7-00, 2000 before me, the undersigned, a Notary Public in and for said State, personally appeared **JORDAN DANA FRASIER and DINNY G. FRASIER** personally known to me (or proved to me on the basis of satisfactory evidence), to be the persons whose names are subscribed to the within instrument and acknowledged to me that said persons executed the same in their authorized capacity, and that by their signatures on the instrument the persons or the entities upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Dorothy Smetana
Sam frasier

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the matter of

JORDAN DANA FRASIER FAMILY
TRUST

CASE NO. PR-16-00128

DEPT. NO. 15

**MOTION TO APPROVE AND ENFORCE SETTLEMENT AGREEMENT AND TO
VACATE TRIAL DATE**

COMES NOW, Dinny Frasier, by and through her counsel of record, Bradley J. Richardson and Courtney Miller O'Mara of the law firm of Fennemore Craig, P.C., and hereby moves to enforce the January 27, 2017 settlement agreement of the parties and to vacate the trial date.

I. INTRODUCTION

The parties to this case participated in a settlement conference on January 27, 2017 at which they agreed on terms to settle this matter, signed a settlement agreement (the "Agreement") regarding the material terms. Separately the parties have endeavored to agree upon a more detailed settlement agreement (the "Further Agreement") that includes the provisions of the Agreement. The

Agreement was contingent, in general, only on “Nevada probate court approval” with an implied condition precedent of confirmation of Dinny’s capacity. Mrs. Frasier has since been evaluated by a qualified gerontologist who opined that she has both contractual and testamentary capacity. Despite that all parties signed the Agreement and despite Dinny’s successful evaluation, the parties have been unable to secure the consent of all involved to the Further Agreement and it now appears that some parties are attempting to back out of the signed Agreement arrived at in connection with the January 27, 2017 JAMS settlement conference. This Court should enforce the Agreement and award to Dinny Frasier the fees incurred to bring this Motion.

Because the parties have settled, the trial date should be vacated.

II. PROCEDURAL HISTORY AND FACTUAL BACKGROUND

On March 3, 2016 Co-Trustees Dinny G. Frasier (“Dinny”) and Premier Trust, Inc., (“Premier”) filed a Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and For Instructions in this matter. At the center of this action is whether Premier is under an obligation to provide a full accounting to the adult children of Co-Trustee Dinny, which adult children are listed as Contingent Beneficiaries of the Tax Exemption Trust, sometimes referred to as “Trust A”. After notice was given and appearances were made, several hearings were set by the Court and subsequently the Court ordered the parties to a Mediation on October 5, 2016.

Pursuant to this Court’s Order dated October 5, 2016, all interested parties in the Matter of the Jordan Dana Frasier Family Trust (the “Trust”), namely, Dinny G. Frasier (“Dinny”) and her attorney Barnet Resnick, Esq. of Vogt, Resnick & Sherak, LLP (“VRS”); Nicole Shrive, trust officer of Premier Trust, Inc. and its attorney G. David Robertson, Esq. of Robertson, Johnson, Miller & Williamson, Bradley Frasier and his attorney; Kristen Caverly, Esq. of Henderson, Caverly, Paum & Charney, LLP; Amy Frasier-Wilson in pro per (attended with her husband Bill Wilson); and Nori Frasier in pro per, attended mediation at JAMS in Orange County, California, mediated by Justice Jeffrey King (ret.) on January 27, 2017. Declaration of Barnet Resnick (**Exhibit 1**), “Resnick Declaration”). After a nine hour mediation the parties were able to reach a settlement agreement and drafted the material terms of the Agreement with the understanding that a more formal agreement would be drafted and circulated to the parties by Dinny’s lawyer, Mr. Resnick. January

27, 2017 Settlement Agreement (Exhibit 2, the “Agreement”). All parties other than Nori and Dinny signed the Agreement at the January 27, 2017 conference. *Id.* On or about January 27, 2017, Nori signed off on the Agreement and Dinny signed off on or about February 10, 2017. *Id.*; Agreement (Exhibit 2).

The Agreement’s only express contingency is “Nevada probate court approval” though confirmation of Dinny’s capacity is also an implied condition. While the Agreement, consistent with pre-mediation correspondence, recites that each party was “urged to consult with an independent legal counsel”, the enforceability of the Agreement was not made contingent on such consultation. Correspondence between the parties in advance of the mediation made clear that Nori and Amy, who were then unrepresented, were free to bring counsel. Resnick Declaration (Exhibit 1); Indeed, on more than one occasion David Robertson, one of Premier’s counsel, admonished Nori and Amy to bring counsel with them to the January 27, 2017 mediation. *Id.* However, Nori and Amy declined to bring counsel to the mediation. *Id.*

On February 28, 2017, Dinny was evaluated by Dr. J. Edward Spar, M.D., a Professor of Psychiatry, Division of Geriatric Psychiatry at the University of California, Los Angeles. Declaration of Dr. Spar (Exhibit 3). Both Dr. Spar’s curriculum vitae and his April 7, 2017 opinion regarding Dinny’s capacity are attached to his declaration.¹ As detailed in Dr. Spar’s curriculum vitae, Dr. Spar is board certified in geriatric psychiatry (American Board of Psychiatry and Neurology), board certified in psychiatry and neurology (American Board of Psychiatry and Neurology), did a fellowship in geriatric psychology (UCLA), and has written and spoken on topics germane to capacity evaluations in a number of settings. *Id.* Dr. Spar evaluated Dinny and opined that Dinny continues to have testamentary capacity, contractual capacity, and capacity to serve as trustee of the Trust. *Id.* The other parties have been informed of the results of Dinny’s capacity evaluation. Resnick Declaration (Exhibit 1).

In the Agreement reached by the parties a general advisement was included to say that each

¹ The copy of the April 7, 2017 letter attached to the Spar Declaration is redacted to protect Dinny’s private information regarding her possible future estate plans. Dinny is willing to provide the unredacted document to the Court for in camera review but does not wish for the unredacted document to be filed in the Court record or to the other parties, including because Dinny is concerned that her children will retaliate against her if they are informed of her private plans.

party has been urged to consult with independent legal counsel regarding this agreement, and its failure to do so prior to court approval shall be deemed a waiver of its right to counsel. *See*, Agreement (Exhibit 2), Resnick Declaration (Exhibit 1). This Court was notified of the parties' Agreement, and on March 3, 2017 issued an Order Regarding Hearing.

On February 1, 2017, Mr. Resnick circulated to the other counsel and to Amy and Nori a draft of the Further Agreement styled as a "Settlement Agreement and Release", inviting comments. Resnick Declaration (Exhibit 1).

On March 15, 2017, attorney Aaron Fricke, who represented himself as new counsel for Amy, contacted Mr. Resnick to discuss this matter. *See*, Resnick Declaration (Exhibit 1).² During the conversation Mr. Fricke stated that Amy does not consent to the terms of the Agreement nor the draft Settlement Agreement and Release, accused Mr. Resnick of unethical conduct, and threatened to file three separate petitions with this Court if Dinny does not agree to the new terms proposed by his client, which include, but are not limited to, making the terms of Trust A non-amendable and irrevocable by Dinny, and to "lock in" the current value of Dinny's current residence (located in San Juan Capistrano, California, to which Dinny was forced to move into after leaving the rehabilitation facility) so that Amy receives more money upon Dinny's death. *Id.*

Dinny, through VRS, made numerous requests for others to provide comments and provided sufficient time to the parties to comment so that the terms to which everyone agreed at the mediation could be implemented and this matter be resolved once and for all. *Id.*

On March 6, 2017 the involved counsel, including Mr. Fricke who had not yet been released by the Court, Amy, and Nori held a telephone conference to discuss the Further Agreement. *Id.* To date, comments have been received from Amy Frasier Wilson and Brad Frasier. *Id.* Nori has, on numerous occasions, indicated that the draft Further Agreement circulated by VRS is acceptable to her. *Id.* No comments to the draft Further Agreement have been received from Premier's counsel. *Id.* Despite such efforts, the parties have been unable to finalize the Further Agreement for submission to the Court since some parties have refused to cooperate and it now appears they may be trying to back out of the terms to which they had previously agreed. *Id.* In particular, on an April

² Mr. Fricke has since withdrawn as counsel to Amy Wilson.

6, 2017 conference call among the involved counsel, Amy Wilson and Nori Frasier, Amy demanded that her additional terms be added and informed the parties that she was not ready to sign the Further Agreement because she wants to “keep her options open.” In particular, Amy attempted to insert new terms regarding the selection of the appraiser (term 4 of the Agreement), regarding the selection of the gerontologist to evaluate Dinny (term 2 of the Agreement) and regarding whether an exhibit is needed regarding the valuation methodology for the portioned interest in the Vista Way property. As explained more fully below, the Agreement reached by the parties should be enforced against all signatories, including Amy Frasier Wilson. Because the parties have been unable to agree upon the Further Agreement, and because the date set for commencement of the three day trial (May 8) is fast approaching, Dinny is moving the Court for enforcement of the Agreement and to vacate the trial date.

Dinny is 88 years old and currently estranged from her adult children. She desperately wants this litigation to end as the stress and distraction of the litigation is impacting her health and well-being.

III. THE COURT SHOULD APPROVE THE AGREEMENT AND DISMISS THE CASE

A. All Conditions Precedent Have Been Satisfied Other Than Court Approval

“A condition precedent to an obligation to perform calls for the performance of some act after a contract is entered into, upon which the corresponding obligation to perform immediately is made to depend.” *NGA #2 Ltd. Liab. Co. v. Rains*, 113 Nev. 1151, 1158–59, 946 P.2d 163, 168 (1997).

Here, other than approval by this Court, all other conditions precedent to enforcement of the Agreement have been met. A “qualified gerontologist” has assessed Dinny’s capacity and opined that she has testamentary capacity, contractual capacity, and the capacity to act as trustee of the Trust. While it is desirable that the parties enter into the Further Agreement with its more detailed terms, the Agreement is enforceable on its own and should be approved by this Court.

B. Written Settlement Agreements May Be Enforced By This Court.

District Court Rule 16 defines the conditions under which a court may, on motion, enforce an agreement to settle pending litigation. No agreement or stipulation between the parties in a cause or their attorneys, in respect to proceedings therein, will be regarded unless the same shall, by consent, be entered in the minutes in the form of an order, or unless the same shall be in writing subscribed by the party against whom the same shall be alleged, or by his attorney. DCR 16's application is straightforward: An agreement to settle pending litigation can be enforced by motion in the case being settled if the agreement is "either ... reduced to a signed writing or ... entered in the court minutes following a stipulation." *Resnick v. Valente*, 97 Nev. 615, 616, 637 P.2d 1205, 1206 (1981) (applying DCR 24, later renumbered DCR 16). *Grisham v. Grisham*, 128 Nev. Adv. Op. 60, 289 P.3d 230, 233 (2012). DCR 16 allows enforcement when the settlement agreement is signed by the actual party and contains no requirement that that party be represented by counsel. Indeed, even when the material terms of the settlement are merely subsequently announced in open court, the agreement is enforceable and binding, even if a party later has a change of heart. *Doi v. Halekulani Corp.*, 276 F.3d 1131, 1138 (9th Cir. 2002). As a general concept, a trial court has the power to enter a judgment enforcing a settlement agreement which furthers the public policy of the settlement of disputes and the avoidance of costly, time-consuming litigation. *Kukla v. Nat'l Distillers Products Co.*, 483 F.2d 619, 621 (6th Cir. 1973) (citations omitted). In wielding this power, the trial court may enforce a settlement agreement "even where the agreement has not been arrived at in the presence of the court nor reduced to writing." *Id.* (citations omitted); *See also May v. Anderson*, 121 Nev. 668, 119 P.3d 1254 (2005) (applying Nevada law and affirming district court's enforcement of settlement agreement).

When adversaries in a roughly equivalent bargaining position and with ready access to counsel express an agreement to settle, the court will enforce the agreement's terms, even if a few details are left out. *Facebook, Inc. v. Pac. Nw. Software, Inc.*, 640 F.3d 1034, 1039 (9th Cir. 2011). The Court is otherwise empowered to interpret, and then enforce, the parties' intent to end their various disputes once and for all. *Petro-Ventures, Inc. v. Takessian*, 967 F.2d 1337, 1342 (9th Cir.

1992) (citation omitted); *see also May v. Anderson*, supra (applying Nevada law in construing settlement agreement made during litigation).

Here, the Agreement has been reduced to writing in the presence of Justice King and signed by all interested parties, including the unrepresented parties. Agreement, (Exhibit 2).

C. This Settlement Agreement Is An Enforceable Contract.

A settlement agreement, which is a contract, is governed by principles of contract law. *May v. Anderson*, 121 Nev. at 672, 119 P.3d at 1257. As such, a settlement agreement is an enforceable contract where there is "an offer and acceptance, meeting of the minds, and consideration." *Id.* (citing *Keddie v. Beneficial Insurance, Inc.*, 94 Nev. 418, 421, 580 P.2d 955, 956 (1978) (Batjer, C.J., concurring)); *Mack v. Estate of Mack*, 125 Nev. 80, 95, 206 P.3d 98 (2009). The parties in this action mutually exchanged offers of promised performance, agreed to those offers, and should be bound by the terms of the agreement that were set forth in the executed memorandum at the mediation. These exchanged promises were reduced to writing on a document titled "Settlement Agreement" which was signed by all of the parties. (Exhibit 2). As such, a valid binding settlement agreement was created. The fact that the parties agreed to reiterate their agreement into a more lengthy, formal document is irrelevant, such formality did not inject additional material terms and the written and signed Agreement is binding. *May*, 121 Nev. at 672, 119 P.3d at 1257.

D. All Material Terms Were Agreed To With No Provision for Alteration.

In the instant litigation, all of the material terms of the settlement were reduced to writing and signed in the Agreement. The Agreement contemplated further formalities but not material alteration. Further, the Agreement acknowledged that it was only conditional upon court approval and the successful determination of capacity. While the parties without counsel were instructed to seek independent legal counsel regarding the Agreement, the Agreement's enforceability was not made contingent upon the same. The decision of Nori and Amy to proceed with the mediation in pro per does not give them any rights under the Agreement that the litigants represented by counsel do not have. *Barnes v. United States*, 241 F.2d 252, 254 (9th Cir. 1956).

Where, as here, the parties explicitly or implicitly recited certain future acts (court approval, confirmation of Dinny's capacity) as contingencies impacting the settlement, their decision to not

make the Agreement contingent upon other conditions, such as counsel review, must be interpreted as an intentional and negotiated choice.

By its express terms no contingency is created by the admonishment to seek counsel. Nothing in that clause calls into question the Agreement or places an option to renegotiate the material terms contained and specifically enumerated in Clauses 1-15 of the Agreement. The material terms of the Agreement are fully set forth in these clauses and were intelligently negotiated, and even interlineated, by Nori and Amy. *See Exhibit 2*, Clause 8. In furtherance of the Agreement Dinny sought, and obtained, a determination of capacity from a qualified gerontologist. *See*, Declaration of Dr. Spar (*Exhibit 3*). The parties can no more repudiate a [settlement agreement] that [they] could disown any other contractual relationship. *Dacanay v. Mendoza*, 573 F. 2d 1075, 1978 (9th Cir. 1978).

IV. THE TRIAL DATE SHOULD BE VACATED

Trial in this matter is set to commence on May 8, 2017. As set forth above, the parties have settled the dispute on the terms set forth in the Agreement. Accordingly, no trial is necessary and proceeding with trial would be a waste of the parties and the Court's resources. Pursuant to WDCR 4(11), Dinny requests that the scheduled trial be removed from the Court's calendar.

V. CONCLUSION

Based upon the foregoing, Dinny respectfully requests that this Court enter an order to enforce Agreement as agreed to by the parties and grant to Dinny Frasier her fees incurred to enforce this Agreement. Dinny further requests that the Court vacate the trial set to commence on May 8, 2017.

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

DATED: April 14, 2017

FENNEMORE CRAIG, P.C.

/s/ Courtney Miller O'Mara

BRADLEY J. RICHARDSON (SBN 1159)

COURTNEY MILLER O'MARA (SBN 10683)

300 East Second Street, Suite 1510

Reno, NV 89501

Attorneys Dinny Frasier, Individually

CERTIFICATE OF SERVICE

I certify that I am an employee of FENNEMORE CRAIG, P.C., and that on this date, pursuant to NRCP 5 (b), I am serving a true copy of the foregoing MOTION TO APPROVE AND ENFORCE SETTLEMENT AGREEMENT on the parties set forth below by:

XX	Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices
	Certified Mail, Return Receipt Requested
	Via Facsimile (Fax)
	Placing an original or true copy thereof in a sealed envelope and causing the same to be personally Hand Delivered
XX	By Notice of Electronic Filing via the electronic filing system as maintained by the Court Clerk's Office

addressed as follows:

(Notice of Electronic Filing):

Michael Sullivan, Esq.
Scott L. Hernandez
ROBISON BELAUSTEGUI, SHARP & LOW
71 Washington Street
Reno, NV 89503
Attorneys for Bradley Frasier

Richard Williamson, Esq.
David Robertson, Esq.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
50 W. Liberty Street, Suite 600
Reno, NV 89501
Attorneys for Co-Trustees Premier Trust, Inc. and Dinny Frasier

(U.S. Mail):

Nori Frasier
4372 Pacifica Way, Unit 3
Oceanside, CA 92056

Amy Frasier Wilson
10 Via Sonrisa
Mission Viejo, CA 92692

DATED: April 14, 2017

/s/ Shawna Braselton

An employee of Fennemore Craig, P.C.

12790987.1/044958.0001

EXHIBITS LIST

<u>Exhibit</u>	<u>Description</u>
1	Declaration of Barnet Resnick
2	Settlement Agreement
3	Declaration of Dr. Spar

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EXHIBIT 1
Declaration of Barnet Resnick

FILED
Electronically
PR16-00128
2017-04-14 06:54:13 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6053381 : csulezic

EXHIBIT 1
Declaration of Barnet Resnick

1520
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 COURTNEY MILLER O'MARA, ESQ.
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BARNET RESNICK, ESQ.
 California Bar No. 59906
 VOGT, RESNICK, SHERAK, LLP
 4400 MacArthur Boulevard, #900
 Newport Beach, CA 92660
 Telephone: (949)851-9001
 e-mail: bresnick@VRSLaw.net
(Pro Hac Vice Pending)
Attorneys for Dinny Frasier, Individually

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

In the matter of	CASE NO. PR16-00128
JORDAN DANA FRASIER FAMILY TRUST	DEPT. NO. 15

DECLARATION OF BARNET RESNICK, ESQ.

I, BARNET RESNICK, declare as follows:

- I am an attorney duly licensed to practice law before all courts in the State of California for over 40 years and have applied to be admitted pro hac vice in this matter.
- I am a partner at the law firm of Vogt, Resnick & Sherak, LLP ("VRS"), California counsel for Dinny G. Frasier, a party in the above-captioned matter.
- I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.
- Pursuant to this Court's order, all interested parties in the Matter of the Jordan Dana Frasier Family Trust, namely, Dinny G. Frasier ("Dinny") and myself as Dinny's attorney; Nicole Shrive, trust officer of Premier Trust, Inc. and its attorney G. David Robertson, Esq.

of Robertson, Johnson, Miller & Williamson ("Mr. Robertson"); Bradley Frasier ("Bradley") and his attorney, Kristen Caverly, Esq. of Henderson, Caverly, Pum & Charney, LLP ("Ms. Caverly"); Amy Frasier-Wilson ("Amy") in pro per (attended with her husband Bill Wilson); and Nori Frasier ("Nori") in pro per, attended mediation at JAMS in Orange County, California, mediated by Justice Jeffrey King (ret.) ("Justice King") on January 27, 2017.

5. Prior to the mediation, the unrepresented parties (Amy and Nori) were urged to consult with independent legal counsel and were admonished during the mediation for not so doing, including by Mr. Robertson, counsel for Premier. Attached hereto as Exhibit 1 is a true and correct copy of a January 20, 2017 email to the parties making clear that the mediation would impact the rights of Nori, Amy and Brad.

6. Attached hereto as Exhibit 2 is a true and correct copy of January 26, 2017 correspondence to all parties of the mediation making clear they are free to bring counsel to the mediation. However, both Amy and Nori voluntarily chose to attend, and to continue with, the mediation without representation.

7. Dinny had to leave the mediation after about six hours, due to emotional distress caused by her children.

8. After a nine-hour long mediation, the parties reached a tentative settlement agreement (the "Agreement"), which would be contingent on this Court's approval and subject to Dinny's capacity assessment by a qualified gerontologist. A true and correct copy of the Agreement is attached to the Motion as Exhibit 2.

9. At the mediation, Amy and Nori wanted to include a provision that would provide them a gift of ten thousand dollars from Trust A to be divided equally between them. Said provision was written into the Agreement, and Amy and Nori both initialed next to the provision to express their consent to the term.

10. At the mediation, the parties agreed that I would draft the further, more detailed settlement agreement based on the Agreement and circulate to all parties for review and comments.

11. The parties agreed that Justice King would retain the original Agreement that was

signed by all the parties and that he would release the original to me upon his receiving authority from Nori to do so (she subsequently sent him such authorization).

12. On or about February 1, 2017, I was informed by John Ryan of Berkshire Ross ("Mr. Ryan") and Nori that Mr. Ryan represents Nori with respect to this matter and that all parties should communicate to Nori through him as her attorney.

13. On February 1, 2017, Gina Kim, my associate, emailed the draft settlement agreement to Mr. Robertson, Ms. Caverly, Mr. Ryan, and Amy.

14. Attached hereto as Exhibit 3 is a true and correct copy of the email transmitting the draft Further Agreement.

15. On February 2, 2017, Mr. Ryan of Berkshire Ross of Chicago, Illinois, called VRS and I spoke to him. Mr. Ryan stated that he was the "counsel of record" for Nori in all matters related to the Frasier Family Trust. He also stated that Nori is willing to sign the draft settlement agreement but with a modified term. He stated that he would modify the agreement with respect to Nori's change and circulate it to all parties for review. That is the last time VRS heard from Mr. Ryan, despite numerous emails to him. Later, I was informed that Mr. Ryan was not an attorney but was in fact a paralegal at Berkshire Ross.

16. On February 3, 2017, Gina Kim received comments from Ms. Caverly, counsel to Dr. Brad Frasier, requesting certain changes to the draft agreement. Attached hereto as Exhibit 4 is a true and correct copy of the mentioned email.

17. On February 6, 2017, Gina Kim sent a reminder email to Mr. Robertson, Mr. Ryan, and Amy to provide comments with a specific due date. No comments were received. Attached hereto as Exhibit 5 is a true and correct copy of the mentioned email.

18. On February 10, 2017, Gina Kim circulated via email to all parties the fully executed Agreement signed by Dinny, and reiterated the request for comments to the draft Further Agreement with a specific due date.

19. Attached hereto as Exhibit 6 is a true and correct copy of the February 10, 2017 email.

20. No comments to the draft settlement agreement were received from Mr. Robertson or his partner, Mr. Williamson, on behalf of Premier Trust.

- 1 21. On March 1, 2017, Gina Kim sent another email to all parties requesting comments to
2 the draft settlement agreement, to be provided no later than 5pm on March 6, 2017 or that
3 their right to comment would be deemed waived.
- 4 22. Attached hereto as Exhibit 7 is a true and correct copy of the March 1, 2017 email
5 from Gina Kim to all parties.
- 6 23. On March 1, 2017, Mr. Robertson emailed that he was not available to review the
7 draft settlement agreement until after March 15, 2017. A true and correct copy of Mr.
8 Robertson's March 1, 2017 email is attached hereto as Exhibit 8.
- 9 24. On March 3, 2017, I emailed all parties of my intent to seek court intervention on
10 March 24, 2017, to implement the terms of the Agreement should the parties not agree with
11 the terms of the draft Further Agreement. Attached hereto as Exhibit 9 is a true and correct
12 copy of the March 3, 2017 email to all parties.
- 13 25. On March 4, 2017, Nori emailed Gina Kim confirmation that Mr. Ryan should no
14 longer be considered her attorney. She further informed Gina Kim that she would be out of
15 the country until March 20, 2017 and that she needed additional time to review the
16 agreement upon her return. Gina Kim inquired to Nori as to why she had sat on the
17 agreement for over a month without reviewing or providing comments. Attached hereto as
18 Exhibit 10 is a true and correct copy of the March 4, 2017 email chain between Gina Kim
19 and Nori.
- 20 26. Gina Kim responded to Mr. Robertson to suggest that his colleague, Rich Williamson,
21 who is familiar with the Frasier Family Trust issues, review and provide comments in his
22 stead before the March 15 date. Mr. Robertson replied that he would consider this option but
23 never relayed a subsequent answer to VRS' proposal. Attached hereto as Exhibit 11 is a true
24 and correct copy of the referenced email chain between Gina Kim and Mr. Robertson.
- 25 27. On March 6, 2017, VRS obtained the original signed Agreement released by Justice
26 King and circulated it via email to all parties. By the same email, Gina Kim again requested
27 comments to the draft settlement agreement but extended the deadline to comment to
28 5:00pm on March 10, 2017, and reiterated VRS' intent to seek court if the parties were

1 unable to agree on the terms of the draft settlement agreement. Attached hereto as Exhibit 12
2 is a true and correct copy of the referenced March 6, 2017 email to all parties.

3 28. On the same day, Gina Kim emailed all parties about its decision to move forward
4 with the plan to file the instant Motion. A true and correct copy of that email is attached
5 hereto as Exhibit 13.

6 29. On March 15, 2017, I spoke to Aaron Fricke ("Mr. Fricke") who represented himself
7 as new counsel for Amy. During the conversation, Mr. Fricke stated that Amy does not
8 consent to the terms of the Agreement nor the draft Further Agreement. He also accused me
9 of unethical conduct and threatened to file three separate petitions with this Court if VRS
10 does not agree to the new terms proposed by his client, which include, but are not limited to,
11 making the terms of Trust A non-amendable and irrevocable by Dinny, and to "lock in" the
12 current value of Dinny's current residence (located in San Juan Capistrano, California, to
13 which Dinny was unhappily moved into after leaving the rehabilitation facility) so that Amy
14 receives more money upon Dinny's death. I am informed and believe that this proposal is a
15 tactical ploy by Amy to ensure that she gets more money out of Dinny against Dinny's
16 wishes by robbing Dinny of her right to leave her share of the trust estate to her chosen
17 beneficiaries.

18 30. I am informed and believe that Amy and Bill have been sending surrogates to call and
19 visit Dinny to persuade her to fire all of her "team," that she should leave everything to Amy
20 and Bill, and that Amy and Bill are the only people who are watching out for Dinny's best
21 interest.

22 31. VRS made numerous requests for others to provide comments and provided sufficient
23 time to the parties to comment so that the terms to which everyone agreed at the mediation
24 could be implemented and this matter be resolved once and for all. Despite such efforts, the
25 parties have refused to cooperate and some appear to be trying to back out of the terms to
26 which they had previously agreed.

27 32. On or about March 27, 2017, I was informed that Mr. Fricke moved to withdraw as
28 counsel for Amy.

1 33. On April 7, 2017 a conference call was held and was attended by myself, Ms. Gina
2 Kim of my firm, our Nevada counsel, Ms. O'Mara, Ms. Caverly, Mr. Robertson, Nicole
3 Shrive of Premier, Nori Frasier, and Amy Frasier Wilson. Mr. Aaron Fricke, who was still
4 counsel of record to Amy Frasier at the time, also participated.

5 34. Nori indicated stated her desire to execute the Further Agreement and finally resolve
6 this case.

7 35. Mr. Robertson took the position that the Agreement may not be enforceable because
8 Nori and Amy were without counsel at the January mediation.

9 36. Amy stated her issues with the Further Agreement, which issues were consistent with
10 the written comments she provided to VRS. She informed the parties that she was not ready
11 to sign because she wants to "keep her options open."

12 37. On April 14, 2017, Gina Kim emailed all counsel of record, Amy and Nori a redacted
13 copy of Dinny's capacity evaluation as well as a marked up copy of the Further Agreement,
14 which copy included the comments from Amy and incorporated comments from Ms.
15 Caverly. A true and correct copy of that email is attached hereto as Exhibit 14.

16 38. All parties were informed of their right to bring independent counsel or anyone else
17 who would be helpful in reaching a resolution to the mediation and to consult with counsel
18 with respect to the settlement agreement. Brad, Amy, and Nori were all informed of and
19 were aware of the significant impact the mediation could have on their inheritance rights.
20 Despite such communications, Amy and Nori chose to attend the mediation without
21 representation. In particular, Amy, having waived her right to legal counsel on multiple
22 occasions, is now seeking to overturn the agreement that all parties had reached after the
23 nine-hour long mediation.

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

26 Executed this 14th day of April, 2017, at Newport Beach, California.
27
28


BARNET RESNICK

EXHIBIT 1

Barnet Resnick

From: David Robertson <gdavid@nvlawyers.com>
Sent: Friday, January 20, 2017 1:08 PM
To: Barnet Resnick; kcavery@hcesq.com; MSullivan@rbsllaw.com; Rich Williamson
Cc: nshrive@premiertrust.com; dinnyfrasier@juno.com; nori_frasier@hotmail.com; digitalmermaid8@gmail.com; bfrasiermd@gmail.com; john@gonzalezcpa.com; Teresa Stovak
Subject: Mediation Details

Dear Counsel and Interested Parties:

This will confirm that the mediation is going forward next Friday, January 27, 2017, at the offices of JAMS located at 500 North College Blvd., 14th floor, Orange, California 92868 (714) 939-1300 beginning at 9:30 AM. The mediation will be conducted by Judge King. The purpose of the mediation is to resolve disputes relating to the medical office building. Everyone is encouraged to attend, and particularly Brad, Nori and Amy as the outcome of the mediation will likely have an impact on their inheritances.

As indicated in my prior email, anyone may submit a mediation brief with no page limits on or before Tuesday, January 24, 2017. The mediation brief can be confidential to the Judge or available for review by everyone. Alternatively, anyone may submit two mediation briefs, one of which is intended to be confidential and the other to be shared with all parties. Mediation briefs should be submitted by email to Judge King's assistant Karla Adams at her email address kadams@jamsadr.com, with a copy to everyone on this email if you intend for your mediation brief to be public. Conversely, if you prefer your mediation brief to be confidential, then only submit it to Karla and advise her in the email that you are requesting your brief be confidential. If you have any questions or concerns, you can call Karla at (213) 253-7786.

Also, if you have any questions or comments that you would like to share with the entire group of interested parties, then please use the "reply all" feature in response to this email. You may also call me with any questions or comments at (775) 329-5600.

We are looking forward to seeing you all next Friday.

Best regards,
David

Sent from my iPad

EXHIBIT 2

Barnet Resnick

From: Nori Frasier <nori_frasier@hotmail.com>
Sent: Thursday, January 26, 2017 3:52 PM
To: David Robertson; Jo Mayne; msullivan@rbsllaw.com; kcaverly@hcesq.com
Cc: Danielle Briscoe; rstowe@hcesq.com; Dinny Frasier; Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; David Sherak; Barnet Resnick; bfrasiermd@gmail.com; Amy Frasier (digitalmermaid8@gmail.com); john@gonzalezcpa.com; Nori Frasier; rick@cady.net
Subject: Re: Jordan Dana Frasier Family Trust vs. - REF# 1220055283

Thank you, I will find out if he is available. I am NOT up on legal protocol and who can come and who can not come. My understanding was it for family members (i.e. mentioned like this is all of the emails) and not for spouses as they are NOT included in the estate as per my parents wishes. When you write "None indicate that there is a limitation on who can attend the mediation. " I did not realize it was even an option to know even to ask the question.

Anyway, since I have never been exposed to this type of thing before, kindly expect my ignorance to legal matters.

I have documentation which shows my father intent which I will be bringing on the building which were written by my father's family attorney when he was alive and during the building purchase.

Kindly, Nori

From: David Robertson <gdavid@nvlawyers.com>
Sent: Thursday, January 26, 2017 3:28 PM
To: Nori Frasier; Jo Mayne; msullivan@rbsllaw.com; kcaverly@hcesq.com
Cc: Danielle Briscoe; rstowe@hcesq.com; Dinny Frasier; Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; David Sherak; Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net); bfrasiermd@gmail.com; Amy Frasier (digitalmermaid8@gmail.com); john@gonzalezcpa.com
Subject: RE: Jordan Dana Frasier Family Trust vs. - REF# 1220055283

Hi Nori:

I've reviewed all of the emails sent regarding the mediation. None indicate that there is a limitation on who can attend the mediation.

Also, as you know, several of the emails indicate that if anyone has questions then please do not hesitate to ask them.

Regardless, Richard is welcome to participate by telephone tomorrow if he is able.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
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From: Nori Frasier [mailto:nori_frasier@hotmail.com]
Sent: Thursday, January 26, 2017 3:10 PM
To: David Robertson; Jo Mayne; msullivan@rbsllaw.com; kcaverly@hcesq.com
Cc: Danielle Briscoe; rstowe@hcesq.com; Dinny Frasier; Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; David Sherak; Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net); bfrasiermd@gmail.com; Amy Frasier (digitalmermaid8@gmail.com); john@gonzalezcpa.com; Nori Frasier
Subject: Re: Jordan Dana Frasier Family Trust vs. - REF# 1220055283

Thank you for the information as it would have been informative to know before today so Richard could fly down and plan to take the time off from work. He is a principal engineer and a lead and can not leave without planning ahead of time.

Kindly, Nori

From: David Robertson <gdauid@nvlawyers.com>
Sent: Thursday, January 26, 2017 2:57 PM
To: Nori Frasier; Jo Mayne; msullivan@rbsllaw.com; kcaverly@hcesq.com
Cc: Danielle Briscoe; rstowe@hcesq.com; Dinny Frasier; Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; David Sherak; Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net); bfrasiermd@gmail.com; Amy Frasier (digitalmermaid8@gmail.com); john@gonzalezcpa.com
Subject: RE: Jordan Dana Frasier Family Trust vs. - REF# 1220055283

Hi Nori:

Patty Frasier and Richard Cady are also invited. Indeed, everyone is welcome to bring an attorney - or anyone else - with them who they believe might be helpful to reaching a resolution.

The list I provided below only included those persons who have advised me they plan to attend. Please note the highlighted "at least" language in my below email.

We look forward to seeing you tomorrow.

Best regards,

David

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From: Nori Frasier [mailto:nori_frasier@hotmail.com]
Sent: Thursday, January 26, 2017 2:44 PM
To: David Robertson; Jo Mayne; msullivan@rbsllaw.com; kcaverly@hcesq.com
Cc: Danielle Briscoe; rstowe@hcesq.com; Dinny Frasier; Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; David Sherak; Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net); bfrasiermd@gmail.com; Amy Frasier (digitalmermaid8@gmail.com); john@gonzalezcpa.com; Nori Frasier
Subject: Re: Jordan Dana Frasier Family Trust vs. - REF# 1220055283

May I ask why Bill Wilson is invited to a family mediation session when Patty Frasier or Richard Cady are not?

He is not part of the immediate family.

Thank you, Nori

From: David Robertson <gdavid@nvlawyers.com>
Sent: Thursday, January 26, 2017 1:53 PM
To: Jo Mayne; msullivan@rbsllaw.com; kcaverly@hcesq.com
Cc: Danielle Briscoe; rstowe@hcesq.com; Dinny Frasier; Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; David Sherak; Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net); bfrasiermd@gmail.com; Nori Frasier (nori_frasier@hotmail.com); Amy Frasier (digitalmermaid8@gmail.com); john@gonzalezcpa.com
Subject: RE: Jordan Dana Frasier Family Trust vs. - REF# 1220055283

Hi Jo:

Thank you for your kind email. We are passing on your below information about tomorrow's mediation to all interested parties via this email.

In addition, to answer your below questions, we expect 4 people for the Co-Trustees, i.e., Dinny Frasier, Nicole Shrive, John Gonzalez and myself. It is possible - but unlikely - that Mr. Travis Brooks may also join us. Further, I think you can expect at least Barry Resnick, Kristen Caverly, Dr. Brad Frasier, Nori Frasier Cady, Amy Frasier Wilson and Bill Wilson to be present.

We do not have any known audio-visual needs, although we may need access to a speakerphone for Mike Sullivan should he call in.

Finally, from a logistics perspective, we may need up to 5 separate rooms for people to break out and caucus since there are multiple "camps" represented by the participants.

Thanks again, and we look forward to meeting you tomorrow.

Best regards,
David

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From: Jo Mayne [<mailto:jmayne@jamsadr.com>]
Sent: Thursday, January 26, 2017 10:43 AM
To: David Robertson; msullivan@rbsllaw.com; kcaverly@hcesq.com
Cc: Danielle Briscoe; rstowe@hcesq.com
Subject: Jordan Dana Frasier Family Trust vs. - REF# 1220055283

Good Morning Counsel,

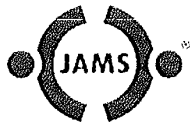
In preparation for your mediation with Hon. Jeffrey King, set for Friday, January 27th at 9:30 A.M. in the JAMS Resolution Center located in Orange at 500 N. State College Boulevard, 14th Floor, Orange, CA 92868.

Please reply with the number of people that will be attending on your side and if you have any audio visual needs. I will be ordering lunch for your case.

As always, parking is free in the parking structure across from the main building. Please let your clients know most of the parking on the 1st level is reserved, but there are ample visitor spaces which can be found in the parking structure on Levels 2 - 4. Please do not park in a Reserved or 2-Hour parking space as Property Management has informed us they will tow. Please share this information with your clients.

Thank you very much for your time.

*With Kind Regards,
Jo Mayne*



Jo Mayne
Administrative Assistant Client Services

500 N. State College Blvd
Orange, CA 92868
P: 714-937-8253
F: 714-939-0869

JAMS Named Mediation Firm of the Year in *Who's Who Legal* 2016.

U.S. | International | LinkedIn | Twitter

EXHIBIT 3

Gina Kim

From: Gina Kim
Sent: Wednesday, February 01, 2017 3:31 PM
To: gdavid@nvlawyers.com; kcaverly@hcesq.com; john.ryan@berkshireross.com; digitalmermaid8@gmail.com
Cc: Barnet Resnick; Gina Kim
Subject: Draft Settlement Agreement - FRASIER
Attachments: Settlement Agreement-VRS Draft-2.1.2017.pdf

Follow Up Flag: Follow up
Due By: Monday, February 06, 2017 9:30 AM
Flag Status: Flagged

David, Kristen, John, and Amy:

Please find attached for your review the draft Settlement Agreement and Release regarding the Frasier Family Trust.

Please let me know if you have any questions regarding this matter.

Sincerely,

Gina H. Kim, Esq.
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
Newport Beach, CA 92660
(949) 851-9001 Ext. 208
(949) 833-3445 Fax
GKim@VRSLaw.net
www.vrslaw.net

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SETTLEMENT AGREEMENT AND RELEASE

This *Settlement Agreement and Release* ("Agreement"), effective as of January 27, 2017, is by and between DINNY FRASIER ("Dinny"), as the surviving Trustor of the Trust as defined hereunder and Co-Trustee of the Trust; PREMIER TRUST, INC. ("Premier"), as Co-Trustee of the Trust; BRADLEY FRASIER ("Brad"), as a contingent beneficiary of the Trust; NORI FRASIER CADY ("Nori"), as a contingent beneficiary of the Trust; and AMY FRASIER WILSON ("Amy"), as a contingent beneficiary of the Trust. Dinny, Premier, Brad, Nori, and Amy are sometimes referred to herein individually as "Party" and collectively as "Parties."

RECITALS

WHEREAS the JORDAN DANA FRASIER FAMILY TRUST (the "Trust") was established on December 29, 1980 by Jordan Dana Frasier ("Joe") and Dinny Frasier, as Trustors and initial trustees; and

WHEREAS the Trust was amended on December 31, 1984, April 8, 1987, amended and restated on September 21, 1999, amended on March 15, 2000, and finally amended on June 7, 2000; and

WHEREAS Joe died on October 22, 2014; and

WHEREAS the Trust required a split of the assets between the *Survivor's Trust* ("Trust A") and the *Tax Exemption Trust* ("Trust B"); and

WHEREAS Dinny was the sole income beneficiary of Trust A and Trust B; and

WHEREAS Dinny has the power to revoke or amend the terms of Trust A; and

WHEREAS the terms of Trust B became irrevocable upon Joe's death; and

WHEREAS, following Joe's death and according to the terms of the Trust, Dinny was to appoint a corporate co-trustee; and

WHEREAS in or about May 2015, Dinny appointed Premier, a professional corporate trustee, duly licensed to conduct trust business in the State of Nevada, as the co-trustee; and

WHEREAS the trustees of the Trust commenced an action in the Second Judicial District Court in Reno, Nevada on March 2, 2016 (the "Action") by filing a *Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions* (the "Petition"); and

WHEREAS the Parties, by and through their attorneys, agreed to mediate the various claims and disputes associated with the Action, the Petition, and the Trust (including Trust A and Trust B) on January 27, 2017 in Orange, California; and

WHEREAS the mediator, Justice Jeffrey King (Ret.) attested to Dinny's capacity to contract

and to make testamentary disposition of her estate;

THEREFORE, intending to be bound, the undersigned Parties agree to settle the Action according to the following terms and conditions:

TERMS

1. Capacity. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.
2. Exchange & Appraisal of Real Property. Trust B shall exchange at the appraised value the following listed real properties with assets held in Trust A:
 - That certain piece of real property located at 4372 Pacifica Way, Unit 3, Oceanside, California 92056, identified as APN 160-692-07-03 ("Pacifica Way"); and
 - That certain piece of real property located at 3609 Vista Way, Oceanside, California 92056, identified as APN 165-362-34-00 ("Vista Way").
 - (a) Pacifica Way, Vista Way, and that certain piece of real property located at 10 Via Sonrisa, Mission Viejo, California 92692 ("Via Sonrisa"), shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick, Esq. ("Resnick"), attorney for Dinny, and Kristen Caverly, Esq. ("Caverly"), attorney for Brad. The appraised value as stated by the agreed-upon appraiser shall be binding on the Parties.
 - (b) All fees, costs, and expenses associated with the appraisal(s) shall be borne by Trust B, to be paid from the principal.
 - (c) The Vista Way property's tenant in common interest shall be calculated based on the average between a discounted fifty-percent (50%) interest and a partitioned interest.
 - (d) Subject to the Court approval of this Agreement, the co-trustees shall distribute, or authorize to be distributed from Trust A, subject to Dinny's assessment by a qualified gerontologist in re: capacity, the real properties as follows: (i.) to Nori: The Pacifica Way property; (ii.) to Amy: The Via Sonrisa property; and (iii.) to Brad: the Vista Way property, at the appraised values.
4. Equalization of Distributions. Dinny agrees to amend Trust A to equalize distributions to Brad, Nori, and Amy, based on the appraised values of the properties referenced herein, supra, and bequeath an additional Ten Thousand Dollars (\$10,000) to Nori and Amy, divided equally.
5. Payment of Taxes Incurred. The Parties agree that as a result of the exchange, there may be taxes incurred by Trust B, which taxes if any shall be paid out of principal of Trust B.
6. Previous Payments. The sum of Fifty Thousand Dollars (\$50,000) previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. Furthermore, the check

from Brad in the amount of Twenty Thousand Dollars (\$20,000) currently being held by Premier shall be destroyed, and Brad may stop payment on same.

7. No Principal Residence in Trust B. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the devise of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B.

8. Agreement Subject to Court Approval. This Agreement shall be subject to Nevada probate court approval.

9. Miscellaneous Trust Matters. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.

10. Release. Subject to the compliance with all the terms of this Agreement, the Parties hereby release and absolutely and forever discharge each other and their representatives, agents, employees, assigns, and attorneys, from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs, expenses, liens, attorneys' fees and costs, actions and causes of action of every kind and nature whatsoever, whether now known or unknown and suspected or unsuspected relating to the Action (which are hereinafter referred to as "Released Matters") which any Party now has, owns or holds, or at any time heretofore, ever had, owned or held, or could, shall or may hereafter have, own or hold, based upon, related to, or by reason of the transactions, events, or occurrences referred to in any of the pleadings in the Action, occurring or existing up to or including the date hereof.

It is the intention of the Parties in giving and accepting the consideration provided for herein and in executing this Agreement that this Agreement shall be effective as a full and final accord and satisfaction and release of the claims in the Action. In furtherance of this intention, each Party acknowledges that he or she is familiar with section 1542 of the *Civil Code* of the State of California which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Subject to the compliance with all the terms of this Agreement, the Parties waive and relinquish any rights and benefits which they have or may have under Section 1542 of the *Civil Code* of the State of California to the full extent which they lawfully waive all such rights and benefits pertaining to the subject matter of this Agreement. In connection with such waiver and relinquishment, the Parties are aware that they may hereinafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of this Agreement, but it is their intention hereby fully, finally and forever to settle and release all released matters, differences and disputes, known or unknown, suspected or unsuspected, which do

now exist, may exist, or heretofore have existed relating to the Action. In furtherance of such intention the releases given herein shall remain and be in effect as full and complete general releases, notwithstanding the discovery or existence of such additional or different facts.

11. Representations and Warranties. Each of the Parties to this Agreement represents and warrants to the other that each of them has the full power, capacity and authority to enter into this Agreement, that neither of them has sold, assigned or in any manner transferred any claims which either of them ever had against the other to any third party, and that no other releases or settlements are necessary from any other person or entity to release and discharge completely the other Parties from the claims specified herein. The Parties further represent and warrant that they do not presently have on file any claims, charges, grievances, actions, appeals, or complaints against each other in or with any administrative, state, federal, or governmental entity, agency, board, or court, or before any other tribunal or panel of arbitrators, public or private, based upon any actions by the Parties occurring prior to the date of this Agreement, and the Parties agree not to file any appeals, writs, complaints or other proceedings of any kind relating to such claims.

12. Responsibility for Costs and Fees. All fees and costs associated with the Action and the Agreement incurred by Dinny shall be paid by Trust B. Except as otherwise noted herein, each of the Parties are to be responsible for bearing their own costs, expert witness and attorneys' fees associated with the Action or the claims arising therefrom.

13. Applicable Law. The rights and obligations of the Parties hereunder shall be construed and enforced in accordance with the laws of the State of California. The terms of this release are contractual and not a mere recital.

14. Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute an Agreement that shall be binding upon all Parties hereto, notwithstanding that the signatures of all Parties' designated representatives do not appear on the same page.

15. Integration. This Agreement contains the entire agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations and agreements between the Parties hereto, or any of them, whether written or oral. The Agreement, constitutes the entire understanding between and among the Parties with regard to the matters set forth herein. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the Parties relating to the subject matter of this Agreement which are not fully expressed herein. This Agreement shall be interpreted according to its own terms, as defined in this Agreement or otherwise according to their ordinary meaning, without any parol evidence. This is an integrated agreement.

16. Severability. In the event that any one or more of the provisions of this Agreement shall be declared invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.

17. Modifications. Any alterations, changes or modifications of or to this Agreement, in order to be effective, shall be made by written instrument or endorsement thereon and in each such instance shall be duly signed on behalf of each Party hereto.

18. Achieve Goals and Purposes of Agreement. The Parties to this Agreement shall execute and deliver any document which is reasonably necessary to achieve the goals and purposes of this Agreement.

19. Enforcement of Agreement. Any Party who prevails in an action to enforce any provision of this Agreement shall be awarded actual attorneys' fees and costs incurred. The Parties agree that the court shall continue to have jurisdiction to enforce the terms of this Agreement pursuant to *Code of Civil Procedure* Section 664.6.

20. No Admissions. This Agreement is a compromise of disputed claims and shall not be construed or deemed to be an admission of fault, liability or wrongdoing by any Party hereto to any other Party, person or entity concerning any facts related to or arising out of the Action or any alleged cross-claims which the Parties have or may have against each other. This Agreement has been entered into to clarify and specify the rights and obligations of the Parties and so that the Parties can resolve their disputes in a mutually agreeable manner.

21. Admissibility. In any action or proceeding relating to this Agreement, the Parties stipulate that a copy of this Agreement may be admissible to the same extent as the original Agreement unless the exceptions set forth in California *Evidence Code* Section 1511 are found to be applicable.

22. Advice of Counsel. **EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND HIS/HER/ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF HIS/HER/ITS RIGHT TO SEEK INDEPENDENT COUNSEL.** Each Party has obtained or has had the opportunity to obtain the advice of independent counsel of its own choosing with regard to this Agreement, and each has read the Agreement and is fully aware of its contents.

23. Joint Preparation. This Agreement is the product of the Parties' mutual discussions and negotiations. This document is drafted, prepared and created by all the Parties, collectively, and shall not be construed in favor of, or against, any Party.

24. Venue and Jurisdiction. The Parties expressly agree that any action or proceeding to enforce, interpret, or in any way apply to any provisions in this Agreement is to be brought in the Superior Court of the State of California, County of Orange ("OCSC"). Furthermore, the Parties expressly consent to the jurisdiction of the OCSC and waive any and all defenses related to jurisdiction and/or venue.

25. Headings. The headings and numbering of the different paragraphs in this Agreement are inserted for reference and convenience only and are not to be taken as part of this Agreement or to control or affect the meaning, construction, or effect of same.

26. No Effect on Prior Agreement(s). This Agreement and the attached Stipulated Judgment referred to herein shall in no way effect, alter, amend, or modify any agreement hitherto entered into by Legacy and Vigilant, and is intended solely as a settlement of the claim or claims referred to herein.

DATED: February __, 2017

By: DINNY FRASIER, Surviving Trustor and Co-Trustee, by and through her attorney-in-fact, Janie Mulrain, Licensed Private Professional Fiduciary

DATED: February __, 2017

By: NICOLE SHRIVE, Trust Officer
Authorized Officer of PREMIER TRUST, INC.

DATED: February __, 2017

By: BRADLEY FRASIER, Contingent Beneficiary

DATED: February __, 2017

By: NORI FRASIER CADY, Contingent Beneficiary

DATED: February __, 2017

By: AMY FRASIER WILSON, Contingent Beneficiary

APPROVED AS TO FORM ONLY:

DATED: February __, 2017

VOGT | RESNICK | SHERAK, LLP
Attorneys at Law

By: _____
Barnet Resnick, Esq.
Attorneys for DINNY FRASIER

DATED: February __, 2017

ROBERTSON, JOHNSON, MILLER &
WILLIAMSON

By: _____
G. David Robertson, Esq.
Attorneys for PREMIER TRUST, INC.

DATED: February __, 2017

HENDERSON, CAVERLY, PUM & CHARNEY,
LLP

By: _____
Kristen Caverly, Esq.
Attorneys for BRADLEY FRASIER

DATED: February __, 2017

By: _____
John Ryan, Esq.
Attorneys for NORI FRASIER CADY

DATED: February __, 2017

By: _____
Hon. Jeffrey King (Ret.)
Mediator

EXHIBIT 4

BRASELTON, SHAWNA

From: Gina Kim <gkim@VRSLaw.net>
Sent: Monday, February 06, 2017 3:31 PM
To: 'David Robertson'; 'john.ryan@berkshireross.com'; 'digitalmermaid8@gmail.com'
Cc: Barnet Resnick; 'kcaverly@hcesq.com'
Subject: RE: Draft Settlement Agreement - FRASIER

David, John, and Amy,

Just to remind you that we are still awaiting your comments, if any, to the draft settlement agreement that was sent to you last week.

Please provide them at your earliest convenience so that we can resolve this matter as efficiently as possible.

Thank you.

Gina

Sincerely,

Gina H. Kim, Esq.
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
Newport Beach, CA 92660
(949) 851-9001 Ext. 208
(949) 833-3445 Fax
GKim@VRSLaw.net
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From: David Robertson [mailto:gdavid@nvlawyers.com]
Sent: Saturday, February 04, 2017 9:34 AM
To: Gina Kim; kcaverly@hcesq.com; john.ryan@berkshireross.com; digitalmermaid8@gmail.com
Cc: Barnet Resnick; Nicole Shrive (nshrive@premiertrust.com); Nori Frasier (nori_frasier@hotmail.com)
Subject: RE: Draft Settlement Agreement - FRASIER

Hi John:

Welcome to the Team sorting out various issues relating to the Frasier Family Trusts.

Could you please confirm that you have been retained by Nori to assist in finalizing the tentative Agreement? Also, could you please advise whether it would be acceptable if we also copy Nori on all emails that are sent to you? We just want to make sure that she is kept in the loop.

Thanks, and we look forward to working with you.

Best regards,
David

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gdauid@nvlawyers.com
Please visit our website at www.nvlawyers.com

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From: Gina Kim [<mailto:gkim@VRSLaw.net>]
Sent: Wednesday, February 01, 2017 3:31 PM
To: David Robertson; kcaverly@hcesq.com; john.ryan@berkshireross.com; digitalmermaid8@gmail.com
Cc: Barnet Resnick; Gina Kim
Subject: Draft Settlement Agreement - FRASIER

David, Kristen, John, and Amy:

Please find attached for your review the draft Settlement Agreement and Release regarding the Frasier Family Trust.

Please let me know if you have any questions regarding this matter.

Sincerely,

Gina H. Kim, Esq.
VOGT | RESNICK | SHERAK, LLP
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EXHIBIT 5

BRASELTON, SHAWNA

From: Kristen Caverly <kcaverly@hcesq.com>
Sent: Friday, February 03, 2017 11:25 AM
To: Gina Kim; Barnet Resnick
Subject: RE: Draft Settlement Agreement - FRASIER

Gina and Barry,

Thank you for preparing the formal settlement agreement. Comments from me.

- 1) We had discussed that King could settle any dispute of the appraiser selection for Vista Way by each of us submitting a name and him drawing blind. While such a disagreement may never come to pass, it is a good idea to include how we would resolve it.
- 2) The written agreement provides mutual general releases of known and unknown claims. This is a problem for all of the children releasing Premier (and maybe a problem for Dinny if you have not seen an accounting) because we have been denied any information about the funding or administration since the rules in NV apparently allow that until Dinny passes. The request for information was an issue in the Action before you and I got involved, so would be covered by your language and may be read more broadly to release Premier for its administration which I know nothing about. To resolve this, I suggest we either expressly carve out Premier's administration from the releases (which you may not have intended to include anyway) or Premier can provide an accounting to see what is being released.
- 3) In the releases, because the pleadings here are pretty generalized (not what I am used to in CA), I would like to list that any claims Brad has against Trust B or Trust B has against Brad related to the Vista Way property are released.
- 4) Paragraph 12 – I do not mind Trust B paying reasonable attorneys' fees for Dinny, but I want to state that until that amount is disclosed that the children are not releasing Premier from ensuring that such fees are reasonable and allocated evenly between income and principal.
- 5) Paragraph 26 – did not get edited for our agreement.

I hope none of these comments are issues for you, but please let me know if they are so we can talk through them.

Kristen

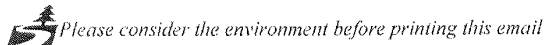
KRISTEN E. CAVERLY | Founding Partner

Henderson, Caverly, Pum & Charney LLP

Main Office (M-F): 12750 High Bluff Drive, Suite 300, San Diego, California 92130
Call First to Meet at 16236 San Dieguito Road, Suite 3-10, Rancho Santa Fe, California 92067
Call First to Meet at 555 West Fifth Street, 31st Floor, Los Angeles, CA 90013
(t) 858.755.3000 x.101 | (f) 858.755.9900 | kcaverly@hcesq.com www.hcesq.com

**Henderson Caverly
Pum Charney LLP**

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From: Gina Kim [mailto:gkim@VRSLaw.net]
Sent: Wednesday, February 1, 2017 3:31 PM
To: gdavid@nvlawyers.com; Kristen Caverly <kcaverly@hcesq.com>; john.ryan@berkshireross.com; digitalmermaid8@gmail.com
Cc: Barnet Resnick <bresnick@VRSLaw.net>; Gina Kim <gkim@VRSLaw.net>
Subject: Draft Settlement Agreement - FRASIER

David, Kristen, John, and Amy:

Please find attached for your review the draft Settlement Agreement and Release regarding the Frasier Family Trust.

Please let me know if you have any questions regarding this matter.

Sincerely,

Gina H. Kim, Esq.
VOGT | RESNICK | SHERAK, LLP
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Newport Beach, CA 92660
(949) 851-9001 Ext. 208
(949) 833-3445 Fax
GKim@VRSLaw.net
www.vrslaw.net

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EXHIBIT 6

Gina Kim

From: Gina Kim
Sent: Friday, February 10, 2017 2:47 PM
To: 'David Robertson'; john.ryan@berkshireross.com; digitalmermaid8@gmail.com
Cc: Barnet Resnick; kcaverly@hcesq.com
Subject: RE: Draft Settlement Agreement - FRASIER
Attachments: Mediation Agreement.pdf

All, please see attached mediation agreement signed by Dinny.

We are waiting to receive the original mediation agreement from J. King and will let you know upon receipt.

We are still waiting on comments about the mediation agreement from those of you who have not yet responded. We would appreciate receiving your comments, if any, as soon as possible.

Sincerely,

Gina H. Kim, Esq.
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
Newport Beach, CA 92660
(949) 851-9001 Ext. 208
(949) 833-3445 Fax
GKim@VRSLaw.net
www.vrslaw.net

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From: David Robertson [mailto:gdavid@nvlawyers.com]
Sent: Monday, February 06, 2017 4:26 PM
To: Gina Kim; john.ryan@berkshireross.com; digitalmermaid8@gmail.com
Cc: Barnet Resnick; kcaverly@hcesq.com; Nicole Shrive (nshrive@premiertrust.com)
Subject: RE: Draft Settlement Agreement - FRASIER

Hi Everyone:

I just received a call from Mr. Ryan. He indicated that they will have changes to the tentative agreement on behalf of Nori, and will be sending those in the near future.

He also asked that we communicate with Nori through him.

SETTLEMENT AGREEMENT

The Parties to this Agreement dated January 27, 2017, are Barnet Resnick, Esq., attorney for Dinny Frasier ("Dinny"); G. David Robertson, Esq., attorney for Co-Trustees Premier Trust, Inc. ("Premier") and Dinny Frasier in her capacity as Co-Trustee; Nicole Shrive, on behalf of Premier; Kristen Caverly, Esq., attorney for Bradley Frasier ("Brad"); Nori Frasier Cady ("Nori"); Amy Frasier Willson ("Amy"); and Justice Jeffrey King (retired), Mediator ("Justice King"), (individually, "Party" and collectively, "Parties"). The Parties hereby agree as provided herein regarding the Matter of Jordan Dana Frasier Family Trust, Case No. PR16-00128, Second Judicial District Court, County of Washoe, State of Nevada.

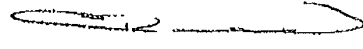
1. Justice Jeffrey King (retired), mediator, attests to Dinny Frasier's capacity to contract and to make testamentary disposition of her estate.
2. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.
3. Trust B will exchange the following listed real properties with assets held in Trust A:
 - a. 4372 Pacifica Way, Unit 3, Oceanside, CA
 - b. 3609 Vista Way, Oceanside, CA
4. The above two parcels of real properties, as well as 10 Via Sonrisa, Mission Viejo, shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick and Kristen Caverly, and the appraised values ("Appraised Values") shall be binding on all Parties. All communications with the appraiser shall include Mr. Resnick and Ms. Caverly.
5. All fees, costs, and expenses associated with the appraisals shall be borne by Trust B, to be paid from principal.
6. The real property located at 3609 Vista Way tenant in common interest shall be calculated based on the average between a discounted fifty percent interest and a partitioned interest.
7. Contingent on Court approval of this Agreement, and subject to a capacity assessment by a qualified gerontologist, Dinny shall distribute or authorize to distribute from Trust A the real property located at 4372 Pacific Way Unit 3, Oceanside, CA to Nori; 10 Via Sonrisa, Mission Viejo, CA to Amy; and 3609 Vista Way, Oceanside, CA to Brad, at the Appraised Values.
8. Dinny agrees to amend Trust A to equalize distributions to each of her children based on the Appraised Values, *AND DEDUCT AN ADDITIONAL \$10,000 TO NORI*
9. The Parties agree that as a result of the exchange, there may be tax incurred by Trust B, which taxes if any shall be paid out of principal of Trust B. *EQUALLY*
10. The sum of fifty thousand dollars previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. *yes*
11. The check from Brad in the amount of twenty thousand dollars currently being held by Premier shall be destroyed, and Brad may stop payment on same. *yes*
12. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the gift of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B. *D.G.F.*
13. This Agreement shall be subject to Nevada probate court approval.
14. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary.

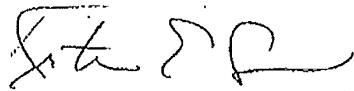
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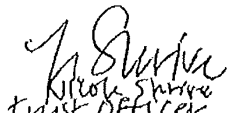
15. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to
* receive rent from Amy and Nori for the period that they resided in a trust property.

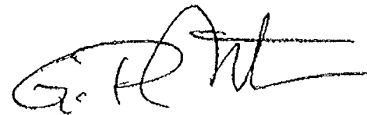
**EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING
THIS AGREEMENT, AND ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A
WAIVER OF ITS RIGHT TO SEEK COUNSEL.**


Brad Frasier

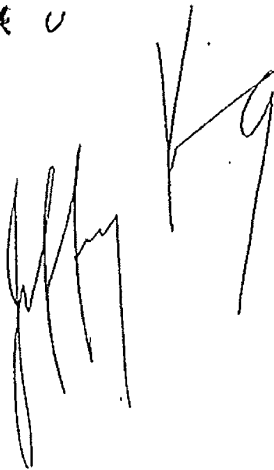

Barrett R. Erickson

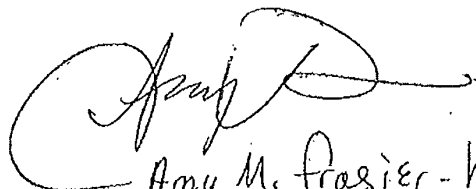

Kristen Caverly


Nicole Shreve
Trust Officer
Premier Trust


G. DAVID ROBERTSON, Atty
for Co-trustees

* u




Amy M. Frasier-Wilson

Dining Gray Frasier

EXHIBIT 7

Gina Kim

From: Gina Kim
Sent: Wednesday, March 01, 2017 6:54 PM
To: 'David Robertson'; kcaverly@hcesq.com; john.ryan@berkshireross.com; Nori Frasier (nori_frasier@hotmail.com); digitalmermaid8@gmail.com
Cc: Barnet Resnick; Gina Kim
Subject: Frasier - settlement agreement

All,

To date, I have not received any comments about the draft settlement agreement, with the exception of Kristen.

David, John/Nori, and Amy, please provide your comments to the draft agreement to me **by or before 5pm on Monday, 3/6/2017**. If I do not receive your comments by then, we will deem the draft agreement terms agreed to as is. We will then redline the draft agreement with Kristen's comments and circulate to you all.

Thank you.

Sincerely,

Gina H. Kim
Attorney
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849
T. 949.851.9001
F. 949.833.3445
gkim@vrslaw.net
www.vrslaw.net

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EXHIBIT 8

Gina Kim

From: David Robertson <gdavid@nvlawyers.com>
Sent: Wednesday, March 01, 2017 7:19 PM
To: Gina Kim; kcaverly@hcesq.com; john.ryan@berkshireross.com; Nori Frasier (nori_frasier@hotmail.com); digitalmermaid8@gmail.com
Cc: Barnet Resnick; Nicole Shrive (nshrive@premiertrust.com)
Subject: RE: Frasier - settlement agreement

I am in the third week of a very intense \$80M federal court jury trial in Sacramento which will continue until about 3/15 and am thus unable to review the document between now and then.

I suggest that you gather whatever input you can by 3/6 and then circulate another draft, which I will look at as soon as my trial is over.

Thanks.

Best regards,

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gdavid@nvlawyers.com
Please visit our website at www.nvlawyers.com

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From: Gina Kim [<mailto:gkim@VRSLaw.net>]
Sent: Wednesday, March 01, 2017 6:54 PM
To: David Robertson; kcaverly@hcesq.com; john.ryan@berkshireross.com; Nori Frasier (nori_frasier@hotmail.com); digitalmermaid8@gmail.com
Cc: Barnet Resnick; Gina Kim
Subject: Frasier - settlement agreement

All,

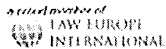
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EXHIBIT 9

Gina Kim

From: Barnet Resnick
Sent: Friday, March 03, 2017 6:19 PM
To: Nori Frasier
Cc: David Robertson; Gina Kim; kcaverly@hcesq.com; john.ryan@berkshireross.com; digitalmermaid8@gmail.com; Nicole Shrive (nshrive@premiertrust.com)
Subject: Re: Frasier - settlement agreement

Nori: please explain what you have been doing with the proposed agreement sent to you one month ago?
All: on march 24, I intend on seeking court intervention to implement the mediation settlement agreement should the parties not agree with the terms of a definitive agreement.

BARRY RESNICK, ATTORNEY
VOGT/RESNICK/SHERAK, LLP
949-851-9001

On Mar 3, 2017, at 6:04 PM, Nori Frasier <nori_frasier@hotmail.com> wrote:

I will be out of the country for the next few weeks and need additional time to get my comments in on the draft.

I return March 20th and need additional time.

Requesting additional time for addendum's for Nori Frasier.

Kindly, Nori

From: David Robertson <gdavid@nvlawyers.com>
Sent: Wednesday, March 1, 2017 7:19 PM
To: Gina Kim; kcaverly@hcesq.com; john.ryan@berkshireross.com; Nori Frasier (nori_frasier@hotmail.com); digitalmermaid8@gmail.com
Cc: Barnet Resnick; Nicole Shrive (nshrive@premiertrust.com)
Subject: RE: Frasier - settlement agreement

I am in the third week of a very intense \$80M federal court jury trial in Sacramento which will continue until about 3/15 and am thus unable to review the document between now and then.

I suggest that you gather whatever input you can by 3/6 and then circulate another draft, which I will look at as soon as my trial is over.

Thanks.

Best regards,

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
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Sent: Wednesday, March 01, 2017 6:54 PM
To: David Robertson; kcavery@hcesq.com; john.ryan@berkshireross.com; Nori Frasier (nori_frasier@hotmail.com); digitalmermaid8@gmail.com
Cc: Barnet Resnick; Gina Kim
Subject: Frasier - settlement agreement

All,

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David, John/Nori, and Amy, please provide your comments to the draft agreement to me by or before 5pm on Monday, 3/6/2017. If I do not receive your comments by then, we will deem the draft agreement terms agreed to as is. We will then redline the draft agreement with Kristen's comments and circulate to you all.

Thank you.

Sincerely,

Gina H. Kim
Attorney

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F. 949.833.3445
gkim@vrslaw.net
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<image001.png>

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EXHIBIT 10

Gina Kim

From: Gina Kim
Sent: Saturday, March 04, 2017 8:33 PM
To: nori_frasier@hotmail.com
Cc: Barnet Resnick
Subject: Re: Frasier - settlement agreement

Nori,

The mediation was on 1/27/17, well over a month ago. You and/or your attorney had sufficient time to provide your comments to the agreement, and we made numerous requests for them.

Unless Barry instructs otherwise, it is my understanding that we will ask the court to implement the mediation agreement.

Please call me if you would like to discuss.

Sent from my Verizon 4G LTE Smartphone

----- Original message-----

From: Nori Frasier
Date: Sat, Mar 4, 2017 1:51 PM
To: Nori Frasier; Gina Kim; Barnet Resnick;
Subject: Re: Frasier - settlement agreement

My Internet at home is down as my box died. Looking for a new one now. Wanted you to know as I only get wireless via phone when I am out.

May be delayed in asking you.
Thx

Sent from my iPhone

On Mar 4, 2017, at 1:49 PM, Nori Frasier <nori_frasier@hotmail.com> wrote:

Thanks, I am leaving for London in a few days with my daughter as she is going to Vet school there.

I just wanted to talk with him about a few things:

1. I need more time as my lawyer has gone MIA. No word from him in 2 weeks. I think he died.
2. Do not send him anything anymore or include him on emails.
3. I have an meeting with a local lawyer before I leave for U.K.. but need to work with him on my request.
4. I wanted to discuss with him the 3 areas I am looking for changes as may be I can make them without a lawyer.

I return on March 20th so maybe we can speak then. But like I said I need more time to have my request done and it will not take place until after March.

My request are simple.

Thx for reaching out to me.

Nori

Sent from my iPhone

On Mar 4, 2017, at 11:38 AM, Gina Kim <gkim@VRSLaw.net> wrote:

Nori,

I understand that you requested to speak to Barry Resnick one on one related to this matter. Barry is out of the country and will return on the 13th.

Since I am working with him on this matter, I can speak to you on Monday if you wish, or if you wish to speak to Barry directly, wait until the 13th.

Please let me know how you wish to proceed.

Gina Kim

----- Original message-----

From: Nori Frasier

Date: Fri, Mar 3, 2017 6:04 PM

To: David Robertson; Gina

Kim; kcaverly@hcesq.com; john.ryan@berkshireross.com; digitalmermaid8@gmail.com;

Cc: Barnet Resnick; Nicole Shrive (nshrive@premiertrust.com); Nori Frasier;

Subject: Re: Frasier - settlement agreement

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Requesting additional time for addendum's for Nori Frasier.

Kindly, Nori

From: David Robertson <gdavid@nvlawyers.com>

Sent: Wednesday, March 1, 2017 7:19 PM

To: Gina Kim; kcaverly@hcesq.com; john.ryan@berkshireross.com; Nori Frasier (nori_frasier@hotmail.com); digitalmermaid8@gmail.com

Cc: Barnet Resnick; Nicole Shrive (nshrive@premiertrust.com)

Subject: RE: Frasier - settlement agreement

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Best regards,

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50 W. LIBERTY ST.
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To: David Robertson; kcaverly@hcesq.com; john.ryan@berkshireross.com; Nori Frasier (nori_frasier@hotmail.com); digitalmermaid8@gmail.com
Cc: Barnet Resnick; Gina Kim
Subject: Frasier - settlement agreement

All,

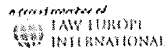
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David, John/Nori, and Amy, please provide your comments to the draft agreement to me by or before 5pm on Monday, 3/6/2017. If I do not receive your comments by then, we will deem the draft agreement terms agreed to as is. We will then redline the draft agreement with Kristen's comments and circulate to you all.

Thank you.

Sincerely,

Gina H. Kim
Attorney
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
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EXHIBIT 11

Liz Tatum

From: David Robertson <gdavid@nvlawyers.com>
Sent: Wednesday, March 01, 2017 8:44 PM
To: Gina Kim
Cc: Barnet Resnick; Rich Williamson; Nicole Shrive (nshrive@premiertrust.com)
Subject: RE: Frasier - settlement agreement

I will check with Rich and Nicole to see if they are comfortable with that idea and then let you know...

Best regards,

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
(775) 348-8300 (FAX)
Email: gdavid@nvlawyers.com
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From: Gina Kim [mailto:gkim@VRSLaw.net]
Sent: Wednesday, March 01, 2017 8:34 PM
To: David Robertson
Cc: Barnet Resnick
Subject: Re: Frasier - settlement agreement

David,

Given the length of time that has elapsed without any progress on the settlement agreement, may I suggest that your colleague Rich review and provide comments in your stead?

Too much time has gone by despite multiple requests for input, and it would not serve anyone's interest if we have to wait until mid to late March to receive feedback.

Thank you.
Gina

----- Original message-----

From: David Robertson
Date: Wed, Mar 1, 2017 7:19 PM
To: Gina Kim;kcaverly@hcesq.com;john.ryan@berkshireross.com;Nori Frasier (nori_frasier@hotmail.com);digitalmermaid8@gmail.com;
Cc: Barnet Resnick;Nicole Shrive (nshrive@premiertrust.com);
Subject:RE: Frasier - settlement agreement

I am in the third week of a very intense \$80M federal court jury trial in Sacramento which will continue until about 3/15 and am thus unable to review the document between now and then.

I suggest that you gather whatever input you can by 3/6 and then circulate another draft, which I will look at as soon as my trial is over.

Thanks.

Best regards,

G. DAVID ROBERTSON, ESQ.
ROBERTSON, JOHNSON, MILLER & WILLIAMSON
BANK OF AMERICA PLAZA
50 W. LIBERTY ST.
SUITE 600
RENO, NV 89501
(775) 329-5600 (VOICE)
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From: Gina Kim [<mailto:gkim@VRSLaw.net>]
Sent: Wednesday, March 01, 2017 6:54 PM
To: David Robertson; kcaverly@hcesq.com; john.ryan@berkshireross.com; Nori Frasier (nori_frasier@hotmail.com); digitalmermaid8@gmail.com
Cc: Barnet Resnick; Gina Kim
Subject: Frasier - settlement agreement

All,

To date, I have not received any comments about the draft settlement agreement, with the exception of Kristen.

David, John/Nori, and Amy, please provide your comments to the draft agreement to me **by or before 5pm on Monday, 3/6/2017**. If I do not receive your comments by then, we will deem the draft agreement terms agreed to as is. We will then redline the draft agreement with Kristen's comments and circulate to you all.

Thank you.

Sincerely,

Gina H. Kim
Attorney
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849
T. 949.851.9001
F. 949.833.3445
gkim@vrslaw.net
www.vrslaw.net



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EXHIBIT 12

Gina Kim

From: Gina Kim
Sent: Monday, March 06, 2017 12:24 PM
To: 'David Robertson'; kcaverly@hcesq.com; 'abf@frickelaw.biz'; Nori Frasier (nori_frasier@hotmail.com)
Cc: Barnet Resnick; Gina Kim
Subject: Mediation Agreement
Attachments: Signed Mediation Agreement.pdf; Settlement Agreement-VRS Draft-2.1.2017.pdf

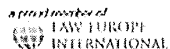
All,

Please find attached a true and correct copy of the original mediation agreement signed by all parties. The 4 pages constitute counterparts of the agreement signed by different parties.

If you have not done so already, please provide your comments to the attached draft settlement agreement (which was sent to you on 2/1/17) BY OR BEFORE 5:00PM, THIS FRIDAY, MARCH 10, 2017. This is an extension of the initial deadline of Marcy 6, 2017, which is being provided as a courtesy due to recent engagement(s) of attorneys by certain parties. As stated in Barry's email of last Friday, on 3/24/2017, we plan to seek court assistance to implement the terms of the attached mediation agreement.

Sincerely,

Gina H. Kim
Attorney
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849
T. 949.851.9001
F. 949.833.3445
gkim@vrslaw.net
www.vrslaw.net



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SETTLEMENT AGREEMENT


The Parties to this Agreement dated January 27, 2017, are Barnet Resnick, Esq., attorney for Dinny Frasier ("Dinny"); G. David Robertson, Esq., attorney for Co-Trustees Premier Trust, Inc. ("Premier") and Dinny Frasier in her capacity as Co-Trustee; Nicole Shrive, on behalf of Premier; Kristen Caverly, Esq., attorney for Bradley Frasier ("Brad"); Nori Frasier Cady ("Nori"); Amy Frasier Wilson ("Amy"); and Justice Jeffrey King (retired), Mediator ("Justice King"), (*individually*, "Party" and *collectively*, "Parties"). The Parties hereby agree as provided herein regarding the Matter of Jordan Dana Frasier Family Trust, Case No. PR16-00128, Second Judicial District Court, County of Washoe, State of Nevada.


1. Justice Jeffrey King (retired), mediator, attests to Dinny Frasier's capacity to contract and to make testamentary disposition of her estate.
2. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.
3. Trust B will exchange the following listed real properties with assets held in Trust A:
 - a. 4372 Pacifica Way, Unit 3, Oceanside, CA
 - b. 3609 Vista Way, Oceanside, CA
4. The above two parcels of real properties, as well as 10 Via Sonrisa, Mission Viejo, shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick and Kristen Caverly), and the appraised values ("Appraised Values") shall be binding on all Parties. All communications with the appraiser shall include Mr. Resnick and Ms. Caverly.
5. All fees, costs, and expenses associated with the appraisals shall be borne by Trust B, to be paid from principal.
6. The real property located at 3609 Vista Way tenant in common interest shall be calculated based on the average between a discounted fifty percent interest and a partitioned interest.
7. Contingent on Court approval of this Agreement, and subject to a capacity assessment by a qualified gerontologist, Dinny shall distribute or authorize to distribute from Trust A the real property located at 4372 Pacific Way Unit 3, Oceanside, CA to Nori; 10 via Sonrisa, Mission Viejo, CA to Amy; and 3609 Vista Way, Oceanside, CA to Brad, at the Appraised Values.
8. Dinny agrees to amend Trust A to equalize distributions to each of her children based on the Appraised Values, *AND DEDUCT AN ADDITIONAL \$10,000 TO NORI TRUST*
9. The Parties agree that as a result of the exchange, there may be tax incurred by Trust B, which *WILL BE PAID EQUALLY* taxes if any shall be paid out of principal of Trust B.
10. The sum of fifty thousand dollars previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. *yes no*
11. The check from Brad in the amount of twenty thousand dollars currently being held by Premier shall be destroyed, and Brad may stop payment on same.
12. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the gift of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B.
13. This Agreement shall be subject to Nevada probate court approval.
14. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary.


15. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.

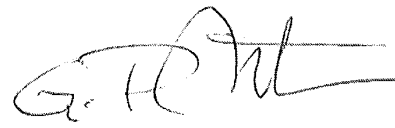
*
EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF ITS RIGHT TO SEEK COUNSEL.


Brad Frasier

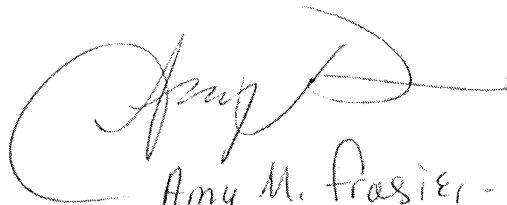

Barbara R. Swick


Kristen Caverly

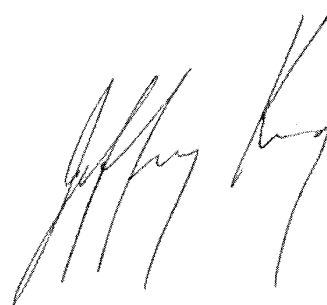

Nicole Shrive
Trust Officer
Premier Trust


G. DAVID ROBERTSON, Atty
for Co-Trustees

* u


Amy M. Frasier-Wilson

Nori B. Frasier
Nori B. Frasier



SETTLEMENT AGREEMENT

The Parties to this Agreement dated January 27, 2017, are Barnet Resnick, Esq., attorney for Dinny Frasier ("Dinny"); G. David Robertson, Esq., attorney for Co-Trustees Premier Trust, Inc. ("Premier") and Dinny Frasier in her capacity as Co-Trustee; Nicole Shrive, on behalf of Premier; Kristen Caverly, Esq., attorney for Bradley Frasier ("Brad"); Nori Frasier Cady ("Nori"); Amy Frasier Wilson ("Amy"); and Justice Jeffrey King (retired), Mediator ("Justice King"), (individually, "Party" and collectively, "Parties"). The Parties hereby agree as provided herein regarding the Matter of Jordan Dana Frasier Family Trust, Case No. PR16-00128, Second Judicial District Court, County of Washoe, State of Nevada.

1. Justice Jeffrey King (retired), mediator, attests to Dinny Frasier's capacity to contract and to make testamentary disposition of her estate.
2. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.
3. Trust B will exchange the following listed real properties with assets held in Trust A:
 - a. 4372 Pacifica Way, Unit 3, Oceanside, CA
 - b. 3609 Vista Way, Oceanside, CA
4. The above two parcels of real properties, as well as 10 Via Sonrisa, Mission Viejo, shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick and Kristen Caverly, and the appraised values ("Appraised Values") shall be binding on all Parties. All communications with the appraiser shall include Mr. Resnick and Ms. Caverly.
5. All fees, costs, and expenses associated with the appraisals shall be borne by Trust B, to be paid from principal.
6. The real property located at 3609 Vista Way tenant in common interest shall be calculated based on the average between a discounted fifty percent interest and a partitioned interest.
7. Contingent on Court approval of this Agreement, and subject to a capacity assessment by a qualified gerontologist, Dinny shall distribute or authorize to distribute from Trust A the real property located at 4372 Pacific Way Unit 3, Oceanside, CA to Nori; 10 Via Sonrisa, Mission Viejo, CA to Amy; and 3609 Vista Way, Oceanside, CA to Brad, at the Appraised Values.
8. Dinny agrees to amend Trust A to equalize distributions to each of her children based on the Appraised Values, *AND DEDUCT AN ADDITIONAL \$20,000 TO NORI*
9. The Parties agree that as a result of the exchange, there may be tax incurred by Trust B, which taxes if any shall be paid out of principal of Trust B. *EQUALY*
10. The sum of fifty thousand dollars previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. *yes*
11. The check from Brad in the amount of twenty thousand dollars currently being held by Premier shall be destroyed, and Brad may stop payment on same. *yes*
12. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the gift of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B. *D.G.F.*
13. This Agreement shall be subject to Nevada probate court approval.
14. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary.

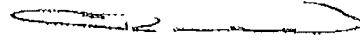
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15. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.

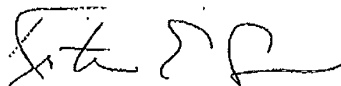
*
EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF ITS RIGHT TO SEEK COUNSEL.




Brad Frasier



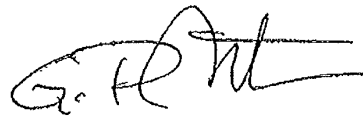
BRAD FRASIER



Kristen Caverly

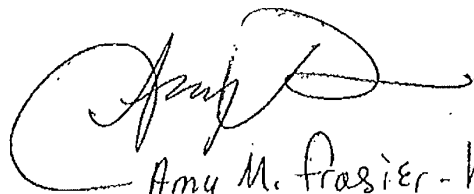
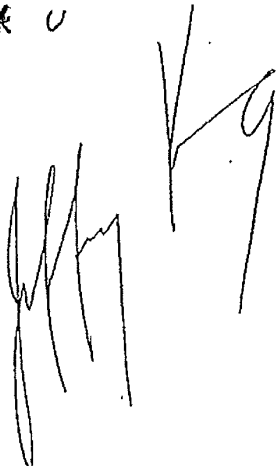


Nicole Shinn
Trust Officer
Premier Trust



G. DAVID ROBERTSON, Atty
for Co-Trustees

* u



Amy M. Frasier-Wilson

Danny Gray Frasier

SETTLEMENT AGREEMENT AND RELEASE

This *Settlement Agreement and Release* (“Agreement”), effective as of January 27, 2017, is by and between DINNY FRASIER (“Dinny”), as the surviving Trustor of the Trust as defined hereunder and Co-Trustee of the Trust; PREMIER TRUST, INC. (“Premier”), as Co-Trustee of the Trust; BRADLEY FRASIER (“Brad”), as a contingent beneficiary of the Trust; NORI FRASIER CADY (“Nori”), as a contingent beneficiary of the Trust; and AMY FRASIER WILSON (“Amy”), as a contingent beneficiary of the Trust. Dinny, Premier, Brad, Nori, and Amy are sometimes referred to herein individually as “Party” and collectively as “Parties.”

RECITALS

WHEREAS the JORDAN DANA FRASIER FAMILY TRUST (the “Trust”) was established on December 29, 1980 by Jordan Dana Frasier (“Joe”) and Dinny Frasier, as Trustors and initial trustees; and

WHEREAS the Trust was amended on December 31, 1984, April 8, 1987, amended and restated on September 21, 1999, amended on March 15, 2000, and finally amended on June 7, 2000; and

WHEREAS Joe died on October 22, 2014; and

WHEREAS the Trust required a split of the assets between the *Survivor’s Trust* (“Trust A”) and the *Tax Exemption Trust* (“Trust B”); and

WHEREAS Dinny was the sole income beneficiary of Trust A and Trust B; and

WHEREAS Dinny has the power to revoke or amend the terms of Trust A; and

WHEREAS the terms of Trust B became irrevocable upon Joe’s death; and

WHEREAS, following Joe’s death and according to the terms of the Trust, Dinny was to appoint a corporate co-trustee; and

WHEREAS in or about May 2015, Dinny appointed Premier, a professional corporate trustee, duly licensed to conduct trust business in the State of Nevada, as the co-trustee; and

WHEREAS the trustees of the Trust commenced an action in the Second Judicial District Court in Reno, Nevada on March 2, 2016 (the “Action”) by filing a *Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions* (the “Petition”); and

WHEREAS the Parties, by and through their attorneys, agreed to mediate the various claims and disputes associated with the Action, the Petition, and the Trust (including Trust A and Trust B) on January 27, 2017 in Orange, California; and

WHEREAS the mediator, Justice Jeffrey King (Ret.) attested to Dinny’s capacity to contract

and to make testamentary disposition of her estate;

THEREFORE, intending to be bound, the undersigned Parties agree to settle the Action according to the following terms and conditions:

TERMS

1. Capacity. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.

2. Exchange & Appraisal of Real Property. Trust B shall exchange at the appraised value the following listed real properties with assets held in Trust A:

- That certain piece of real property located at 4372 Pacifica Way, Unit 3, Oceanside, California 92056, identified as APN 160-692-07-03 ("Pacifica Way"); and
 - That certain piece of real property located at 3609 Vista Way, Oceanside, California 92056, identified as APN 165-362-34-00 ("Vista Way").
- (a) Pacifica Way, Vista Way, and that certain piece of real property located at 10 Via Sonrisa, Mission Viejo, California 92692 ("Via Sonrisa"), shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick, Esq. ("Resnick"), attorney for Dinny, and Kristen Caverly, Esq. ("Caverly"), attorney for Brad. The appraised value as stated by the agreed-upon appraiser shall be binding on the Parties.
- (b) All fees, costs, and expenses associated with the appraisal(s) shall be borne by Trust B, to be paid from the principal.
- (c) The Vista Way property's tenant in common interest shall be calculated based on the average between a discounted fifty-percent (50%) interest and a partitioned interest.
- (d) Subject to the Court approval of this Agreement, the co-trustees shall distribute, or authorize to be distributed from Trust A, subject to Dinny's assessment by a qualified gerontologist in re: capacity, the real properties as follows: (i.) to Nori: The Pacifica Way property; (ii.) to Amy: The Via Sonrisa property; and (iii.) to Brad: the Vista Way property, at the appraised values.

4. Equalization of Distributions. Dinny agrees to amend Trust A to equalize distributions to Brad, Nori, and Amy, based on the appraised values of the properties referenced herein, supra, and bequeath an additional Ten Thousand Dollars (\$10,000) to Nori and Amy, divided equally.

5. Payment of Taxes Incurred. The Parties agree that as a result of the exchange, there may be taxes incurred by Trust B, which taxes if any shall be paid out of principal of Trust B.

6. Previous Payments. The sum of Fifty Thousand Dollars (\$50,000) previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. Furthermore, the check

from Brad in the amount of Twenty Thousand Dollars (\$20,000) currently being held by Premier shall be destroyed, and Brad may stop payment on same.

7. No Principal Residence in Trust B. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the devise of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B.

8. Agreement Subject to Court Approval. This Agreement shall be subject to Nevada probate court approval.

9. Miscellaneous Trust Matters. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.

10. Release. Subject to the compliance with all the terms of this Agreement, the Parties hereby release and absolutely and forever discharge each other and their representatives, agents, employees, assigns, and attorneys, from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs, expenses, liens, attorneys' fees and costs, actions and causes of action of every kind and nature whatsoever, whether now known or unknown and suspected or unsuspected relating to the Action (which are hereinafter referred to as "Released Matters") which any Party now has, owns or holds, or at any time heretofore, ever had, owned or held, or could, shall or may hereafter have, own or hold, based upon, related to, or by reason of the transactions, events, or occurrences referred to in any of the pleadings in the Action, occurring or existing up to or including the date hereof.

It is the intention of the Parties in giving and accepting the consideration provided for herein and in executing this Agreement that this Agreement shall be effective as a full and final accord and satisfaction and release of the claims in the Action. In furtherance of this intention, each Party acknowledges that he or she is familiar with section 1542 of the *Civil Code* of the State of California which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Subject to the compliance with all the terms of this Agreement, the Parties waive and relinquish any rights and benefits which they have or may have under Section 1542 of the *Civil Code* of the State of California to the full extent which they lawfully waive all such rights and benefits pertaining to the subject matter of this Agreement. In connection with such waiver and relinquishment, the Parties are aware that they may hereinafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of this Agreement, but it is their intention hereby fully, finally and forever to settle and release all released matters, differences and disputes, known or unknown, suspected or unsuspected, which do

now exist, may exist, or heretofore have existed relating to the Action. In furtherance of such intention the releases given herein shall remain and be in effect as full and complete general releases, notwithstanding the discovery or existence of such additional or different facts.

11. Representations and Warranties. Each of the Parties to this Agreement represents and warrants to the other that each of them has the full power, capacity and authority to enter into this Agreement, that neither of them has sold, assigned or in any manner transferred any claims which either of them ever had against the other to any third party, and that no other releases or settlements are necessary from any other person or entity to release and discharge completely the other Parties from the claims specified herein. The Parties further represent and warrant that they do not presently have on file any claims, charges, grievances, actions, appeals, or complaints against each other in or with any administrative, state, federal, or governmental entity, agency, board, or court, or before any other tribunal or panel of arbitrators, public or private, based upon any actions by the Parties occurring prior to the date of this Agreement, and the Parties agree not to file any appeals, writs, complaints or other proceedings of any kind relating to such claims.

12. Responsibility for Costs and Fees. All fees and costs associated with the Action and the Agreement incurred by Dinny shall be paid by Trust B. Except as otherwise noted herein, each of the Parties are to be responsible for bearing their own costs, expert witness and attorneys' fees associated with the Action or the claims arising therefrom.

13. Applicable Law. The rights and obligations of the Parties hereunder shall be construed and enforced in accordance with the laws of the State of California. The terms of this release are contractual and not a mere recital.

14. Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute an Agreement that shall be binding upon all Parties hereto, notwithstanding that the signatures of all Parties' designated representatives do not appear on the same page.

15. Integration. This Agreement contains the entire agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations and agreements between the Parties hereto, or any of them, whether written or oral. The Agreement, constitutes the entire understanding between and among the Parties with regard to the matters set forth herein. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the Parties relating to the subject matter of this Agreement which are not fully expressed herein. This Agreement shall be interpreted according to its own terms, as defined in this Agreement or otherwise according to their ordinary meaning, without any parol evidence. This is an integrated agreement.

16. Severability. In the event that any one or more of the provisions of this Agreement shall be declared invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.

17. Modifications. Any alterations, changes or modifications of or to this Agreement, in order to be effective, shall be made by written instrument or endorsement thereon and in each such instance shall be duly signed on behalf of each Party hereto.

18. Achieve Goals and Purposes of Agreement. The Parties to this Agreement shall execute and deliver any document which is reasonably necessary to achieve the goals and purposes of this Agreement.

19. Enforcement of Agreement. Any Party who prevails in an action to enforce any provision of this Agreement shall be awarded actual attorneys' fees and costs incurred. The Parties agree that the court shall continue to have jurisdiction to enforce the terms of this Agreement pursuant to *Code of Civil Procedure* Section 664.6.

20. No Admissions. This Agreement is a compromise of disputed claims and shall not be construed or deemed to be an admission of fault, liability or wrongdoing by any Party hereto to any other Party, person or entity concerning any facts related to or arising out of the Action or any alleged cross-claims which the Parties have or may have against each other. This Agreement has been entered into to clarify and specify the rights and obligations of the Parties and so that the Parties can resolve their disputes in a mutually agreeable manner.

21. Admissibility. In any action or proceeding relating to this Agreement, the Parties stipulate that a copy of this Agreement may be admissible to the same extent as the original Agreement unless the exceptions set forth in California *Evidence Code* Section 1511 are found to be applicable.

22. Advice of Counsel. **EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND HIS/HER/ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF HIS/HER/ITS RIGHT TO SEEK INDEPENDENT COUNSEL.** Each Party has obtained or has had the opportunity to obtain the advice of independent counsel of its own choosing with regard to this Agreement, and each has read the Agreement and is fully aware of its contents.

23. Joint Preparation. This Agreement is the product of the Parties' mutual discussions and negotiations. This document is drafted, prepared and created by all the Parties, collectively, and shall not be construed in favor of, or against, any Party.

24. Venue and Jurisdiction. The Parties expressly agree that any action or proceeding to enforce, interpret, or in any way apply to any provisions in this Agreement is to be brought in the Superior Court of the State of California, County of Orange ("OCSC"). Furthermore, the Parties expressly consent to the jurisdiction of the OCSC and waive any and all defenses related to jurisdiction and/or venue.

25. Headings. The headings and numbering of the different paragraphs in this Agreement are inserted for reference and convenience only and are not to be taken as part of this Agreement or to control or affect the meaning, construction, or effect of same.

26. No Effect on Prior Agreement(s). This Agreement and the attached Stipulated Judgment referred to herein shall in no way effect, alter, amend, or modify any agreement hitherto entered into by Legacy and Vigilant, and is intended solely as a settlement of the claim or claims referred to herein.

DATED: February ___, 2017

By: DINNY FRASIER, Surviving Trustor and Co-Trustee, by and through her attorney-in-fact, Janie Mulrain, Licensed Private Professional Fiduciary

DATED: February ___, 2017

By: NICOLE SHRIVE, Trust Officer
Authorized Officer of PREMIER TRUST, INC.

DATED: February ___, 2017

By: BRADLEY FRASIER, Contingent Beneficiary

DATED: February ___, 2017

By: NORI FRASIER CADY, Contingent Beneficiary

DATED: February ___, 2017

By: AMY FRASIER WILSON, Contingent Beneficiary

APPROVED AS TO FORM ONLY:

DATED: February ___, 2017

VOGT | RESNICK | SHERAK, LLP
Attorneys at Law

By: _____
Barnet Resnick, Esq.
Attorneys for DINNY FRASIER

DATED: February ___, 2017

ROBERTSON, JOHNSON, MILLER &
WILLIAMSON

By: _____
G. David Robertson, Esq.
Attorneys for PREMIER TRUST, INC.

DATED: February __, 2017

HENDERSON, CAVERLY, PUM & CHARNEY,
LLP

By: _____
Kristen Caverly, Esq.
Attorneys for BRADLEY FRASIER

DATED: February __, 2017

By: _____
John Ryan, Esq.
Attorneys for NORI FRASIER CADY

DATED: February __, 2017

By: _____
Hon. Jeffrey King (Ret.)
Mediator

EXHIBIT 13

Gina Kim

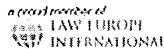
From: Gina Kim
Sent: Monday, March 06, 2017 4:22 PM
To: 'David Robertson'; 'kcaverly@hcesq.com'; 'abf@frickelaw.biz'; 'Nori Frasier (nori_frasier@hotmail.com)'
Cc: Barnet Resnick; 'Rich Williamson'
Subject: RE: Mediation Agreement

Based on the responses to my email below, this firm has decided to move forward with the plan to file a court petition to approve the mediation agreement that was signed by all parties on 1/27/2017.

Thank you.

Sincerely,

Gina H. Kim
Attorney
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849
T. 949.851.9001
F. 949.833.3445
gkim@vrslaw.net
www.vrslaw.net



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Pursuant to U.S. Treasury Regulations, VOGT | Resnick | Sherak, LLP is now required to inform you that, unless otherwise expressly indicated, any federal tax advice contained in this communication is not intended nor written to be used, and may not be used, for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or promoting marketing or recommending to another party any tax related matters addressed herein.

From: Gina Kim
Sent: Monday, March 06, 2017 12:24 PM
To: 'David Robertson'; kcaverly@hcesq.com; 'abf@frickelaw.biz'; Nori Frasier (nori_frasier@hotmail.com)
Cc: Barnet Resnick; Gina Kim
Subject: Mediation Agreement

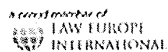
All,

Please find attached a true and correct copy of the original mediation agreement signed by all parties. The 4 pages constitute counterparts of the agreement signed by different parties.

If you have not done so already, please provide your comments to the attached draft settlement agreement (which was sent to you on 2/1/17) BY OR BEFORE 5:00PM, THIS FRIDAY, MARCH 10, 2017. This is an extension of the initial deadline of Marcy 6, 2017, which is being provided as a courtesy due to recent engagement(s) of attorneys by certain parties. As stated in Barry's email of last Friday, on 3/24/2017, we plan to seek court assistance to implement the terms of the attached mediation agreement.

Sincerely,

Gina H. Kim
Attorney
VOGT | RESNICK | SHERAK, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849
T. 949.851.9001
F. 949.833.3445
gkim@vrslaw.net
www.vrslaw.net



ATTORNEY-CLIENT/WORK PRODUCT PRIVILEGES: This e-mail and any attachments thereto are intended solely for the use by the persons or entities identified above. Its contents are to remain absolutely confidential and may be subject to the attorney-client privilege. If you have received this e-mail and are not the intended recipient(s) or his/her agent, be advised that any disclosure, use, review, copying, selling, dissemination, publication or distribution of this e-mail and any attachments thereto are unauthorized and prohibited. If you have received this transmission in error, please immediately notify Vought | Resnick | Sherak, LLP by telephone at (949) 851-9001 and permanently delete this e-mail and all attachments without making a copy.

Pursuant to U.S. Treasury Regulations, Vought | Resnick | Sherak, LLP is now required to inform you that, unless otherwise expressly indicated, any federal tax advice contained in this communication is not intended nor written to be used, and may not be used, for the purpose of avoiding penalties that may be imposed under the Internal Revenue Code or promoting marketing or recommending to another party any tax related matters addressed herein.

EXHIBIT 14

SETTLEMENT AGREEMENT AND RELEASE

This *Settlement Agreement and Release* ("Agreement"), effective as of January 27, 2017, is by and between DINNY FRASIER ("Dinny"), as the surviving Trustor of the Trust as defined hereunder and Co-Trustee of the Trust; PREMIER TRUST, INC. ("Premier"), as Co-Trustee of the Trust; BRADLEY FRASIER ("Brad"), as a contingent beneficiary of the Trust; NORI FRASIER CADY ("Nori"), as a contingent beneficiary of the Trust; and AMY FRASIER WILSON ("Amy"), as a contingent beneficiary of the Trust. Dinny, Premier, Brad, Nori, and Amy are sometimes referred to herein individually as "Party" and collectively as "Parties."

RECITALS

WHEREAS the JORDAN DANA FRASIER FAMILY TRUST (the "Trust") was established on December 29, 1980 by Jordan Dana Frasier ("Joe") and Dinny Frasier, as Trustors and initial trustees; and

WHEREAS the Trust was amended on December 31, 1984, April 8, 1987, amended and restated on September 21, 1999, amended on March 15, 2000, and finally amended on June 7, 2000; and

WHEREAS Joe died on October 22, 2014; and

WHEREAS the Trust required a split of the assets between the *Survivor's Trust* ("Trust A") and the *Tax Exemption Trust* ("Trust B"); and

WHEREAS Dinny was the sole income beneficiary of Trust A and Trust B; and

WHEREAS Dinny has the power to revoke or amend the terms of Trust A; and

WHEREAS the terms of Trust B became irrevocable upon Joe's death; and

WHEREAS, following Joe's death and according to the terms of the Trust, Dinny was to appoint a corporate co-trustee; and

WHEREAS in or about May 2015, Dinny appointed Premier, a professional corporate trustee, duly licensed to conduct trust business in the State of Nevada, as the co-trustee; and

WHEREAS the trustees of the Trust commenced an action in the Second Judicial District Court in Reno, Nevada on March 2, 2016 (the "Action") by filing a *Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions* (the "Petition"); and

WHEREAS the Parties, by and through their attorneys, agreed to mediate the various claims and disputes associated with the Action, the Petition, and the Trust (including Trust A and Trust B) on January 27, 2017 in Orange, California; and

WHEREAS the mediator, Justice Jeffrey King (Ret.) attested to Dinny's capacity to contract

and to make testamentary disposition of her estate;

THEREFORE, intending to be bound, the undersigned Parties agree to settle the Action according to the following terms and conditions:

TERMS

1. Capacity. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.

2. Exchange & Appraisal of Real Property. Trust B shall exchange at the appraised value the following listed real properties with assets held in Trust A:

- That certain piece of real property located at 4372 Pacifica Way, Unit 3, Oceanside, California 92056, identified as APN 160-692-07-03 ("Pacifica Way"); and
 - That certain piece of real property located at 3609 Vista Way, Oceanside, California 92056, identified as APN 165-362-34-00 ("Vista Way").
- (a) Pacifica Way, Vista Way, and that certain piece of real property located at 10 Via Sonrisa, Mission Viejo, California 92692 ("Via Sonrisa"), shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick, Esq. ("Resnick"), attorney for Dinny, and Kristen Caverly, Esq. ("Caverly"), attorney for Brad. If a qualified real estate appraiser cannot be agreed upon by the foregoing method, then Resnick and Caverly shall each submit the name of an appraiser of his/her choice to Justice King, who shall make a blind selection between the two submitted names. The appraised value as stated by the agreed-upon or selected appraiser shall be binding on the Parties.
- (b) All fees, costs, and expenses associated with the appraisal(s) shall be borne by Trust B, to be paid from the principal.
- (c) The Vista Way property's tenant in common interest shall be calculated based on the average between a discounted fifty-percent (50%) interest and a partitioned interest.
- (d) Subject to the Court approval of this Agreement, the co-trustees shall distribute, or authorize to be distributed from Trust A, subject to Dinny's assessment by a qualified gerontologist in re: capacity, the real properties as follows: (i.) to Nori: The Pacifica Way property; (ii.) to Amy: The Via Sonrisa property; and (iii.) to Brad: the Vista Way property, at the appraised values.

4. Equalization of Distributions. Dinny agrees to amend Trust A to equalize distributions to Brad, Nori, and Amy, based on the appraised values of the properties referenced herein, supra, and bequeath an additional Ten Thousand Dollars (\$10,000) to Nori and Amy, divided equally.

5. Payment of Taxes Incurred. The Parties agree that as a result of the exchange, there may be taxes incurred by Trust B, which taxes if any shall be paid out of principal of Trust B.

6. Previous Payments. The sum of Fifty Thousand Dollars (\$50,000) previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. Furthermore, the check from Brad in the amount of Twenty Thousand Dollars (\$20,000) currently being held by Premier shall be destroyed, and Brad may stop payment on same.
7. No Principal Residence in Trust B. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the devise of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B.
8. Agreement Subject to Court Approval. This Agreement shall be subject to Nevada probate court approval.
9. Miscellaneous Trust Matters. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.
10. Release. Subject to the compliance with all the terms of this Agreement, the Parties hereby release and absolutely and forever discharge each other and their representatives, agents, employees, assigns, and attorneys, from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs, expenses, liens, attorneys' fees and costs, actions and causes of action of every kind and nature whatsoever, whether now known or unknown and suspected or unsuspected relating to the Action (which are hereinafter referred to as "Released Matters") which any Party now has, owns or holds, or at any time heretofore, ever had, owned or held, or could, shall or may hereafter have, own or hold, based upon, related to, or by reason of the transactions, events, or occurrences referred to in any of the pleadings in the Action, occurring or existing up to or including the date hereof.

It is the intention of the Parties in giving and accepting the consideration provided for herein and in executing this Agreement that this Agreement shall be effective as a full and final accord and satisfaction and release of the claims in the Action. In furtherance of this intention, each Party acknowledges that he or she is familiar with section 1542 of the *Civil Code* of the State of California which provides as follows:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Subject to the compliance with all the terms of this Agreement, the Parties waive and relinquish any rights and benefits which they have or may have under Section 1542 of the *Civil Code* of the State of California to the full extent which they lawfully waive all such rights and benefits pertaining to the subject matter of this Agreement. In connection with such waiver and relinquishment, the Parties are aware that they may hereinafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter

of this Agreement, but it is their intention hereby fully, finally and forever to settle and release all released matters, differences and disputes, known or unknown, suspected or unsuspected, which do now exist, may exist, or heretofore have existed relating to the Action. In furtherance of such intention the releases given herein shall remain and be in effect as full and complete general releases, notwithstanding the discovery or existence of such additional or different facts.

Notwithstanding any provisions to the contrary, Released Matters shall specifically exclude Premier's administration of the Trust as co-trustee, and Premier shall not be released or discharged until and unless a full accounting of its administration is provided to all interested parties to their full satisfaction.

Further notwithstanding any provisions to the contrary, Released Matters shall specifically include any claims that Brad may have against Trust B with respect to Vista Way, and any claims that Trust B or any parties may have against Brad with respect to Vista Way.

11. Representations and Warranties. Each of the Parties to this Agreement represents and warrants to the other that each of them has the full power, capacity and authority to enter into this Agreement, that neither of them has sold, assigned or in any manner transferred any claims which either of them ever had against the other to any third party, and that no other releases or settlements are necessary from any other person or entity to release and discharge completely the other Parties from the claims specified herein. The Parties further represent and warrant that they do not presently have on file any claims, charges, grievances, actions, appeals, or complaints against each other in or with any administrative, state, federal, or governmental entity, agency, board, or court, or before any other tribunal or panel of arbitrators, public or private, based upon any actions by the Parties occurring prior to the date of this Agreement, and the Parties agree not to file any appeals, writs, complaints or other proceedings of any kind relating to such claims.

12. Responsibility for Costs and Fees. All fees and costs associated with the Action and the Agreement incurred by Dinny shall be paid by Trust B, provided, however, that Premier shall not be released from ensuring that attorneys' fees paid by Trust B are reasonable in amount and allocated evenly between income and principal, unless the amount of said attorneys' fees have been disclosed to Brad, Amy, and Nori. Except as otherwise noted herein, each of the Parties are to be responsible for bearing their own costs, expert witness and attorneys' fees associated with the Action or the claims arising therefrom.

13. Applicable Law. The rights and obligations of the Parties hereunder shall be construed and enforced in accordance with the laws of the State of California. The terms of this release are contractual and not a mere recital.

14. Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute an Agreement that shall be binding upon all Parties hereto, notwithstanding that the signatures of all Parties' designated representatives do not appear on the same page.

15. Integration. This Agreement contains the entire agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations and agreements between the Parties hereto, or any of them, whether written or oral. The Agreement, constitutes the entire

understanding between and among the Parties with regard to the matters set forth herein. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the Parties relating to the subject matter of this Agreement which are not fully expressed herein. This Agreement shall be interpreted according to its own terms, as defined in this Agreement or otherwise according to their ordinary meaning, without any parol evidence. This is an integrated agreement.

16. Severability. In the event that any one or more of the provisions of this Agreement shall be declared invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.

17. Modifications. Any alterations, changes or modifications of or to this Agreement, in order to be effective, shall be made by written instrument or endorsement thereon and in each such instance shall be duly signed on behalf of each Party hereto.

18. Achieve Goals and Purposes of Agreement. The Parties to this Agreement shall execute and deliver any document which is reasonably necessary to achieve the goals and purposes of this Agreement.

19. Enforcement of Agreement. Any Party who prevails in an action to enforce any provision of this Agreement shall be awarded actual attorneys' fees and costs incurred. The Parties agree that the court shall continue to have jurisdiction to enforce the terms of this Agreement pursuant to *Code of Civil Procedure* Section 664.6.

20. No Admissions. This Agreement is a compromise of disputed claims and shall not be construed or deemed to be an admission of fault, liability or wrongdoing by any Party hereto to any other Party, person or entity concerning any facts related to or arising out of the Action or any alleged cross-claims which the Parties have or may have against each other. This Agreement has been entered into to clarify and specify the rights and obligations of the Parties and so that the Parties can resolve their disputes in a mutually agreeable manner.

21. Admissibility. In any action or proceeding relating to this Agreement, the Parties stipulate that a copy of this Agreement may be admissible to the same extent as the original Agreement unless the exceptions set forth in California *Evidence Code* Section 1511 are found to be applicable.

22. Advice of Counsel. **EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND HIS/HER/ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF HIS/HER/ITS RIGHT TO SEEK INDEPENDENT COUNSEL.** Each Party has obtained or has had the opportunity to obtain the advice of independent counsel of its own choosing with regard to this Agreement, and each has read the Agreement and is fully aware of its contents.

23. Joint Preparation. This Agreement is the product of the Parties' mutual discussions and negotiations. This document is drafted, prepared and created by all the Parties, collectively, and shall not be construed in favor of, or against, any Party.

24. Venue and Jurisdiction. The Parties expressly agree that any action or proceeding to enforce, interpret, or in any way apply to any provisions in this Agreement is to be brought in the Superior Court of the State of California, County of Orange ("OCSC"). Furthermore, the Parties expressly consent to the jurisdiction of the OCSC and waive any and all defenses related to jurisdiction and/or venue.

25. Headings. The headings and numbering of the different paragraphs in this Agreement are inserted for reference and convenience only and are not to be taken as part of this Agreement or to control or affect the meaning, construction, or effect of same.

26. No Effect on Prior Agreement(s). This Agreement shall in no way effect, alter, amend, or modify any agreement hitherto entered into by the Parties, and is intended solely as a settlement of the claim or claims referred to herein.

DATED: February __, 2017

By: DINNY FRASIER, Surviving Trustor and Co-Trustee, by and through her attorney-in-fact, Janie Mulrain, Licensed Private Professional Fiduciary

DATED: February __, 2017

By: NICOLE SHRIVE, Trust Officer
Authorized Officer of PREMIER TRUST, INC.

DATED: February __, 2017

By: BRADLEY FRASIER, Contingent Beneficiary

DATED: February __, 2017

By: NORI FRASIER CADY, Contingent Beneficiary

DATED: February __, 2017

By: AMY FRASIER WILSON, Contingent Beneficiary

APPROVED AS TO FORM ONLY:

DATED: February __, 2017

VOGT | RESNICK | SHERAK, LLP
Attorneys at Law

By: _____
Barnet Resnick, Esq.
Attorneys for DINNY FRASIER

DATED: February ___, 2017

ROBERTSON, JOHNSON, MILLER &
WILLIAMSON

By: _____
G. David Robertson, Esq.
Attorneys for PREMIER TRUST, INC.

DATED: February ___, 2017

HENDERSON, CAVERLY, PUM & CHARNEY,
LLP

By: _____
Kristen Caverly, Esq.
Attorneys for BRADLEY FRASIER

DATED: February ___, 2017

By: _____
John Ryan, Esq.
Attorneys for NORI FRASIER CADY

DATED: February ___, 2017

By: _____
Hon. Jeffrey King (Ret.)
Mediator

SETTLEMENT AGREEMENT AND RELEASE

This *Settlement Agreement and Release* ("Agreement"), effective as of May ____, 2017, is by and between DINNY FRASIER ("Dinny"), as the surviving Trustor of the Trust as defined hereunder and Co-Trustee of the Trust; PREMIER TRUST, INC. ("Premier"), as Co-Trustee of the Trust; BRADLEY FRASIER ("Brad"), as a contingent beneficiary of the Trust; NORI FRASIER CADY ("Nori"), as a contingent beneficiary of the Trust; and AMY FRASIER WILSON ("Amy"), as a contingent beneficiary of the Trust. Dinny, Premier, Brad, Nori, and Amy are sometimes referred to herein individually as "Party" and collectively as "Parties."

RECITALS

WHEREAS the JORDAN DANA FRASIER FAMILY TRUST (the "Trust") was established on December 29, 1980 by Jordan Dana Frasier ("Joe") and Dinny Frasier, as Trustors and initial trustees; and

WHEREAS the Trust was amended on December 31, 1984, April 8, 1987, amended and restated on September 21, 1999, amended on March 15, 2000, and finally amended on June 7, 2000; and

WHEREAS Joe died on October 22, 2014; and

WHEREAS the Trust required a split of the assets between the *Survivor's Trust* ("Trust A") and the *Tax Exemption Trust* ("Trust B"); and

WHEREAS Dinny was the sole income beneficiary of Trust A and Trust B; and

WHEREAS Dinny has the power to revoke or amend the terms of Trust A; and

WHEREAS the terms of Trust B became irrevocable upon Joe's death; and

WHEREAS, following Joe's death and according to the terms of the Trust, Dinny was to appoint a corporate co-trustee; and

WHEREAS in or about May 2015, Dinny appointed Premier, a professional corporate trustee, duly licensed to conduct trust business in the State of Nevada, as the co-trustee; and

WHEREAS the trustees of the Trust commenced an action in the Second Judicial District Court in Reno, Nevada on March 2, 2016 (the "Action") by filing a *Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions* (the "Petition"); and

WHEREAS the Parties, by and through their attorneys, agreed to mediate the various claims and disputes associated with the Action, the Petition, and the Trust (including Trust A and Trust B) on January 27, 2017 in Orange, California; and

WHEREAS the mediator, Justice Jeffrey King (Ret.) attested to Dinny's capacity to contract and to make testamentary disposition of her estate;

THEREFORE, intending to be bound, the undersigned Parties agree to settle the Action according to the following terms and conditions:

TERMS

1. Capacity. Dinny shall be evaluated by a court-appointed medical expert specializing in cognitive and behavioral functions ~~qualified gerontologist~~ to assess her capacity to contract and to make testamentary disposition of her estate.

2. Exchange & Appraisal of Real Property. Trust B shall exchange at the appraised value the following listed real properties with assets held in Trust A:

That certain piece of real property located at 4372 Pacifica Way, Unit 3, Oceanside, California 92056, identified as APN 160-692-07-03 ("Pacifica Way"); and

That certain piece of real property located at 3609 Vista Way, Oceanside, California 92056, identified as APN 165-362-34-00 ("Vista Way").

- (a) Pacifica Way, ~~Vista Way~~, and that certain piece of real property located at 10 Via Sonrisa, Mission Viejo, California 92692 ("Via Sonrisa"), shall be appraised by a court-appointed qualified residential real estate appraiser experienced in the local market. The appraised value as stated by the court-appointed ~~agreed-upon~~ appraiser shall be binding on the Parties.
- (b) Vista Way, shall be appraised by a court-appointed qualified commercial real estate appraiser experienced in the local market. The appraised value as stated by the court-appointed ~~agreed-upon~~ appraiser shall be binding on the Parties.
- (c) All fees, costs, and expenses associated with the appraisal(s) shall be borne by Trust B, to be paid from the principal.
- (d) The Vista Way property's tenant in common interest shall be calculated based on the average between a discounted fifty-percent (50%) interest and a partitioned interest. The discount rate assigned shall be no greater than ____%. The formulas for calculating both the discounted fifty-percent (50%) interest method and partitioned interest method are described in Exhibits 1 and 2.
- (e) Subject to the Court approval of this Agreement, the co-trustees shall distribute, or authorize to be distributed from Trust A, subject to Dinny's assessment by a court-appointed medical expert specializing in cognitive and behavioral functions ~~qualified gerontologist~~ in re: capacity, the real properties as follows: (i.) to Nori: The Pacifica Way property; (ii.) to Amy: The Via Sonrisa property; and (iii.) to Brad: the Vista Way property, at the appraised values.

3. Equalization of Distributions. Dinny agrees to amend Trust A to equalize distributions to Brad, Nori, and Amy, based on the appraised values of the properties referenced herein, supra, and bequeath an additional Ten Thousand Dollars (\$10,000) to Nori and Amy, divided equally.

4. Payment of Taxes Incurred. The Parties agree that as a result of the exchange, there may be taxes incurred by Trust B, which taxes if any shall be paid out of principal of Trust B. The amount of the taxes paid out from Trust B for each property should be counted against future distributions designated for the contingent beneficiary receiving the property.

5. Previous Payments. The sum of Fifty Thousand Dollars (\$50,000) previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. Furthermore, the check from Brad in the amount of Twenty Thousand Dollars (\$20,000) currently being held by Premier shall be destroyed, and Brad may stop payment on same.

6. No Principal Residence in Trust B. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the devise of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B.

7. Agreement Subject to Court Approval. This Agreement shall be subject to Nevada probate court approval.

8. Miscellaneous Trust Matters. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.

9. Release. Subject to the compliance with all the terms of this Agreement, the Parties hereby release and absolutely and forever discharge each other and their representatives, agents, employees, assigns, and attorneys, from any and all claims, demands, damages, debts, liabilities, accounts, reckonings, obligations, costs, expenses, liens, attorneys' fees and costs, actions and causes of action of every kind and nature whatsoever, whether now known or unknown and suspected or unsuspected relating to the Action (which are hereinafter referred to as "Released Matters") which any Party now has, owns or holds, or at any time heretofore, ever had, owned or held, or could, shall or may hereafter have, own or hold, based upon, related to, or by reason of the transactions, events, or occurrences referred to in any of the pleadings in the Action, occurring or existing up to or including the date hereof.

It is the intention of the Parties in giving and accepting the consideration provided for herein and in executing this Agreement that this Agreement shall be effective as a full and final accord and satisfaction and release of the claims in the Action. In furtherance of this intention, each Party acknowledges that he or she is familiar with section _____ of Nevada Revised Statutes of the State of Nevada 1542 of the ~~Civil Code of the State of California~~ which provides as follows:-

To be drafted per the applicable NRS
"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."

Subject to the compliance with all the terms of this Agreement, the Parties waive and relinquish any rights and benefits which they have or may have under Section _____ of the Nevada Revised Statutes ~~1542 of the Civil Code of the State of California~~ to the full extent which they lawfully waive all such rights and benefits pertaining to the subject matter of this Agreement. In connection with such waiver and relinquishment, the Parties are aware that they may hereinafter discover facts in addition to or different from those which they now know or believe to be true with respect to the subject matter of this Agreement, but it is their intention hereby fully, finally and forever to settle and release all released matters, differences and disputes, known or unknown, suspected or unsuspected, which do now exist, may exist, or heretofore have existed relating to the Action. In furtherance of such intention the releases given herein shall remain and be in effect as full and complete general releases, notwithstanding the discovery or existence of such additional or different facts.

10. Representations and Warranties. Each of the Parties to this Agreement represents and warrants to the other that each of them has the full power, capacity and authority to enter into this Agreement, that neither of them has sold, assigned or in any manner transferred any claims which either of them ever had against the other to any third party, and that no other releases or settlements are necessary from any other person or entity to release and discharge completely the other Parties from the claims specified herein. The Parties further represent and warrant that they do not presently have on file any claims, charges, grievances, actions, appeals, or complaints against each other in or with any administrative, state, federal, or governmental entity, agency, board, or court, or before any other tribunal or panel of arbitrators, public or private, based upon any actions by the Parties occurring prior to the date of this Agreement, and the Parties agree not to file any appeals, writs, complaints or other proceedings of any kind relating to such claims.

11. Responsibility for Costs and Fees. All fees and costs associated with the Action and the Agreement incurred by Dinny shall be paid by Trust B. Except as otherwise noted herein, each of the Parties are to be responsible for bearing their own costs, expert witness and attorneys' fees associated with the Action or the claims arising therefrom.

12. Applicable Law. The rights and obligations of the Parties hereunder shall be construed and enforced in accordance with the laws of the State of Nevada ~~California~~. The terms of this release are contractual and not a mere recital.

13. Counterparts. This Agreement may be executed in counterparts, and all such executed counterparts shall constitute an Agreement that shall be binding upon all Parties hereto, notwithstanding that the signatures of all Parties' designated representatives do not appear on the same page.

14. Integration. This Agreement contains the entire agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations and agreements between the Parties hereto, or any of them, whether written or oral. The Agreement, constitutes the entire understanding between and among the Parties with regard to the matters set forth herein. There are no representations, warranties, agreements, arrangements, undertakings, oral or written, between or among the Parties relating to the subject matter of this Agreement which are not fully expressed herein. This Agreement shall be interpreted according to its own terms, as defined in this Agreement or otherwise according to their ordinary meaning, without any parol evidence. This is an integrated agreement.

15. Severability. In the event that any one or more of the provisions of this Agreement shall be declared invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not be in any way affected or impaired thereby.

16. Modifications. Any alterations, changes or modifications of or to this Agreement, in order to be effective, shall be made by written instrument or endorsement thereon and in each such instance shall be duly signed on behalf of each Party hereto.

17. Achieve Goals and Purposes of Agreement. The Parties to this Agreement shall execute and deliver any document which is reasonably necessary to achieve the goals and purposes of this Agreement.

18. Enforcement of Agreement. Any Party who prevails in an action to enforce any provision of this Agreement shall be awarded actual attorneys' fees and costs incurred. The Parties agree that the court shall continue to have jurisdiction to enforce the terms of this Agreement pursuant to Nevada Revised Statutes _____ ~~Code of Civil Procedure Section 664.6.~~

19. No Admissions. This Agreement is a compromise of disputed claims and shall not be construed or deemed to be an admission of fault, liability or wrongdoing by any Party hereto to any other Party, person or entity concerning any facts related to or arising out of the Action or any alleged cross-claims which the Parties have or may have against each other. This Agreement has been entered into to clarify and specify the rights and obligations of the Parties and so that the Parties can resolve their disputes in a mutually agreeable manner.

20. Admissibility. In any action or proceeding relating to this Agreement, the Parties stipulate that a copy of this Agreement may be admissible to the same extent as the original Agreement unless the exceptions set forth in Nevada Revised Statutes _____ ~~California Evidence Code Section 1511~~ are found to be applicable.

21. Advice of Counsel. EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND HIS/HER/ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF HIS/HER/ITS RIGHT TO SEEK INDEPENDENT COUNSEL.

Each Party has obtained or has had the opportunity to obtain the advice of independent counsel of its own choosing with regard to this Agreement, and each has read the Agreement and is fully aware of its contents.

22. Joint Preparation. This Agreement is the product of the Parties' mutual discussions and negotiations. This document is drafted, prepared and created by all the Parties, collectively, and shall not be construed in favor of, or against, any Party.

23. Venue and Jurisdiction. The Parties expressly agree that any action or proceeding to enforce, interpret, or in any way apply to any provisions in this Agreement is to be brought in the Second Judicial District Court of the State of Nevada. County of Washoe (SJDC) ~~Superior Court of the State of California, County of Orange ("OCSC")~~. Furthermore, the Parties expressly consent to the jurisdiction of the SJDC ~~OCSC~~ and waive any and all defenses related to jurisdiction and/or venue.

24. Headings. The headings and numbering of the different paragraphs in this Agreement are inserted for reference and convenience only and are not to be taken as part of this Agreement or to control or affect the meaning, construction, or effect of same.

25. No Effect on Prior Agreement(s). This Agreement and the attached Stipulated Judgment referred to herein shall in no way effect, alter, amend, or modify any agreement hitherto entered into by Legacy

and Vigilant, and is intended solely as a settlement of the claim or claims referred to herein.

DATED: May~~February~~ ___, 2017

By: DINNY FRASIER, Surviving Trustor and Co-Trustee,
by and through her attorney-in-fact, Janie Mulrain, Licensed
Private Professional Fiduciary

DATED: May~~February~~ ___, 2017

By: NICOLE SHRIVE, Trust Officer Authorized Officer of
PREMIER TRUST, INC.

DATED: May~~February~~ ___, 2017

By: BRADLEY FRASIER, Contingent Beneficiary

DATED: May~~February~~ ___, 2017

By: NORI FRASIER CADY, Contingent
Beneficiary

DATED: May~~February~~ ___, 2017

By: AMY FRASIER WILSON, Contingent Beneficiary

APPROVED AS TO FORM ONLY:

DATED: May~~February~~ ___, 2017

VOGT | RESNICK | SHERAK, LLP
Attorneys at Law

By: _____
Barnet Resnick, Esq.
Attorneys for DINNY FRASIER

DATED: May~~February~~ ___, 2017

ROBERTSON, JOHNSON, MILLER &
WILLIAMSON

By: _____
G. David Robertson, Esq.
Attorneys for PREMIER TRUST, INC.

DATED: May~~February~~ ___, 2017

HENDERSON, CAVERLY, PUM & CHARNEY,
LLP

By: _____
Kristen Caverly, Esq.
Attorneys for BRADLEY FRASIER

DATED: ~~February~~ ___, 2017

By: _____
~~John Ryan, Esq.~~
~~Attorneys for NORI FRASIER CADY~~

DATED: May~~February~~ ___, 2017

By: _____
Hon. Jeffrey King (Ret.)
Mediator

EXHIBIT 1

Discounted Fifty-Percent (50%) Interest Method

EXHIBIT 2

Partitioned Interest Method



April 7, 2017

JAMES E. SPAR, M.D.
PROFESSOR, DEPARTMENT OF PSYCHIATRY
& BIOBEHAVIORAL SCIENCES
DIVISION OF GERIATRIC PSYCHIATRY
DAVID GEFFEN SCHOOL OF MEDICINE AT UCLA
760 WESTWOOD PLAZA
LOS ANGELES, CALIFORNIA 90024-1759

Barnet Resnick
Vogt Resnick Sherak, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849

Dear Mr. Resnick:

At your request I evaluated Mrs. Dinny Frasier, an 87-year old woman, in my office on February 28, 2017. Mrs. Frasier was accompanied to my office by Janie Mulrain, a professional fiduciary, and Desaraï Broyles, her caregiver, both of whom, at Mrs. Frasier's insistence, remained in the office during the evaluation, but did not interfere with the evaluation in any way. Mrs. Frasier arrived 22 minutes late for the evaluation, so the information I was able to gather was somewhat limited. I asked Mrs. Frasier why she was being evaluated, inquired about her estate and her estate plans, and administered a general mental status examination, a Folstein Mini-Mental State Examination (MMSE) and several additional tests of naming, remote memory, and frontal executive function as reflected by clock drawing.

Mrs. Frasier initially thought she was being evaluated for pain in her left hip and back, which began when she fell down a flight of 13 stairs a few months ago. But when I asked her about recent contact with attorneys, she told me that she had seen Mr. Brooks, her regular attorney, and you, and was working on changes in her will and trust. She told me that she has three children: Brad, Amy, and Nori, and she has become estranged from all three [REDACTED]

[REDACTED] She has already given each of her five grandchildren \$100 thousand for college, and the existing version of her estate plan would distribute her estate among the three children. [REDACTED]

[REDACTED] the Irvine Shelter.

Mrs. Frasier told me that her estate includes her half (the other half is in her late husband's trust) of three houses: the one in which she is living, located in San Juan Capistrano (which she said her daughter, son-in-law and son directed the purchase of with her funds, for approximately [REDACTED] the house in which she had been living before the fall, at 3 Pinewood Avenue, in



Irvine, CA; and a house in Palm Springs. She could not recall the address of the house in San Juan Capistrano because she only moved there recently. She also has about [REDACTED] in cash.

On general mental status examination Mrs. Frasier was well dressed and groomed, alert and in no distress, and quite cooperative with the examination. Her mood was euthymic, her affect was appropriate in direction and degree, but she was visibly anxious and shaky and was unable to come up with several personal details until later in the evaluation, when she had calmed down a bit. There were no abnormalities of the form, flow or content of thought, and her psychomotor behavior was unremarkable. She scored 18/30 on the MMSE, losing one point each on orientation to the year, month, date, day, season, place, three on recall (although she correctly recalled one item with a category prompt), one on three-step command, and one on figure copying. This score is consistent with moderate cognitive impairment for her age and advanced education. Her performance on the other tests was mixed: her naming and clock drawing were mildly impaired, and her recall of remote, impersonal information was more moderately impaired. I do believe that her performance was negatively affected by anxiety, and if the evaluation were less rushed and I had the opportunity to help her relax and settle down, she would have performed somewhat better.

Based upon this evaluation I believe that Mrs. Frasier has mild to moderate global cognitive impairment. However, despite this impairment, she was able to identify her assets and her heirs, and clearly understood that her trust and will would determine the distribution of her wealth after she dies. Further, I did not elicit any thought content that suggested a delusional basis for her proposed estate plan changes. Accordingly, I believe that she retains the testamentary capacity (as defined in Cal. Probate Code §6100.5) required to modify her estate plan [REDACTED]. I also believe that she retains the capacity to enter into contracts, *as long as she is not required to rely on her unaided recall alone.*

Since I evaluated her, I have learned that Mrs. Frasier is serving as co-trustee (with Premier Trust of Nevada) of her living trust, and I was asked if, in my opinion, she is capable of continuing in that role. I believe she does retain the capacity to serve as co-trustee, as long as she has a competent co-trustee with whom she can consult in the management of trust assets.

Sincerely,

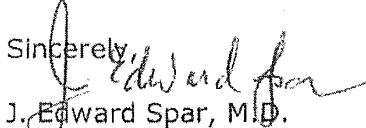

J. Edward Spar, M.D.
Professor of Psychiatry
Division of Geriatric Psychiatry

EXHIBIT 2
Agreement

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EXHIBIT 2
Agreement

SETTLEMENT AGREEMENT

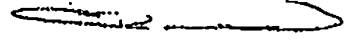
The Parties to this Agreement dated January 27, 2017, are Barnet Resnick, Esq., attorney for Dinny Frasier ("Dinny"); G. David Robertson, Esq., attorney for Co-Trustees Premier Trust, Inc. ("Premier") and Dinny Frasier in her capacity as Co-Trustee; Nicole Shrive, on behalf of Premier; Kristen Caverly, Esq., attorney for Bradley Frasier ("Brad"); Nori Frasier Cady ("Nori"); Amy Frasier Wilson ("Amy"); and Justice Jeffrey King (retired), Mediator ("Justice King"), (individually, "Party" and collectively, "Parties"). The Parties hereby agree as provided herein regarding the Matter of Jordan Dana Frasier Family Trust, Case No. PR16-00128, Second Judicial District Court, County of Washoe, State of Nevada.

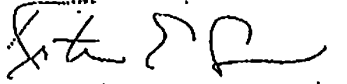
1. Justice Jeffrey King (retired), mediator, attests to Dinny Frasier's capacity to contract and to make testamentary disposition of her estate.
2. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.
3. Trust B will exchange the following listed real properties with assets held in Trust A:
 - a. 4372 Pacifica Way, Unit 3, Oceanside, CA
 - b. 3609 Vista Way, Oceanside, CA
4. The above two parcels of real properties, as well as 10 Via Sonrisa, Mission Viejo, shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick and Kristen Caverly, and the appraised values ("Appraised Values") shall be binding on all Parties. All communications with the appraiser shall include Mr. Resnick and Ms. Caverly.
5. All fees, costs, and expenses associated with the appraisals shall be borne by Trust B, to be paid from principal.
6. The real property located at 3609 Vista Way tenant in common interest shall be calculated based on the average between a discounted fifty percent interest and a partitioned interest.
7. Contingent on Court approval of this Agreement, and subject to a capacity assessment by a qualified gerontologist, Dinny shall distribute or authorize to distribute from Trust A the real property located at 4372 Pacific Way Unit 3, Oceanside, CA to Nori; 10 Via Sonrisa, Mission Viejo, CA to Amy; and 3609 Vista Way, Oceanside, CA to Brad, at the Appraised Values.
8. Dinny agrees to amend Trust A to equalize distributions to each of her children based on the Appraised Values, *AND DISTRIBUTE AN ADDITIONAL \$10,000 TO NORI*
9. The Parties agree that as a result of the exchange, there may be tax incurred by Trust B, which taxes if any shall be paid out of principal of Trust B. *EQUALIZE*
10. The sum of fifty thousand dollars previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. *yes*
11. The check from Brad in the amount of twenty thousand dollars currently being held by Premier shall be destroyed, and Brad may stop payment on same. *yes*
12. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the gift of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B. *D.G.F.*
13. This Agreement shall be subject to Nevada probate court approval.
14. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary.


15. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.


*
EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF ITS RIGHT TO SEEK COUNSEL.


Brad Frasier

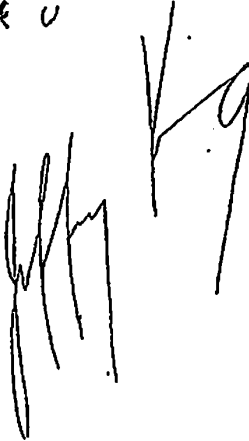

BRAD FRASIER

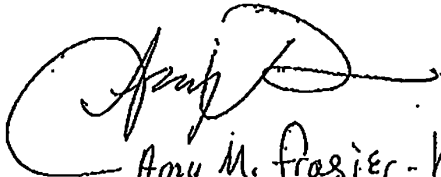

Kristen Caverly


Trust Officer
Premier Trust


G. DAVID ROBERTSON, Atty
for Co-Trustees

* u




Amy M. Frasier-Wilson

Dining Gray Frasier

SETTLEMENT AGREEMENT

The Parties to this Agreement dated January 27, 2017, are Barnet Resnick, Esq., attorney for Dinny Frasier ("Dinny"); G. David Robertson, Esq., attorney for Co-Trustees Premier Trust, Inc. ("Premier") and Dinny Frasier in her capacity as Co-Trustee; Nicole Shrive, on behalf of Premier; Kristen Caverly, Esq., attorney for Bradley Frasier ("Brad"); Nori Frasier Cady ("Nori"); Amy Frasier Wilson ("Amy"); and Justice Jeffrey King (retired), Mediator ("Justice King"), (individually, "Party" and collectively, "Parties"). The Parties hereby agree as provided herein regarding the Matter of Jordan Dana Frasier Family Trust, Case No. PR16-00128; Second Judicial District Court, County of Washoe, State of Nevada.

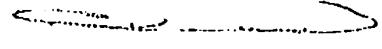
1. Justice Jeffrey King (retired), mediator, attests to Dinny Frasier's capacity to contract and to make testamentary disposition of her estate.
2. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.
3. Trust B will exchange the following listed real properties with assets held in Trust A:
 - a. 4372 Pacifica Way, Unit 3, Oceanside, CA
 - b. 3609 Vista Way, Oceanside, CA
4. The above two parcels of real properties, as well as 10 Via Sonrisa, Mission Viejo, shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick and Kristen Caverly, and the appraised values ("Appraised Values") shall be binding on all Parties. All communications with the appraiser shall include Mr. Resnick and Ms. Caverly.
5. All fees, costs, and expenses associated with the appraisals shall be borne by Trust B, to be paid from principal.
6. The real property located at 3609 Vista Way tenant in common interest shall be calculated based on the average between a discounted fifty percent interest and a partitioned interest.
7. Contingent on Court approval of this Agreement, and subject to a capacity assessment by a qualified gerontologist, Dinny shall distribute or authorize to distribute from Trust A the real property located at 4372 Pacific Way Unit 3, Oceanside, CA to Nori; 10 via Sonrisa, Mission Viejo, CA to Amy; and 3609 Vista Way, Oceanside, CA to Brad, at the Appraised Values.
8. Dinny agrees to amend Trust A to equalize distributions to each of her children based on the Appraised Values, *AND SHE AGREES TO ADDITIONAL \$10,000 TO NORI + \$10,000 TO AMY + \$10,000 TO BRAD*
9. The Parties agree that as a result of the exchange, there may be tax incurred by Trust B, which taxes if any shall be paid out of principal of Trust B. *EQUALIZE*
10. The sum of fifty thousand dollars previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. *John not.*
11. The check from Brad in the amount of twenty thousand dollars currently being held by Premier shall be destroyed, and Brad may stop payment on same.
12. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the gift of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B.
13. This Agreement shall be subject to Nevada probate court approval.
14. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary.

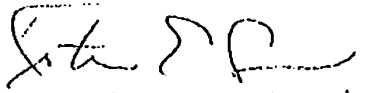
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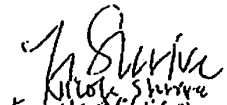
15. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.

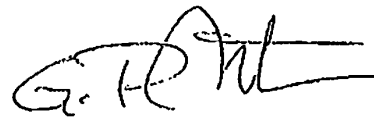
*
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Brad Frasier

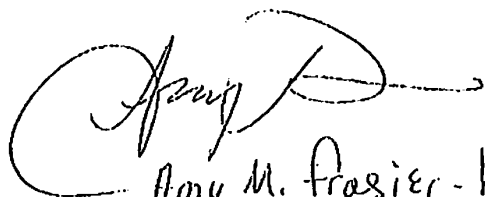

BRAD FRASIER


Kristen Caverly


Nicole Shreve
Trust Officer
Premier Trust


G. DAVID ROBERTSON, Attorney
for Co-Trustees

* u


Amy M. Frasier-Wilson

Nori B. Frasier
Nori B. Frasier



P. 2, of 2

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EXHIBIT 3
Declaration of Dr. Spar

FILED
Electronically
PR16-00128
2017-04-14 06:54:13 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6053381 : csulezic

EXHIBIT 3
Declaration of Dr. Spar

1520
BRADLEY J. RICHARDSON, ESQ.
Nevada Bar No. 1159
COURTNEY MILLER O'MARA, ESQ.
Nevada Bar No. 10683
FENNEMORE CRAIG, P.C.
300 East Second Street, Suite 1510
Reno, NV 89501
Telephone: (775) 788-2200
Facsimile: (775) 786-1177
e-mail: brichard@fclaw.com
comara@fclaw.com

BARNET RESNICK, ESQ.
California Bar No. 59906
VOGT, RESNICK, SHERAK, I.L.P.
4400 MacArthur Boulevard, #900
Newport Beach, CA 92660
Telephone: (323) 583-1439
e-mail: bresnick@VRSLaw.net
(Pro Hac Vice Pending)
Attorneys for Dinny Frasier, Individually

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the matter of
JORDAN DANA FRASIER FAMILY
TRUST

CASE NO. PR16-00128

DEPT. NO. 15

DECLARATION OF JAMES E. SPAR, M.D.

I, JAMES E. SPAR, M.D., do hereby swear under the penalty of perjury that the assertions of this Declaration are true and correct to the best of my knowledge and belief and do hereby declare as follows:

1. I am a doctor licensed to practice medicine in the State of California.
2. I obtained my medical degree from University of California, Los Angeles ("UCLA") in 1972. I completed my residency in Psychiatry at the UCLA Neuropsychiatric Hospital from 1974 to 1978 and I completed my fellowship in Geriatric Psychiatry at the UCLA Neuropsychiatric Hospital from 1977 to 1978.
3. I am board certified in Geriatric Psychiatry and Psychiatry and Neurology by the American Board of Psychiatry and Neurology.

FENNEMORE CRAIG, P.C.
300 East Second Street, Suite 1510
Reno, NV 89501
Tel: (775) 788-2200 Fax: (775) 786-1177

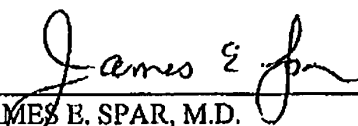
1 4. I am currently employed by the David Geffen School of Medicine at UCLA as a Professor in
2 the Department of Psychiatry and Biobehavioral Sciences.

3 5. I have been retained by the law firm of Vogt Resnick Sherak LLP to provide an evaluation of
4 Dinny Frasier's capacity. I have personal knowledge of the matters set forth herein and if called
5 and sworn to testify, I could and would competently do so.

6 6. A true and correct copy of my Curriculum Vitae is attached hereto as Exhibit 1.

7 7. A true and correct copy of my April 7, 2017 letter regarding my evaluation of Dinny Frasier
8 is attached hereto as Exhibit 2. Such copy has been redacted to protect the portions of the letter
9 that reveal Dinny's private and confidential information.

10 DATED: This 14 day of APRIL, 2017

11
12
13 
14 JAMES E. SPAR, M.D.

15 12765115.1/044958.0001

EXHIBIT 1

CURRICULUM VITAE (7/15)

JAMES EDWARD SPAR, M.D.

Date & place of birth: September 11, 1946, Los Angeles, California

Address : Semel Institute for Neuroscience and Human Behavior, University of California at Los Angeles (UCLA), 760 Westwood Plaza, Los Angeles, California 90024, (310) 825-0038

Education and Professional Training

1966 -1968	UCLA B.A. Zoology 1968, <i>cum laude</i> ; Honors in Zoology
1968 -1972	UCLA School of Medicine, M.D., June, 1972
1973 -1974	Internship in Internal Medicine, Children's Hospital, San Francisco, California
1974 -1977	Psychiatric Residency, UCLA - Brentwood V.A. Hospital
1977 - 1978	Fellowship, Geriatric Psychiatry, NPI&H, UCLA
1993 - 1998	Fellow, Faculty Development Program in Substance Abuse (J. Thomas Ungerleider, M.D., Principal Investigator), funded by Center for Substance Abuse Prevention

Military Service

1963 - 1964	United States Army National Guard; Honorable Discharge, March 18, 1964
-------------	--

Licensures/Certification

1973	California State Medical License #G24955
1973	Narcotics License #AS1011357
1979	Diplomate, Am. Bd. of Psychiatry & Neurology (ABPN)
1991	Diplomate, Added Qualifications in Geriatric Psychiatry (ABPN)
2001	Diplomate, Subspecialty of Geriatric Psychiatry (ABPN)

Professional Societies

1981 - 1992	Member, Am. Assoc. for Geriatric Psychiatry
1982 - 1987	Member, Intern. Psychogeriatric Society
1984 - 1987	Member of Board of Directors, Am. Assoc. for Geriatric Psychiatry
2003 -	Member, American Psychiatric Association, Southern California Psychiatric Society

Academic Appointments

1978 - 1979	Acting Assistant Professor, Dept. of Psychiatry & Biobehavioral Sciences, UCLA School of Medicine
1979 - 1988	Assistant Professor, Dept. of Psychiatry & Biobehavioral Sciences, UCLA School of Medicine

1988 - 1993	Associate Clinical Professor, Dept. of Psychiatry & Biobehavioral Sciences, UCLA School of Medicine
1993-1998	Associate Professor of Clinical Psychiatry, Dept. of Psychiatry & Biobehavioral Sciences, UCLA School of Medicine
1996-97	Associate Chair, Dept. of Psychiatry & Biobehavioral Sciences, UCLA School of Medicine
1998 -	Professor of Clinical Psychiatry, Dept. of Psychiatry & Biobehavioral Sciences, UCLA School of Medicine
2002-	Senior Research Scientist, UCLA Neuropsychiatric Institute

Professional Experience

1972 - 1973	Internship in Internal Medicine, Children's Hospital, San Francisco, California
1973	Staff Physician, Los Angeles County Methadone Maintenance Clinic, Los Angeles, California
1973 - 1974	Emergency Physician, Mercy Hospital, Bakersfield, & San Leandro Memorial Hospital, San Leandro, California
1974 - 1977	Psychiatric Residency, UCLA - West LA VA Medical Center, Brentwood, California
1977 - 1978	Fellowship, Geriatric Psychiatry, NPI&H, UCLA
1978 - 1979	Associate Ward Director, geriatric psychiatry inpatient unit, NPI&H, UCLA
1979 - 1995	Ward Director, geriatric psychiatry inpatient unit, NPI&H, UCLA
1988 - 1997	Coordinator, Clinical Geriatric Services, NPI&H, UCLA
1995 -	Director, Psychiatric Residency Education, Department of Psychiatry and Biobehavioral Sciences, UCLA
1998 - 2004	Director, Division of Geriatric Psychiatry, Department of Psychiatry and Biobehavioral Sciences, UCLA

Teaching/Supervisory Experience/Selected Presentations

1977 - 1995	Individual supervision of interns, 1st and 3rd year psychiatric residents assigned to 3-South, NPI&H, UCLA
1979 - 1995	Seminar in Geriatric Psychiatry given to interns, residents, medical and psychiatric fellows, and medical students assigned to Ward 3-South, NPI&H, UCLA
1980 - 1995	Individual supervision of geriatric medical and psychiatry fellows in geriatric psychiatry training rotation, Ward 3-South, NPI&H, UCLA

1980 - 1990	Occasional guest lecturer, UCLA School of Law, "Testamentary capacity and the expert witness"
1993	Guest co-lecturer, Loyola Law School Continuing Legal Education Program, Los Angeles, Calif. "Competence related litigation and Estate Planning" (with M. Hankin, Esq.)
1994	Co-lecturer, Twentieth Annual USC Probate and Trust Conference, "Assessing competency and susceptibility to undue influence: conceptual and procedural issues" (with B. Bailey, Esq.)
1997	Luncheon Speaker, Twenty-third Annual USC Probate and Trust Conference, "An Attorney's Guide to Rapid Assessment of Mental Status"
1998	Luncheon Speaker, Twenty-second Annual Fall Program, Estate Planning, Trust and Probate Law Section, State Bar of California, "An M.D.'s Guide for Lawyers: Elders and Competency"
1999	Speaker, Beverly Hills Bar Association Spring meeting on "Capacity and Undue Influence"
2005	Luncheon Speaker, Beverly Hills Bar Association Trusts and Estates Section meeting, "Competency and Undue Influence – An Update"
2006	Speaker, St. John's Hospital 58 th Post-Graduate Assembly, "Determining Medical Decision Making Capacity"
2008	Speaker, National Organization of Bar Counsel Mid-Year Conference, "The Aging Lawyer: Assessment, Diagnosis, and Treatment"
2008	Speaker, 30 th Annual UCLA/CEB Estate Planning Institute, "A Lawyers Guide to Diminished Capacity and Effective Use of Experts" (with Adam Streisand, LLB)
2008	Speaker, American College of Trust and Estate Counsel Fall Meeting, Savannah, Georgia, "A Psychiatrist's View of Capacity and Undue Influence" (with Adam Streisand, LLB, and Meg Lodise, LLB).
2010	Panelist (with Stuart Zimring, Esq., and Elizabeth Botsford, Esq), Trusts and Estates Section of the Beverly Hills Bar Association Program Meeting. Topic: Drafting, administration and litigation of vice clauses
2010	Panelist (with Ed Stone, Esq.), Southern California Probate Conference, Semi-Annual Update and Roundtable.
2010	Speaker, LA County Bar Probate Volunteer Panel Annual Training Program: "Psychotropic medications and the myth of chemical restraints"
2011	Panelist (with Jane Boubelk, Esq., Isla Garraway, M.D., John Brooks, M.D., and James Hynds, Ph.D.), UCLA Health Systems Special Conference on "Treating The Incapable Medical Patient Needing Urgent Care"

- 2012 Panelist (with Hon. Reva Goetz, Bruce Ross, Esq, and Alice Salvo, Esq.) Trusts & Estates Section of the Los Angeles County Bar Association Annual Symposium. Topic: Mental Capacity and Undue Influence.
- 2014 Speaker, UCLA Department of Psychiatry and Biobehavioral Sciences Grand Rounds, "Assessing Competency in the Elderly"
- 2015 Speaker, California CPA Advanced Estate Planning Institute, San Francisco, CA (with Adam Streisand), "Mental Disorders that can Erode Capacity and Increase Vulnerability to Undue Influence"

Grants: Research

- 1978 Spar, J.E. (Principal Investigator). Grant #S781018. "A double-blind placebo-controlled, multi-clinic study to evaluate the safety and efficacy of a total daily dose of 6.0 mg of dihydrogenated ergot alkaloids for the treatment of the cognitive, affective and behavioral symptoms of dementia associated with aging." Sandoz Pharmaceuticals, East Hanover, New Jersey.
- 1983 Spar, J.E. (Principal Investigator). Faculty Development Award, Summer Qtr.
- 1983 Spar, J.E. (Principal Investigator). Basic Research Service Grant (BRSG). In support of study, "Long-term follow-up of elderly patients with major depression or dementia"
- 1984 La Rue, A. (P.I.), Spar, J.E. (Co-Principal Investigator). Opportunity Funds Grant. For continuation of study: "Long-term follow-up of elderly patients with major depression or dementia." Also funded by the Alzheimer's Disease and Related Disorders Association.
- 1986 Leuchter, A. (P.I.), Spar, J.E. (Co-Principal Investigator). "Mental illness in the elderly: Diagnostic testing." NIMH Grant 1 RO1 MH/NS 40705-01. 3/1/86-2/28/89.

Grants: Training

- 1982 Principal Investigator, NIMH Grant 1 T3116590-01. "Multidisciplinary Clinical Training: Mentally Ill Aged" 8/1/82-10/31/83.
- 1983-89 Principal Investigator, NIMH Grant 1 TO1MH17251-01 thru 06. "Multidisciplinary Clinical Training: Mentally Ill Aged" 7/1/83-6/30/89.
- 1989-92 Multidisciplinary Clinical Training: Mentally Ill Aged 7/1/89-6/30/92
- 1992-95 Co-principal Investigator, NIMH Grant 1TO1SM19744-03 Multidisciplinary Clinical Training: Mentally Ill Aged 7/1/92-6/30/95
- 1991- Present Co-Principal Investigator, "Department of Veterans Affairs: West Los Angeles Veterans Administration Medical Center, Brentwood

Division; Sepulveda Veterans Administration Medical Center; and
UCLA Multicampus Fellowship Program in Geriatric Psychiatry"

Legislative Consultation

- 1985 Co-drafter (with Andrew S. Garb, Esq.) of California Probate Code Section 6100.5
"Persons Not Mentally Competent to Make a Will; specified circumstances"
- 1995 Co-drafter (with Marc B. Hankin, Esq, et al) of the *Due Process in
Competency Determinations Act* (SB 730), codified as California Probate
Code Sections 810 - 813, and Civil Code Section 39 (b)

Publications - Books

1. Colby K, Spar JE: The Fundamental Crisis in Psychiatry: Unreliability of Diagnosis. Springfield, Illinois: Charles C. Thomas, 1983.
2. Spar JE, La Rue A: Concise Guide to Geriatric Psychiatry Washington DC: American Psychiatric Press, Inc., 1990; Second Edition, 1997; Third Edition, 2002.
3. Spar JE, La Rue A: Clinical Manual of Geriatric Psychiatry Washington DC: American Psychiatric Publishing, Inc, 2006

Original research articles

1. Van Putten T, Spar JE: The board and care home: Does it deserve a bad press? Hospital & Community Psychiatry 30:461-464, 1979.
2. Spar JE, Ford CV, Liston E: Bipolar affective disorder in aged patients. Journal of Clinical Psychiatry 504-507, 1979.
3. Spar JE, Gerner R: Does the dexamethasone suppression test distinguish depression from dementia? American Journal of Psychiatry 139:2, 1982.
4. Spar JE, La Rue A: Major depression in the elderly: DSM-III criteria and the dexamethasone suppression test as predictors of treatment response. American Journal of Psychiatry 140:844-847, 1983.
5. Spar JE, La Rue A, Liston E: Opiate antagonists in patients with Alzheimer's disease. New England Journal of Medicine 209(9):354-355, 1983. (Letter to the Editor, with J. Blass & M. Reding; D. Drachman et al.; R. Katzman et al.)
6. Spar JE, La Rue A: Acute response to methylphenidate as a predictor of outcome of tricyclic antidepressant therapy in the elderly. Journal of Clinical Psychiatry 46(11): 466-469, 1985.
7. Leuchter A, Spar JE: The late-onset psychoses: Clinical and diagnostic features. Journal of Nervous and Mental Disease 173(8):488-493, 1985.
8. La Rue A, D'Elia LF, Clark EO, Spar JE, Jarvik LF: Clinical tests of memory in dementia, depression and healthy aging. Journal of Psychology and Aging 1(1):69-77, 1986.
9. La Rue A, Spar JE, Dessonville Hill C: Cognitive impairment in late-life depression: Clinical correlates and treatment implications. Journal of Affective Disorders 11:179-184, 1986.
10. Leuchter A, Spar JE, Walter DO, Weiner H: Electroencephalographic spectra and coherence in the diagnosis of Alzheimer's type and multi-infarct dementia. Archives of General Psychiatry 44:993-998, 1987.
11. Spar JE: Plasma trazodone concentrations in elderly depressed inpatients: Cardiac effects and short-term efficacy. Journal of Clinical Psychopharmacology 7:406-409, 1987.
12. Spar JE, La Rue A, Hewes CJ, Fairbanks L: Multivariate prediction of falls in elderly inpatients. International Journal of Geriatric Psychiatry 2:185-188, 1987.
13. Wilkins JN, Spar JE, Carlson HE: Desipramine increases circulating growth hormone in elderly depressed patients: A Pilot Study. Psychoneuroendocrinology 14(3):195-202, 1989

14. Small GW, Matsuyama SS, Ramanujam K, Spar JE, Fairbanks L: HLA antigens in depressed, demented, and non-demented elderly. Journal of Geriatric Psychiatry and Neurology 2:70-75, 1989
15. La Rue A, Goodman S, Spar JE: Risk factors for memory impairment in geriatric depression. Neuropsychiatry, Neuropsychology, and Behavioral Neurology 5(3):178-184, 1992
16. Leuchter AF, Simon SL, Daly KA, Rosenberg-Thompson S, Abrams M, Dunkin JJ, Cook IA, Newton TF, Spar JE: Quantitative EEG correlates of outcome in older psychiatric patients. Part II. Two-year follow-up of patients with depression. American Journal of Geriatric Psychiatry 2(4):290-299, 1994
17. McGuire MT, Fawzy F, Spar JE, Weigel RM, Triosi A: Altruism and mental disorders. Ethology and Sociobiology 15:299-321, 1994
18. Spar JE, Hankin M, Stodden A: Assessing mental capacity and susceptibility to undue influence. Behavioral Sciences and the Law 13(3):391-403, 1995

Other articles

1. Ford CV, Spar JE, Davis B, Liston E: Hospital treatment of the elderly neuropsychiatric patient. Part I. Journal of American Geriatric Society, Vol. XXVIII, No. 10, 446-450, 1980.
2. Spar JE, Ford CV, Liston E: Hospital treatment of the elderly neuropsychiatric patient, Part II. Journal of American Geriatric Society, Vol. XXVIII, No. 12, 539-543, 1980.
3. Spar JE: Dementia in the aged. In L.F. Jarvik and G. Small (Eds.), Psychiatric Clinics of North America - Aging, Vol. 5, #1. Philadelphia: W.B. Saunders, 1982.
4. Spar JE: Pathophysiology of dementia. J. Beck (Moderator): Dementia in the elderly: The silent epidemic. Annals of Internal Medicine 97(2):231-241, 1982
5. Spar JE: Affective disorders and dementia. J. Beck (Moderator): Dementia. Annals of Internal Medicine 97(2):231-241, 1982.
6. Jarvik L, Spar JE: Aging and organic mental disorders in the elderly. In B. Wolman (Ed.), International Encyclopedia of Psychiatry, Psychology, Psychoanalysis and Neurology. Progress Volume I. New York: Van Nostrand Aesculapius, 1983.
7. Spar JE: Psychopharmacology of Alzheimer's disease. Psychiatric Annals 14(3):186-189, 1984.
8. Marin RS, Foster JR, Ford CV, Reifler BV, Reisberg B, Robinowitz CB, Sledge WH, Spar JE, Tighe PJ: A curriculum for education in geriatric psychiatry. American Journal of Psychiatry 145(7): 838-843, 1988
9. Spar JE, Garb A: Assessing competency to make a will. American Journal of Psychiatry 49(2):169-174, 1992
10. Chen ST, Altshuler LL, Spar JE: Bipolar disorder in late life: A review. Journal of Geriatric Psychiatry & Neurology, 11:29-35, 1998
11. Spar, JE: Attorney's guide to competency and undue influence. National Association of Elder Law Attorneys Quarterly, 13(3), 7-12, 2000
12. Streisand AF, Spar JE: A Lawyer's guide to diminishing capacity and effective use of medical experts in contemporaneous and retrospective evaluations. American College of Trust and Estate Counsel Journal 33 (2), Winter, 2008.
13. Streisand AF, Spar JE: Mental Disorders that Erode Capacity. ABA Trust & Investments, 132, 12-17, November-December, 2009
14. Carico CD, Spar JE: Escaping the LPS Revolving Door. Trust and Estates Quarterly 16(1), 24-32, Fall, 2010

Book Chapters

1. Spar JE: Drug treatment. In G. Maureen Chaisson (Ed.), Depression in the Elderly: An Interdisciplinary Approach. New York: John Wiley & Sons, 1985, p. 193-213.
2. Spar JE: Psychopharmacologic treatment of depression in elderly patients with cardiovascular disease. In C. Shamoian (Ed.), Treatment of Affective Disorders in the Elderly (Monograph). American Psychiatric Press, Inc., 1985.

3. Spar JE: Principles of diagnosis and treatment in geriatric psychiatry. In Lazarus LW, "Essentials of Geriatric Psychiatry" New York, Springer, 1988
4. Spar JE: Organic Mood Syndrome. Chapter 97 In: Treatments of Psychiatric Disorders. (Karasu TB, Ed.) A Task Force Report of the American Psychiatric Association. Washington, D.C. American Psychiatric Press, Inc. 1989.
5. Spar JE: Organic Personality Syndrome. Chapter 98 In: Treatments of Psychiatric Disorders. (Karasu TB, Ed.) A Task Force Report of the American Psychiatric Association. Washington, D.C. American Psychiatric Press, Inc. 1989.
6. Spar, JE: Competency and Related Forensic Issues, in The American Psychiatric Press Textbook of Geriatric Neuropsychiatry, (Coffey CE, Cummings JL eds.) 2nd ed. Washington, DC The American Psychiatric Press, 1999
7. McGuire M, Fawzy F, Spar JE, Troisi A: Dysthymic disorder, Regulation-Dysregulation Theory, CNS Blood Flow, and CNS Metabolism in Sloman L, Gilbert P (Eds): Subordination and Defeat An Evolutionary Approach to Mood Disorders and Their Therapy New Jersey Lawrence Erlbaum Associates, Inc. 2000

Letters to editors

1. Irwin M, Spar JE: Reversible cardiac conduction abnormality associated with administration of trazodone. American Journal of Psychiatry 140:7, 1983
2. Spar JE, La Rue A, Liston E: Opiate antagonists in patients with Alzheimer's disease. New England Journal of Medicine 209(9):354-355, 1983. (this letter, listed above as "original research article" entry #5, also reported original research data by J. Blass & M. Reding; D. Drachman et al.; and R. Katzman et al.)
3. Small GW, Spar JE, Plotkin DA: Oral tetrahydroaminoacridine (THA) in treatment of senile dementia, Alzheimer type. New England Journal of Medicine 316(25):1604, 1987.
4. Strouse TB; Salehmoghaddam S; Spar JE. Acute delirium and parkinsonism in a bupropion-treated liver transplant recipient. Journal of Clinical Psychiatry: 54(12):489-90, 1993
5. Spar JE: Virtual Publication. Archives of General Psychiatry 58:203-204, 2001

In preparation or in press

1. Read S, Spar, JE: Capacity, Informed Consent and Guardianship, in J. Holzer (Ed.), The Oxford University Press Textbook of Geriatric Forensic Psychiatry, 2015
2. Plotkin D, Spar JE, Horwitz, H: The Role of the Mental Health Expert in Assessing Susceptibility to Undue Influence

EXHIBIT 2



April 7, 2017

JAMES E. SPAR, M.D.
PROFESSOR, DEPARTMENT OF PSYCHIATRY
& BIOBEHAVIORAL SCIENCES
DIVISION OF GERIATRIC PSYCHIATRY
DAVID GEFKEN SCHOOL OF MEDICINE AT UCLA
760 WESTWOOD PLAZA
LOS ANGELES, CALIFORNIA 90024-1750

Barnet Resnick
Vogt Resnick Sherak, LLP
4400 MacArthur Blvd., Suite 900
P.O. Box 7849
Newport Beach, CA 92658-7849

Dear Mr. Resnick:

At your request I evaluated Mrs. Dinny Frasier, an 87-year old woman, in my office on February 28, 2017. Mrs. Frasier was accompanied to my office by Janie Mulrain, a professional fiduciary, and Desarae Broyles, her caregiver, both of whom, at Mrs. Frasier's insistence, remained in the office during the evaluation, but did not interfere with the evaluation in any way. Mrs. Frasier arrived 22 minutes late for the evaluation, so the information I was able to gather was somewhat limited. I asked Mrs. Frasier why she was being evaluated, inquired about her estate and her estate plans, and administered a general mental status examination, a Folstein Mini-Mental State Examination (MMSE) and several additional tests of naming, remote memory, and frontal executive function as reflected by clock drawing.

Mrs. Frasier initially thought she was being evaluated for pain in her left hip and back, which began when she fell down a flight of 13 stairs a few months ago. But when I asked her about recent contact with attorneys, she told me that she had seen Mr. Brooks, her regular attorney, and you, and was working on changes in her will and trust. She told me that she has three children: Brad, Amy, and Nori, and she has become estranged from all three [REDACTED]

[REDACTED] She has already given each of her five grandchildren \$100 thousand for college, and the existing version of her estate plan would distribute her estate among the three children. [REDACTED]

[REDACTED] the Irvine shelter.

Mrs. Frasier told me that her estate includes her half (the other half is in her late husband's trust) of three houses: the one in which she is living, located in San Juan Capistrano (which she said her daughter, son-in-law and son directed the purchase of with her funds, for approximately [REDACTED] the house in which she had been living before the fall, at 3 Pinewood Avenue, in



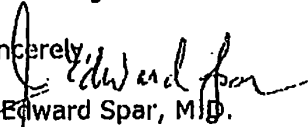
Irvine, CA; and a house in Palm Springs. She could not recall the address of the house in San Juan Capistrano because she only moved there recently. She also has about [REDACTED] in cash.

On general mental status examination Mrs. Frasier was well dressed and groomed, alert and in no distress, and quite cooperative with the examination. Her mood was euthymic, her affect was appropriate in direction and degree, but she was visibly anxious and shaky and was unable to come up with several personal details until later in the evaluation, when she had calmed down a bit. There were no abnormalities of the form, flow or content of thought, and her psychomotor behavior was unremarkable. She scored 18/30 on the MMSE, losing one point each on orientation to the year, month, date, day, season, place, three on recall (although she correctly recalled one item with a category prompt), one on three-step command, and one on figure copying. This score is consistent with moderate cognitive impairment for her age and advanced education. Her performance on the other tests was mixed: her naming and clock drawing were mildly impaired, and her recall of remote, impersonal information was more moderately impaired. I do believe that her performance was negatively affected by anxiety, and if the evaluation were less rushed and I had the opportunity to help her relax and settle down, she would have performed somewhat better.

Based upon this evaluation I believe that Mrs. Frasier has mild to moderate global cognitive impairment. However, despite this impairment, she was able to identify her assets and her heirs, and clearly understood that her trust and will would determine the distribution of her wealth after she dies. Further, I did not elicit any thought content that suggested a delusional basis for her proposed estate plan changes. Accordingly, I believe that she retains the testamentary capacity (as defined in Cal. Probate Code §6100.5) required to modify her estate plan [REDACTED]. I also believe that she retains the capacity to enter into contracts, *as long as she is not required to rely on her unaided recall alone.*

Since I evaluated her, I have learned that Mrs. Frasier is serving as co-trustee (with Premier Trust of Nevada) of her living trust, and I was asked if, in my opinion, she is capable of continuing in that role. I believe she does retain the capacity to serve as co-trustee, as long as she has a competent co-trustee with whom she can consult in the management of trust assets.

Sincerely,


J. Edward Spar, M.D.
Professor of Psychiatry
Division of Geriatric Psychiatry

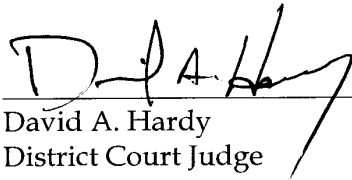
IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

In the matter of Case No. PR16-00128
JORDAN DANA FRASIER FAMILY TRUST Dept. No. 15

ORDER SETTING EVIDENTIARY HEARING AND VACATING TRIAL

Before this Court is Dinny Frasier's *Ex Parte Motion for Order Shortening Time* regarding her underlying *Motion to Enforce Settlement Agreement and to Vacate Trial*. This Court acknowledges the possibility the parties reached a settlement and significant law requires this Court to enforce a settlement when the parties agreed to all material terms. See generally Grisham v. Grisham, 128 Nev. ___, 289 P.3d 230 (2012); May v. Anderson, 121 Nev. 668, 119 P.3d 1254 (2005). After review of the underlying motion, this Court finds an evidentiary hearing is necessary to determine whether the parties have agreed to all material terms of their settlement agreement. This Court vacates the trial date set at 10:00 a.m., May 8, 2017, and sets the evidentiary hearing in its place. All pending motion practice is stayed. However, the parties shall file pre-hearing statements on Friday, May 5, 2017, before noon.

Dated: April 19, 2017.



David A. Hardy
District Court Judge

1 **2610**
2 Michael E. Sullivan, Esq. (SBN 5142)
3 msullivan@rbsllaw.com
4 Scott L. Hernandez, Esq. (SBN 13147)
5 shernandez@rbsllaw.com
6 **Robison, Belaustegui, Sharp & Low**
7 A Professional Corporation
8 71 Washington Street
9 Reno, Nevada 89503
10 Telephone: (775) 329-3151
11 Facsimile: (775) 329-7169
12 *Attorneys for Bradley Frasier*
13

8 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
9
10 **IN AND FOR THE COUNTY OF WASHOE**

11 In the Matter of the
12 JORDAN DANA FRASIER FAMILY TRUST,
13

Case No.: PR16-00128

Dept. No.: PR

14
15 **NOTICE OF DR. BRADLEY L. FRASIER'S POSITION**
16 **WITH REGARD TO SETTLEMENT**

17 COMES NOW, Dr. Bradley L. Frasier, MD ("Dr. Frasier"), Beneficiary of the
18 Jordan Dana Frasier Family Trust (the "Trust"), by and through his counsel, Robison,
19 Belaustegui, Sharp & Low, and hereby gives notice of his position with regard to
20 settlement.

21 On January 27, 2017, Dr. Bradley Frasier attended the court ordered mediation
22 in this case before mediator Justice Jeffrey King (Ret.) with JAMS. Justice King is a
23 retired justice of the California Court of Appeals, and was agreed to by all parties. Dr.
24 Frasier submitted a mediation brief, personally attended the mediation with his wife, and
25 brought his counsel Kristen Caverly and his CPA to the mediation with him. The
26 mediation was conducted in Orange County, California which required Dr. Frasier to
27 take time off from his medical practice and required him and his advisors to incur travel
28 time each way from San Diego County. Premier and its counsel had to travel from

Robison, Belaustegui,
Sharp & Low
71 Washington St.
Reno, NV 89503
(775) 329-3151

1 Nevada for the mediation, and the trusts paid the mediator's fees. Obviously, like the
2 other parties who traveled and/or had counsel participate in the mediation process, the
3 mediation was very expensive to Dr. Frasier.

4 The mediation was court ordered. Every party was invited well ahead of time to
5 the mediation and invited to bring support family, attorneys, CPAs or any other advisor
6 he/she wished to bring. The mediation lasted all day. Late into the evening, the
7 mediation resulted in a binding written agreement signed by Dr. Frasier, Mrs. Dinny
8 Frasier's counsel, Amy Frasier-Wilson, and Premier. Nori wanted more time to consider
9 the agreement, so she gave her signature to the mediator who released it at her
10 direction the following week. Mrs. Dinny Frasier signed the agreement and circulated
11 her signature after her capacity evaluation to ensure that no one could claim she did not
12 have the capacity to execute the agreement. The fully signed agreement is attached as
13 Exhibit 1.

14 Mrs. Dinny Frasier's counsel circulated a proposed replacement agreement after
15 the mediation. Dr. Frasier commented on the replacement agreement, but since
16 Premier's counsel never provided any comments and Amy wanted to back out
17 completely, the idea of a replacement agreement was abandoned by Mrs. Dinny Frasier
18 and Dr. Frasier.

19 Dr. Frasier agrees with his mother's position that the mediation agreement is
20 binding on all parties and should be approved as in the best interest of his mother and
21 the Trust B beneficiaries, which include himself. As set forth in the agreement, Mrs.
22 Frasier is buying assets at fair market value from Trust B and gifting those assets to her
23 children. Since Mrs. Frasier has capacity and has made this decision with the advice of
24 counsel as a means to resolve intra-family litigation and separate herself financially from
25 each of her children, the court should approve the agreement. It is a creative solution to
26 a complex litigation dispute, and benefits all of her children.

27
28 ///

1 Dr. Frasier will request that the court approve the mediation agreement as
2 binding on all of the parties and direct the parties with obligations under the agreement
3 to perform. The trial date should be vacated and the litigation dismissed.

4 **AFFIRMATION:** Pursuant to NRS 239B.030, the undersigned does hereby affirm that
5 this document does not contain the Social Security Number of any person.

6 DATED this 4th day of May, 2017.

8 ROBISON, BELAUSTEGUI, SHARP & LOW
9 71 Washington Street
10 Reno, Nevada 89503

11 By: 

12 Michael E. Sullivan, Esq.
13 Scott L. Hernandez, Esq.
14 Attorneys for Bradley Frasier

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON,
BELAUSTEGUI, SHARP & LOW, and that on this date I caused a true copy of
JOINDER IN REQUEST FOR CASE MANAGEMENT CONFERENCE to be served on
all parties to this action by:
 X placing an original or true copy thereof in a sealed, postage
prepaid, envelope in the United States mail at Reno, Nevada and via
email to the following:

Kristin Caverly, Esq.
12750 High Bluff Drive
Suite 300
San Diego, California 92130
kcaverly@hcesq.com

Amy Frasier Wilson
10 Via Sonrisa
Mission Viejo, CA 92692
mailto:digitalmermaid8@gmail.com

Nori Frasier
4372 Pacifica Way, Unit 3
Oceanside, CA 92056
nori_frasier@hotmail.com

 X by using the Court's CM/ECF Electronic Notification System addressed to:

Richard D. Williamson, Esq.
C. David Robertson, Esq.
Jonathan J. Tew, Esq.
Courtney Miller O'Mara, Esq.

Dated this 4th day of May, 2017.



Employee of Robison, Belaustegui,
Sharp & Low

EXHIBIT LIST

Pages

1.	Settlement Agreement.	2
----	----------------------------	---

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of the Doyle Law Office, PLLC and that on the 11th day of June, 2019, a true and correct copy of the above **APPELLANT'S APPENDIX** was e-filed and e-served on all registered parties to the Nevada Supreme Court's electronic filing system as listed below:

Patrick Millsap
Wallace & Millsap LLC
510 W. Plumb Lane, Ste. A
Reno, NV 89509

G. David Robertson, Esq.
Robertson, Johnson, Miller, & Williamson
50 West Liberty Street, Suite 600
Reno, NV 89501

Michael A. Rosenauer
Michael A. Rosenauer, Ltd.
510 West Plumb Lane, Suite A
Reno NV 89509

And by depositing for mailing in the U.S. mail, with sufficient postage affixed thereto; to all participants not registered for electronic filing:

Nori Frasier
4372 Pacifica Way, Unit 3
Oceanside, CA 92056

Bradley L. Frasier, M.D.
3609 Vista Way
Oceanside, CA 92056

DATED this 11th day of June, 2019.

_____/s Kerry S. Doyle
Kerry S. Doyle

Kerry S. Doyle, Esq.
Nevada Bar No. 10866
DOYLE LAW OFFICE, PLLC
4600 Kietzke Lane, Ste. I-207
Reno, NV 89502
(775) 525-0889
kerry@rdoylelaw.com

Electronically Filed
Jun 11 2019 11:00 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

Attorneys for Appellant

IN THE SUPREME COURT FOR THE STATE OF NEVADA

IN THE MATTER OF THE JORDAN
DANA FRASIER FAMILY TRUST

AMY FRASIER WILSON,

Appellant,

v.

DINNY FRASIER; PREMIER TRUST,
INC.; JANIE L. MULRAIN; NORI
FRASIER; and BRADLEY L. FRASIER,
M.D.;

Respondents.

Case No. 77981

APPELLANT'S APPENDIX

VOL. 1

ALPHABETICAL INDEX OF APPELLANT'S APPENDIX

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Amy Frasier Wilson's Objections to Accounting and Statement of Concerns	8/24/2018	4	855
Amy Frasier Wilson's Objections to the Petition to Confirm the Third and Fourth Amendments to Survivor's Trust	12/10/2018	9	2094
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1 **CODE: \$3645**
2 RICHARD D. WILLIAMSON, ESQ. (NV Bar 9932)
3 MARILEE BRETERNITZ, ESQ. (NV Bar 12563)
4 Robertson, Johnson, Miller & Williamson
5 50 West Liberty Street, Suite 600
6 Reno, Nevada 89501
7 Telephone No.: (775) 329-5600
8 Facsimile No.: (775) 348-8300
9 *Attorneys for Petitioners,*
10 *Co-Trustees Dinny G. Frasier and Premier Trust, Inc.*

11 **IN THE SECOND JUDICIAL DISTRICT COURT**
12 **IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA**

13 In the Matter of the Case No.
14 JORDAN DANA FRASIER FAMILY TRUST Dept. No. PR

15 **PETITION FOR CONFIRMATION OF TRUSTEES, FOR CONSTRUCTION OF THE**
16 **TRUST INSTRUMENTS, AND FOR INSTRUCTIONS**

17 Pursuant to the provisions of NRS chapter 164, Petitioners Dinny G. Frasier ("Dinny")
18 and Premier Trust, Inc. ("Premier"), Co-Trustees of the Jordan Dana Frasier Family Trust, by
19 and through their attorneys of record, the law firm of Robertson, Johnson, Miller & Williamson,
20 hereby petition this Court (i) to assume jurisdiction of the Jordan Dana Frasier Family Trust, and
21 all other trusts created thereunder, (ii) to confirm their appointments as co-trustees of said trusts,
22 (iii) for construction of the trust documents, (iv) for instructions on how to proceed, and (v) to
23 confirm that the actions and non-actions by the co-trustees to date have been consistent with their
24 duties as fiduciaries under the trusts.

25 **I. Trust Summary**

- 26 1. On December 29, 1980, Dinny and her husband, Jordan Dana Frasier ("Joe")
27 established the Jordan Dana Frasier Family Trust, which was subsequently amended and restated
28 (collectively, the "Frasier Family Trust").
2. Joe and Dinny first amended that original trust instrument on December 31, 1984.
3. Joe and Dinny amended the trust instrument for the second time on April 8, 1987.

1 4. Joe and Dinny amended and completely restated the Frasier Family Trust on
2 September 21, 1999 (the "Third Amendment").

3 5. Joe and Dinny amended the Frasier Family Trust for a fourth time on March 15,
4 2000 (the "Fourth Amendment").

5 6. Joe and Dinny amended the Frasier Family Trust for a fifth time on June 7, 2000
6 (the "Fifth Amendment").

7 7. A copy of the Frasier Family Trust, including all five amendments, is attached
8 hereto as Exhibit 1.

9 8. Joe died on October 22, 2014.

10 9. Upon Joe's death, the Frasier Family Trust, as amended, required a split of assets
11 between the Survivor's Trust and a Tax Exemption Trust. The Frasier Family Trust authorized,
12 but did not require, the creation of a third sub-trust, the Marital Trust. Following Joe's death,
13 however, Dinny elected not to fund the Marital Trust.

14 10. The Frasier Family Trust provides for the appointment of a corporate co-trustee.

15 11. Following Joe's death, in accordance with the terms of the Fourth Amendment,
16 Dinny initially sought to use Merrill Lynch Trust Company of California ("Merrill") as her
17 corporate co-trustee.

18 12. Dinny quickly realized that using Merrill created administrative problems in that
19 Merrill wanted to oversee all investment funds, even those held with other institutional
20 investment firms. For these and other reasons, Dinny felt that it would be more advantageous to
21 the trusts to select Premier as an independent corporate co-trustee.

22 13. In or around May, 2015, Dinny appointed Premier to serve as the corporate co-
23 trustee for the Frasier Family Trust and all of its sub-trusts.

24 14. Premier is a professional corporate trustee, duly licensed to conduct trust business
25 in the State of Nevada.

26 15. Premier is formed under the laws of the State of Nevada, with offices in Reno and
27 Las Vegas.

16. Dinny and Premier have diligently allocated and administered the trust assets pursuant to the terms of the Frasier Family Trust, as amended.

17. Until her death, Dinny is the sole income beneficiary of all of the trusts.

18. Joe and Dinny had three children, Bradley L. Frasier ("Brad"), Nori Beth Frasier Cady ("Nori"), and Amy Michelle Frasier Wilson ("Amy").

19. Brad, Nori and Amy are currently classified as contingent beneficiaries of the Tax Exemption Trust (the Tax Exemption Trust is sometimes referred to as the “Tax Exempt Trust” or the “B Trust”).

II. Jurisdictional Facts

20. Through their amendments to the Frasier Family Trust, Joe and Dinny repeatedly emphasized that the surviving spouse could select a corporate co-trustee to handle the primary administration of the trusts and to oversee trust affairs.

21. The Third Amendment, which amended and completely restated the Frasier Family Trust, provides: “If at any time during this trust there are co-trustees, as between the trustees, the corporate trustee shall have custody of all personal property of the trust estate and shall maintain all records and accounts of the trust estate.” (Ex. 1, 3d Am., art. 4(B)(6), at p. 36.)

22. The Fourth Amendment to the Frasier Family Trust goes on to state, in pertinent part:

[I]f Dinny G. Frasier is the survivor, she shall then serve as co-trustee with Merrill Lynch Trust Company of California as co-trustee. . . . Additionally, the then current income beneficiary [i.e., Dinny] . . . may at any time, from time to time, in writing, change corporate trustees by appointing another corporate trustee as trustee of the Trust.

(Ex. 1, 4th Am., at p. 1.)

23. As noted above, Dinny exercised her right to select Premier as her co-trustee.

24. Dinny is a California resident.

25. Moreover, the trusts own some real property located in California.

26. Since assuming its role as corporate co-trustee, however, Premier has been the primary administrator of the trust through its office located in Reno, Nevada.

27. As explained below, this Court has jurisdiction over each trust.

1 28. The trustees conduct the business of each trust in Washoe County, Nevada.
2 29. The corporate co-trustee, Premier, is a Nevada corporation with its only places of
3 business being in Nevada.
4 30. Premier maintains the Frasier Family Trust accounts.
5 31. Premier's Reno office is primarily overseeing the business of each trust.
6 32. The day-to-day records of each Trust are maintained in Washoe County, Nevada.
7 33. The co-trustees consent to the jurisdiction of Washoe County, Nevada.
8 34. The majority of the trusts' assets are invested in cash, investment funds, securities
9 and other personal property.
10 35. Consistent with the trust documents, Premier has custody of all of the personal
11 property of each trust.
12 36. Therefore, the principal place of administration of the trusts is in Reno, Nevada.
13 37. Washoe County is the proper venue because the principal place of administration
14 of each trust is in Washoe County (where the day-to-day business is conducted).
15 38. According to the terms of NRS 164.010(1):
16 Upon petition of any person appointed as trustee of an express trust by any written
17 instrument other than a will, or upon petition of a settlor or beneficiary of the
18 trust, the district court of the county in which the trustee resides or conducts
business, or in which the trust has been domiciled, shall consider the application
to assume jurisdiction of the trust as a proceeding in rem.
19 39. Pursuant to NRS 164.010, this Court has jurisdiction of the trusts, the matters
20 brought forth in this petition, and other matters which the Court may need to determine in the
21 future in relation to the trusts.
22 40. Petitioners desire that the Court assume jurisdiction of the trusts and confirm them
23 as the duly-appointed co-trustees.

24 **III. Factual Basis for Petition**

25 41. Dinny Frasier is the sole income beneficiary of the Frasier Family Trust.
26 42. Pursuant to the Fourth Amendment to the Frasier Family Trust, Dinny "may at
27 any time, from time to time, in writing, change corporate trustees by appointing another
28 corporate trustee as trustee of the Trust." (Ex. 1, 4th Am., at p. 1.)

1 43. In May, 2015, after several months of consideration, Dinny exercised her right to
2 appoint Premier as her co-trustee.

3 44. Premier is a Nevada corporation doing business in Washoe County, Nevada.

4 45. Premier maintains the Frasier Family Trust accounts, maintains the day-to-day
5 records of the Frasier Family Trust, and holds custody of all personal property.

6 46. All of these functions occur in Washoe County, Nevada.

7 47. According to the terms of the Frasier Family Trust:

8 The trustee is authorized to employ custodians, investment advisers, attorneys,
9 accountants, and any other agents or advisers to assist the trustee in the
10 administration of this trust, and to rely on the information and advice given by
11 such agents and advisers. Reasonable compensation for all such services
performed by such agents and advisers shall be paid from the trust estate out of
either income or principal as the trustee in the trustee's discretion shall determine.

12 (Ex. 1, 3d Am., art. 3(P), at p. 32.)

13 48. Premier intends to charge fees for its administration of the trusts in accordance
14 with its agreed fee schedules and does not request specific confirmation of its administrative fees
15 at this time.

16 49. The Petitioners' attorneys intend to charge fees for their services on an hourly
17 basis and do not request specific confirmation of their fees at this time.

18 50. Both trustees have agreed to the payment of the attorneys' fees and costs.

19 51. Dinny, in her capacity as co-trustee, has agreed to the payment of Premier's fees
20 and the attorneys' fees and costs.

21 52. The income beneficiary, Dinny Frasier, has agreed to payment of the co-trustee's
22 fees and the attorneys' fees and costs.

23 53. Premier has provided the original Frasier Family Trust instrument, along with all
24 five amendments, to Brad, Nori and Amy.

25 54. Premier has also provided periodic accountings to Dinny, and has worked with
26 Dinny on the evaluation, maintenance and disposition of the trusts' assets.

27 55. Pursuant to the terms of the Frasier Family Trust, "[t]he trustee shall be under no
28 duty to obtain any authority or approval of any court in the exercise of any power conferred in

1 this trust, and shall be under no duty to make current accountings to any court.” (Ex. 1, 3d Am.,
2 art. 3(L), at p. 31.)

3 56. Brad has requested an accounting of the assets in both the Survivor’s Trust and
4 the Tax Exemption Trust.

5 57. According to the terms of the Frasier Family Trust, “[a]nnual accountings shall be
6 made by the trustee to each then income beneficiary” of the trust. (Id., art. 3(L), at p. 31.)

7 58. There is no authorization to provide an accounting to contingent beneficiaries.

8 59. The trustees want to reasonably cooperate with all potential beneficiaries, but
9 because the Frasier Family Trust does not provide for the disclosure of any accountings to
10 contingent beneficiaries the trustees are unsure if they are authorized to release this information
11 to the contingent beneficiaries.

12 60. Brad’s trust and the Frasier Family Trust are co-owners in an office building in
13 California, but the trustees have not received complete financial records for that building.

14 61. Again, the trustees want to reasonably cooperate with all potential beneficiaries,
15 but they are also mindful of their duties to account for and appropriately apportion trust assets.

16 62. Thus, the Petitioners require guidance from this Court.

17 63. Petitioners believe that their actions and non-actions during their tenure as
18 trustees of the trusts have been consistent with the intent of the grantors as expressed in the
19 language of the trust documents.

20 64. Petitioners’ respective and collective actions and non-actions have been
21 undertaken in good faith, and with reasonable care.

22 65. Petitioners seek confirmation that they are duly-qualified current Trustees of the
23 trusts, and that their actions and non-actions have been consistent with their duties as fiduciaries.

24 25 **IV. Notice of Petition**

26 66. As Noted above, Dinny is the sole income beneficiary of the trusts, and Brad,
27 Nori and Amy are all classified as contingent beneficiaries of the B Trust.

67. The respective addresses for notice to Brad, Nori and Amy are:

Dr. Bradly Frasier
1645 Aryana Drive
Encinitas, CA 92024-1294

Nori Frasier
4372 Pacifica Way, Unit 3
Oceanside, CA 92056

Amy Frasier Wilson
10 Via Sonrisa
Mission Viejo, CA 92692

68. Brad, Nori and Amy will all be given notice of this petition in accordance with NRS 164.037.

V. Prayer for Relief

WHEREFORE, Petitioners pray for an order from the Court as follows:

A. Assuming jurisdiction of the trusts pursuant to NRS 164.010;

B. Confirming Dinny's status as co-trustee of the trusts;

C. Confirming Premier's appointment as corporate and primary co-trustee;

D. Ordering Premier to provide an annual accounting of the trust assets to Dinny;

E. Declaring whether, pursuant to the Frasier Family Trust agreements, the co-trustees are allowed to provide an accounting to any contingent beneficiary or other person until Dinny's death;

F. Declaring that only Dinny and Premier are authorized to administer the trusts and that no third party may interfere with the assets or administration of the trusts;

G. Confirming and declaring that the trustees are entitled to demand and inspect reasonable management and financial records concerning all trust assets (including, without limitation, information detailing the management, profitability, maintenance and operation of such assets); and

H. For such other and further relief and determinations as the Court may deem just and proper.

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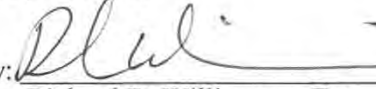
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Affirmation

Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 2nd day of March, 2016.

ROBERTSON, JOHNSON,
MILLER & WILLIAMSON
50 West Liberty Street, Suite 600
Reno, Nevada 89501
(775) 329-5600

By: 
Richard D. Williamson, Esq.
Marilee Breternitz, Esq.
*Attorneys for Dinny G. Frasier and
Premier Trust, Inc.*

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VERIFICATION

Under penalties of perjury, Dinny G. Frasier, Co-Trustee of the Jordan Dana Frasier Family Trust, hereby declares the following:

1. I am a duly-appointed co-trustee of Jordan Dana Frasier Family Trust, and a Petitioner herein;

2. I have read the foregoing Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions, and know the contents thereof; and

3. The statements made in this Petition are true of my own personal knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.

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

Dated this 27 day of February, 2016.


Dinny G. Frasier

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VERIFICATION

Under penalties of perjury, Nicole Shrive, as a Trust Officer of and on behalf of Premier Trust, Inc., a Nevada corporation, which is a Co-Trustee of the Jordan Dana Frasier Family Trust, hereby declares the following:

1. Premier Trust, Inc. is a duly-appointed co-trustee of Jordan Dana Frasier Family Trust, and a Petitioner herein;

2. I have read the foregoing Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions, and know the contents thereof; and

3. The statements made in this Petition are true of my own personal knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 29 day of February, 2016.



Nicole Shrive, Trust Officer for
Premier Trust, Inc., a Nevada corporation

EXHIBIT “1”

EXHIBIT “1”

copy
New Trust

JORDAN DANA FRASIER FAMILY TRUST

This Declaration of Trust is made by Jordan Dana Frasier and Dinny G. Frasier, husband and wife ("Trustors" or "husband" or "wife"), and Jordan Dana Frasier and Dinny G. Frasier ("Trustee"), in order to establish a trust for the purposes and upon the terms and conditions hereinafter provided.

ARTICLE ONE
DECLARATION OF TRUST

A. Name of Trust

This trust may be referred to as the "JORDAN DANA FRASIER FAMILY TRUST".

B. Trustees

On the death, resignation or legal disability of either Jordan Dana Frasier or Dinny G. Frasier, the survivor of them shall succeed as the Trustee. If Jordan Dana Frasier and Dinny G. Frasier shall for any reason fail or cease to act as Trustee, BRADLEY L. FRASIER shall serve as Trustee.

C. Trust Estate

The Trustors have transferred and delivered to the Trustee without consideration Ten Dollars (\$10.00) and the property described in Schedule "A" attached hereto and have caused or will cause the Trustee to be named primary or contingent beneficiary of the life insurance policies described in Schedule "A" and the proceeds of the life insurance policies described in Schedule "A", together with any other property which may hereinafter be transferred to this trust, is referred to sometimes as the "trust estate".

D. Nature of Property

It is the Trustor's intention that all property transferred to this trust by the Trustors or by either Trustor

and the proceeds thereof shall continue to retain its character during the joint lifetimes of the Trustors, as the community property of the Trustors ("Community Estate"), or the separate property or quasi-community subject, however, to all the terms and conditions of this trust. To this end, the Trustors acknowledge that the property described in Schedule "A" and the insurance policies described in Schedule "A" attached hereto are the community property of the Trustors, unless there appears opposite any specific item a statement that the item is the separate property of either Trustor. The Trustee shall have no more extensive power over any community property transferred to this trust than either husband or wife would have under California Civil Code Section 5125 and 5127 had this trust not been created, and this instrument shall be so interpreted to achieve this intention.

E. Right to Amend or Revoke Trust

During the joint lifetimes of the Trustors, the community estate may be revoked in whole or in part by either Trustor, and any separate estate may be revoked in whole or in part by the Trustor who created it. The power of revocation shall be exercised by written notice delivered to the other Trustor and to the Trustee. In the event of such revocation, the community estate or the revoked portion thereof shall revert to both Trustors as their community property, and the separate estate or the revoked portion thereof shall revert to the Trustor who created it as his separate property or quasi-community property, as if this trust had not been created. During the joint lifetime of the Trustors, this trust may not be amended without the written agreement of both Trustors.

Upon the death of either Trustor survived by the other Trustor, Trust B may not be altered, amended or revoked by any person; surviving Trustor may alter, amend or revoke Trust A, but upon the death of surviving Trustor, having survived deceased Trustor, Trust A may not be altered, amended or revoked by any person. No amendment of any provision of this trust shall change the duties, liabilities or responsibilities of the Trustee without the Trustee's consent.

ARTICLE TWO

DISTRIBUTION OF INCOME AND PRINCIPAL

A. During the Joint Lifetimes of the Trustors

During the joint lifetimes of the Trustors, the Trustee shall hold, administer and distribute the trust estate as follows:

1. The Trustee shall pay to or apply for the benefit of the Trustors as much of the net income and principal of the community estate, up to the whole of it, as either Trustor shall direct from time to time by written notice delivered to the Trustee. The Trustee shall also pay to either Trustor, as his separate or quasi-community property, as the case may be, or apply for his benefit as much of the net income and principal of his separate estate, up to the whole of it, as he shall direct from time to time by written notice delivered to the Trustee. Any net income not distributed shall be accumulated and added to principal.

2. If the Trustee deems such payments to be insufficient, the Trustee may also from time to time pay to or apply for the benefit of the Trustors as much of the net income and principal of the community estate as the Trustee in the Trustee's discretion deems necessary for their proper support, care and maintenance in their accustomed manner of living, without taking into consideration any income or other resources of the Trustors outside this trust. If the Trustee deems such payments to be insufficient, the Trustee may also from time to time pay to either Trustor, as his separate property or quasi-community property, as the case may be, or apply for his benefit as much of the net income and principal of his separate estate as the Trustee in the Trustee's discretion deems necessary for his proper support, care and maintenance in his accustomed manner of living, without taking into consideration any income or other resources of the Trustor outside this trust.

B. Upon the Death of Either Trustor

Upon the death of either Trustor survived by the other Trustor, the Trustee shall hold, administer and distribute the trust estate as follows:

1. The Trustee shall divide the trust estate (including any additions made by the Will of the deceased Trustor, by life insurance proceeds or otherwise) into two (2) separate trusts, designated as "Trust A" and "Trust B".

a. Trust A shall consist of the following:

(1) Surviving Trustor's interest in the community estate;

(2) Surviving Trustor's separate estate, if any, included in the trust estate; and

(3) That amount which will equal the maximum marital deduction allowable in deceased Trustor's estate for federal estate tax purposes, reduced by the final federal estate tax values of all other property interests that pass or have passed to surviving Trustor, under other provisions of this trust, deceased Trustor's Will, or otherwise, and that qualify for the marital deduction, but not assets as to which a foreign death tax credit is available or which are considered income in respect to a decedent; provided that this amount shall be reduced by an amount, if any, needed to increase the deceased Trustor's taxable estate to the largest amount that will not result in a federal estate tax being imposed, after allowing all credits including the unified credit. Assets allocated in kind shall be deemed to satisfy this amount on the basis of their values at the date or dates of allocation to Trust A. The Trustors intend that the value for federal estate tax purposes of the property allocated to Trust A pursuant to this subparagraph (3) shall be available for the marital deduction allowed by the federal estate tax law applicable to deceased Trustor's estate, and all questions applicable to Trust A shall be resolved accordingly. To this end, with respect to the property in Trust A during the period that surviving Trustor survives deceased Trustor, unproductive and under-productive property shall not be held as an asset of Trust A for more than a reasonable time without surviving Trustor's consent; allocation of any receipt to principal or of any expense to income shall not be made if such allocation would result in surviving Trustor's receiving less than all of the net income from Trust A which applicable principles of

law would accord to him; and any other powers and discretions of the Trustee shall not be exercised or exercisable except in a manner consistent with the Trustors' intentions as expressed in the preceding sentence.

b. Trust B shall consist of the balance of the trust estate.

c. Any last illness expenses, funeral expenses and any inheritance, estate or other death taxes payable by reason of deceased Trustor's death, to the extent paid from the trust, shall be deducted from Trust B.

d. Any administration expenses and other obligations incurred for deceased Trustor's support, to the extent paid from the trust, shall be deducted one-half (1/2) from Trust A and one-half (1/2) from Trust B.

2. The Trustee shall pay to or apply for the benefit of surviving Trustor during his lifetime, quarter-annually or at more frequent intervals, the entire net income of both Trusts A and B.

3. If the Trustee deems such income payments to be insufficient, the Trustee may also from time to time pay to or apply for the benefit of surviving Trustor as much of the principal as the Trustee in the Trustee's discretion deems necessary for his proper support, care and maintenance, without taking into consideration any income or other resources of surviving Trustor outside these trusts. Such payments of principal shall be made first out of Trust A until it is exhausted and thereafter out of Trust B, except that all or any part of such payments may be made from Trust B without exhausting Trust A if for any reason the Trustee shall deem this advisable. The Trustee shall exercise the power contained in this subparagraph in a liberal manner, and the rights of the remaindermen in these trusts shall be of secondary importance.

4. The Trustee may also pay to surviving Trustor or apply for the benefit of Trustors' children or grandchildren who at the time of such payment or application are under age twenty-one (21) such sums of the principal of Trust B as the Trustee in the

Trustee's discretion deems necessary for the proper support, care, maintenance and education of the Trustors' children or grandchildren under age twenty-one (21). The Trustee may also, in the Trustee's absolute discretion, pay to or apply for the benefit of any one or more of Trustors' children or grandchildren who have attained age twenty-one (21) such sums out of the principal of Trust B as the Trustee deems necessary for their proper support, care, maintenance and education. In making any payments of principal to or for a beneficiary under this subparagraph, the Trustee shall take into consideration, to the extent the Trustee deems advisable, any income or other resources of that beneficiary, outside these trusts, known to the Trustee. In exercising these discretionary powers to invade principal, the Trustee shall be mindful of the fact that the primary concern in establishing these trusts is surviving Trustor's welfare and then the welfare of Trustors' children or grandchildren while they are under age twenty-one (21), and that the interests of others in the trust are to be subordinate to theirs. Any payment or application of benefits to or for any of Trustors' children or grandchildren pursuant to this subparagraph Trust B as a whole rather than against the ultimate distributive share of the child or grandchild to whom or for whose benefit the payment is made.

5. In addition to any other payments that surviving Trustor may receive from Trust A, the Trustee shall pay to surviving Trustor as much of the principal of Trust whole of it, as he shall direct from time to time by written notice delivered to the Trustee.

6. In addition to any other payments that surviving Trustor may receive from Trust B, the Trustee shall pay to surviving Trustor during his lifetime, from the principal of Trust B, such amounts as he may from time to time request in writing, not exceeding in any calendar year the greater of the following amounts: Five Thousand Dollars (\$5,000.00) or five percent (5%) of the value of the principal of Trust B, determined as of the end of the calendar year. This right of withdrawal is non-cumulative, so that if the beneficiary does not withdraw during any calendar

year the full amount to which he is entitled under this provision, his right to withdraw the amount not withdrawn shall lapse at the end of that calendar year.

7. Upon the death of surviving Trustor, the Trustee shall distribute the balance then remaining, if any, of Trust A (including both principal and any accrued or undistributed income) to such one or more persons and entities, including his own estate, and on such terms and conditions, either outright or in trust, as surviving Trustor shall appoint by a Will specifically referring to and exercising the power of appointment (whether his Will is executed before or after deceased Trustor's death, provided that he survives deceased Trustor). Any of Trust A not effectively appointed by surviving Trustor in this manner shall be added to Trust B, to follow the disposition of Trust B in all respects as hereinafter provided.

8. Upon the death of surviving Trustor, the Trustee shall distribute the balance then remaining, if any, of Trust B (including both principal and any accrued or undistributed income) to such one or more of the group consisting of the Trustors' issue, and on such terms and conditions, either outright or in trust, as surviving Trustor shall appoint by a Will specifically referring to and exercising this power of appointment (whether his Will is executed before or after deceased Trustor's death, provided that he survives deceased Trustor); provided, however, that this power shall not be exercisable to any extent for the benefit of surviving Trustor, his estate, his creditors or the creditors of his estate. Any of Trust B not effectively appointed by surviving Trustor in this manner shall remain in Trust B, to follow the disposition of Trust B in all respects as hereinafter provided.

9. Upon the death of surviving Trustor (subject, however, to any power of appointment conferred upon surviving Trustor in this trust), the Trustee may in the Trustee's discretion pay out of the principal of Trust A not so appointed by surviving Trustor, or if Trust A shall have been exhausted out of the principal of Trust B, his last illness and funeral expenses, administration expenses, and other obligations

any inheritance, estate, or other death taxes payable by reason of surviving Trustor's death, to the extent paid from the trust.

C. Upon the Death of Surviving Trustor

Upon the death of surviving Trustor, the Trustee shall hold, administer and distribute Trust B as then constituted, or the entire trust estate, as the case may be, as follows:

1. The Trustee shall divide the trust estate into as many equal shares as there are children of Trustors then living and children of Trustors then deceased leaving issue then living. The Trustee shall allocate one (1) such equal share to each living child of Trustors and one (1) such equal share to each group composed of the living issue of a deceased child of Trustors. Each share allocated to a group composed of the living issue of a deceased child of Trustors shall be distributed to such issue, by right of representation (subject, however, to the provisions of Paragraph J of ARTICLE THREE). Each share allocated to a living child of Trustors shall be retained and administered by the Trustee in a separate trust hereinafter provided.

2. The Trustee shall pay to or apply for the benefit of the child the entire net income of the child's trust, quarter-annually or at more frequent intervals (or in the case of a child who is under twenty-one (21), as much of the net income as the Trustee deems appropriate, the excess to be accumulated and added to principal). If the Trustee deems such income payments to be insufficient, the Trustee may also pay to or apply for the benefit of the child as much of the principal of the child's trust as the Trustee in the Trustee's discretion deems necessary for the child's proper support, care, maintenance, education, purchase of a home and start of a business or professional career, after taking into consideration, to the extent the Trustee deems advisable any income or other resources of the child outside of the child's trust, known to the Trustee.

3. In making payments for the benefit of Trustors' children pursuant to this Paragraph, the Trustee shall construe its authority liberally to permit payments reasonably necessary to ease the financial burden on the guardian of the person of

Trustors' children or other suitable individual with whom they reside, and on his family, resulting from Trustors' children's presence in his household.

4. When the child attains age twenty-five (25), the Trustee shall distribute to the child one-third ($1/3$) of the principal of the child's trust as then constituted; when the child attains age thirty (30), the Trustee shall distribute to the child one-half ($1/2$) of the remaining principal of his trust; when the child attains thirty-five (35), the Trustee shall distribute to the child the undistributed balance of his trust. If the child has already attained age twenty-five (25), thirty (30) or thirty-five (35) at the time the trust estate is divided into separate shares pursuant to this Paragraph, the Trustee shall, upon making the division, distribute to the child one-third ($1/3$), two-thirds ($2/3$) or all of his share, respectively.

5. If a child of Trustors dies before becoming entitled to receive distribution of his entire trust, the undistributed balance of that child's trust shall thereupon be distributed to his then living issue, by right of representation (subject, however, to the provisions of Paragraph J of ARTICLE THREE), or, if there are none, to Trustors' then living issue, by right of representation; provided, however, that if any part of that balance would otherwise be distributed to a person for whose benefit a trust is then being administered hereunder that part shall instead be added to that trust and shall thereafter be administered according to its terms, except that, in the case of any trust that has been partially distributed because of a beneficiary's attainment of a designated age, any addition shall augment proportionately the distributed and the undistributed portions of the trust.

6. If at any time before full distribution of the trust estate, both Trustors and all of Trustors' issue are deceased and no other disposition of the property is directed hereunder, the trust estate or the portion of it then remaining shall thereupon be distributed one-half ($1/2$) to those persons who would then be husband's heirs, and one-half ($1/2$) to those persons who would then be wife's heirs, the identities and respective shares of

the heirs of each of them to be determined as though the death of each of them had then occurred and according to the laws of the State of California then in effect relating to the succession of separate property not acquired from a predeceased spouse.

ARTICLE THREE
POWERS AND DUTIES OF TRUSTEE

To carry out the purposes of any trust created hereunder, and subject to any limitations stated elsewhere in this trust, the Trustee is vested with the following powers with respect to the trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

A. General Powers

1. To continue to hold any property and to operate at the risk of the trust estate any business that the Trustee receives or acquires under the trust as long as the Trustee deems advisable;
2. To manage, control, grant options on, sell (for cash or on deferred payments), convey, exchange, partition, divide, improve and repair trust property;
3. To lease trust property for terms within or beyond the term of the trust and for any purpose, including exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements;
4. To borrow money, and to encumber or hypothecate trust property by mortgage, deed of trust, pledge or otherwise;
5. To carry, at the expense of the trust, insurance of such kinds and in such amounts as the Trustee deems advisable to protect the trust estate and the Trustee against any hazard;
6. To commence or defend such litigation with respect to the trust or any property of the trust estate as the Trustee may deem advisable, at the expense of the trust;
7. To compromise or otherwise adjust any claims or litigation against or in favor of the trust;
8. To invest and reinvest the trust estate in every kind of property, real, personal or mixed, and every kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind, stocks, preferred or common, shares of investment trusts, investment companies, mutual funds and mortgage participations, which men of prudence, discretion and in-

telligence acquire for their own account, and any common trust fund administered by the Trustee; and

9. With respect to securities held in the trust, to have all the rights, powers and privileges of an owner, including, but not by way of limitation, the power to vote, give proxies and to pay assessments; to participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, liquidations, sales and leases, and incident to such participation to deposit securities with and transfer title to any protective or other committee on such terms as the Trustee may deem advisable, and to exercise or sell stock subscription or conversion rights.

B. Determination of Principal and Income

Except as otherwise specifically provided in this trust, the determination of all matters with respect to what is principal and income of the trust estate and the apportionment and allocation of receipts and expenses between these accounts shall be governed by the provisions of the California Principal and Income Law from time to time existing. Any such matter not provided for either in this trust or in the Principal and Income Law shall be determined by the Trustee in the Trustee's discretion.

C. Division and Distribution of Trust Estate in Kind

In any case in which the Trustee is required, pursuant to the provisions of the trust, to divide any trust property into parts or shares for the purpose of distribution, or otherwise, the Trustee is authorized, in the Trustee's absolute discretion, to make division and distribution in kind, including undivided interests in any property, or partly in kind and partly in money, and for this purpose to make such sales of the trust property as the Trustee may deem necessary of such terms and conditions as the Trustee shall see fit.

D. Physical Division of Trusts

There need be no physical segregation or division of the various trusts except as segregation or division may be required by the termination of any of the trusts, but the Trustee shall keep separate accounts for the different undivided interests.

E. Transactions With Estate of Deceased Trustor

The Trustee in the Trustee's discretion may purchase any property of a deceased Trustor's probate estate at its fair market value determined by an independent appraisal and make loans to a deceased Trustor's executor or administrator with interest at then current rates and to receive security for such loans in the form of a mortgage, deed of trust, pledge or other encumbrance of any properties of a deceased Trustor's probate estate.

F. Transactions Between Trusts

As between the several trusts as may exist from time to time hereunder, the Trustee in the Trustee's discretion may purchase any property at its fair market value determined by an independent appraisal and make loans with interest at then current rates and to receive security for such loans in the form of a mortgage, deed of trust, pledge or other encumbrance of any assets of the trust.

G. Loans to Trust Estate

The Trustee shall have the power to loan or advance the Trustee's own funds to the trust for any trust purpose, with interest at current rates, and to receive security for such loans in the form of a mortgage, deed of trust, pledge, or other encumbrance of any assets of the trust.

H. Taxes and Expenses

1. Except as otherwise specifically provided in this trust, or in the Will of the deceased Trustor in question, federal estate taxes imposed upon or by reason of the inclusion of any portion of the trust estate in the gross taxable estate of a Trustor under the provisions of any federal estate tax law shall be paid by the Trustee and charged to, prorated among, or recovered from the trust estate or the persons entitled to the benefits under these trusts as and to the extent provided by any applicable tax law, or any proration statute. Except where otherwise specifically provided, inheritance taxes shall be paid and charged to the trust estate or deducted and collected as provided by law. In particular, all such taxes payable by reason of the death of the predeceased Trustor shall be paid out of that Trustor's interest in the community estate.

2. The Trustee in the Trustee's discretion may pay to the executor or administrator of the deceased Trustor's probate estate such sum or sums as such executor or administrator may certify to be due and payable from the deceased Trustor's probate estate for last illness and funeral expenses, administration expenses and other obligations incurred for the deceased Trustor's support, and all inheritance, estate or other death taxes payable by reason of the Trustor's death.

3. The Trustee shall provide funds for any payment pursuant to this Paragraph in such a manner as to preserve, insofar as possible, inheritance, estate or other death tax exemptions or exclusions applicable to property in or proceeds received by the trust estate.

4. Anything in this trust or the Will of the deceased Trustor in question to the contrary notwithstanding, if the trust estate includes United States obligations which are redeemable at par in payment of federal estate taxes, the Trustee shall utilize such obligations for the payment of such federal estate taxes to the full extent of the deceased Trustor's interest in any such obligations which may be so used, prior to the application of any other assets in the trust estate or the deceased Trustor's probate estate.

I. Distribution to Minors

The Trustee in the Trustee's discretion may make payments to a minor or other beneficiary under disability by making payments to the guardian of his person, or the Trustee apply payments directly for the beneficiary's benefit. However, the Trustee may not make payments to the parent of a minor beneficiary for the minor's account unless the parent shall first agree with the Trustee in writing that he will not use the payments to discharge his legal obligation to support the minor under the laws of the State of his domicile. The Trustee in the Trustee's discretion may make payments directly to a minor if in the Trustee's judgment he is of sufficient age and maturity to spend the money properly.

J. Continuation of Trust for Benefit of Minors

If any part of the trust estate should become dis-

tributable to a beneficiary who shall not yet have attained age twenty-one (21), then anything in this trust to the contrary notwithstanding the share of the trust estate distributable to each such person shall be retained and administered by the Trustee in a separate trust; and the Trustee shall pay to or apply for the benefit of such person as much of the net income and principal of such person's trust as the Trustee in the Trustee's discretion deems necessary for such person's proper support, care, maintenance and education, after taking into consideration to the extent the Trustee deems advisable, any income or other resources of such person outside of such person's trust, known to the Trustee. Any net income in any year not distributed shall be accumulated and added to principal at the end of that year. When such person attains age twenty-one (21), the Trustee shall distribute to such person the undistributed balance of his trust. If such person dies before becoming entitled to receive distribution of his entire trust, the undistributed balance of such person's trust shall thereupon be distributed to his then living issue, by right of representation, or if there are none, to the Trustors' then living issue, by right of representation; provided, however, that if any part of that balance would otherwise be distributed to a person for whose benefit a trust is then being administered hereunder, that part shall instead be added to that trust and shall thereafter be administered according to its terms, except that, in the case of any trust that has been partially distributed because of a beneficiary's of a designated age, any addition shall augment proportionately the distributed and the undistributed portions of the trust.

K. Notice of Events Affecting Interests

Unless the Trustee shall have received actual notice of the occurrence of an event affecting the beneficial interests of this trust, the Trustee shall not be liable to beneficiary of this trust for distribution made as though such event had not occurred.

L. Court Approvals and Accounting

The Trustee shall be under no duty to obtain authority or approval of any court in the exercise of any power con-

ferred in this trust, and shall be under no duty to make current accountings to any court. Annual accountings shall be made by the Trustee to each then income beneficiary of this trust not under legal disability and to the guardian, conservator or other fiduciary of the estate, if any, otherwise to the parent of each of the then income beneficiaries of this trust under legal disability. Unless any of such persons object or take exception thereto by written notice delivered to the Trustee within ninety (90) days after receipt of each of said annual accountings, such annual accountings shall be deemed settled and shall be final and conclusive in respect to transactions disclosed therein as to all beneficiaries of the trust, including unborn and unascertained beneficiaries, except for the Trustee's intentional wrongdoing or fraud.

M. Limit of Trustee's Powers

Subject to any limitations stated elsewhere in this trust, all discretions vested in the Trustee shall be absolute and their exercise final and conclusive on all persons interested in this trust. The enumeration of certain powers of the Trustee shall not limit general and implied powers of the Trustee, subject always to the discharge of the Trustee's fiduciary obligations. If at any time during the term of this trust a beneficiary is also a Trustee hereunder, he shall not participate in the exercise of any discretionary power relating to his distributive share of principal or income whenever this is necessary to prevent the value of said distributive share from being includible in whole or in part in his gross estate for federal estate tax purposes. In any such case, such discretionary power shall be vested solely in the corporate Trustee.

N. Authority of Trustee

Any instrument executed by the Trustee shall be binding on all parties hereto and on all beneficiaries hereunder. No person shall be under any duty to inquire as to the Trustee's powers or to see to the application of any money or property paid to the Trustee.

ARTICLE FOUR
GENERAL PROVISIONS

The following general provisions shall govern the administration of this trust:

A. Right to Add Property to Trust

The Trustors jointly, or either of them, or any other person, may from time to time, with the consent of the Trustee, cause the Trustee to be named as primary or contingent beneficiary of other insurance policies and add further property to the trust estate or any part thereof by lifetime transfer, by will or otherwise.

B. Trustees

1. No bond shall be required of any person or bank named as the Trustee in this trust or appointed as the Trustee in the manner specified in this trust.

2. The Trustee may resign at any time by thirty (30) days written notice signed by the Trustee and delivered to each current income beneficiary not under legal disability and to the guardian, conservator or other fiduciary of the estate, if any, otherwise to the parent, of each current income beneficiary under legal disability. If any Trustee at any time resigns or declines to assume the responsibilities of Trustee, a majority in interest of the persons entitled to such notice shall appoint a successor Trustee, by written notice delivered to the resigning or declining Trustee within thirty (30) days after receipt of said notice of resignation or declination. If a successor Trustee shall not be so appointed, the resigning or declining Trustee shall have the right to appoint a successor Trustee or to petition a court of competent jurisdiction to appoint a successor Trustee, at the expense of the trust estate. Any successor Trustee appointed must be a corporation authorized under the laws of the United States or of the State of California or of any other State to administer trusts and having total capital, surplus and undivided profits of not less than Five Million Dollars (\$5,000,000.00).

3. The title to the trust estate shall vest forthwith in any successor Trustee, but the resigning Trustee shall

nevertheless execute and deliver all instruments and perform all acts necessary to vest such title in any successor Trustee of record. No successor Trustee shall be under any duty to examine the accounts, records and acts of any former Trustee, nor shall any successor Trustee be liable or responsible for the wrongful act or neglect of any former Trustee. The term "Trustee" as used in this trust shall include any successor Trustee.

4. Any corporate Trustee shall be entitled to receive reasonable compensation for services rendered hereunder in accordance with the corporate Trustee's schedule of compensation currently in effect when the services are performed. Any individual Trustee shall only be entitled to reasonable compensation for services actually rendered hereunder.

5. If the Trustee shall for any reason be unable to act as Trustee with respect to any real property situated outside the State of California because of the laws of such situs State, such person or persons or corporation as may from time to time be appointed by the Trustee in writing (referred to as the "appointed Trustee") shall act as Trustee with respect to such property. The appointed Trustee shall have all the powers and duties with respect to such property as are given to the Trustee in ARTICLE THREE of this trust, and the appointed Trustee shall also make annual accountings to the Trustee. The appointed Trustee shall remit to the Trustee the net income from such property, and the proceeds thereof to such property be sold, exchanged or otherwise disposed of. Such appointed Trustee may employ the Trustee as agent in the administration of such property. The Trustee may remove such appointed Trustee and appoint another by ten (10) days written notice signed by the Trustee and delivered to the appointed Trustee. No bond shall be required of any Trustee or agent under the provisions of this Paragraph, or if a bond is required by law, no surety shall be required on such bond.

6. If at any time during this trust there are co-Trustees, as between the Trustees, the corporation Trustee shall have custody of all personal property of the trust estate and shall maintain all records and accounts of the trust estate. Neither

Trustee shall be liable for the wrongful act or neglect of the other. The corporate Trustee shall be entitled to the same compensation as though it were acting as the sole Trustee, and the individual Trustee shall only be entitled to such additional compensation for his services as is approved by a Court having jurisdiction over the trust estate.

C. Life Insurance

The rights, powers and duties of the Trustee and of the owner of any life insurance policy payable to any trust created hereunder shall be as follows:

1. The owner of each such policy reserves all rights, options, privileges and benefits of any kind which he may otherwise have or which may accrue on account of such policy, to be exercised by and accrue to him without the consent or participation of the Trustee or any beneficiary of this trust.

2. Notwithstanding anything herein contained to the contrary, neither Trustee shall have any right, title or interest, either as a beneficiary or as Trustee, in any life insurance policies under which that Trustor is named as the insured nor in any proceeds therefrom, which may become an asset of this trust or under which this trust may be named as the beneficiary. Should any such policies become an asset of this trust or should any proceeds from such policies be received under this trust, they shall be held and administered by the co-Trustee of the respective insured or by the successor Trustee of the insured, and they shall be administered as though the insured were then deceased, only with respect to those specific life insurance policies and/or proceeds from policies on the life of the respective insured Trustor. The insured Trustor does hereby irrevocably revoke and waive any rights which that Trustor may have in such policies either as beneficiary or as Trustee and does further waive any such rights which that Trustor may have in such policies either as beneficiary or as Trustee and does further waive any such rights which that Trustor may have should such policies or proceeds therefrom become assets of this trust in the future.

3. Trustee shall be under no duty to pay premiums, assessments or other charges upon any of such policies, to ascertain or notify any person with respect to such payments, or to otherwise keep any of such policies in force. If at any time the owner should be under legal disability, the Trustee may in the Trustee's discretion pay any premiums upon such policies. The Trustee shall hold such policies subject to the owner's written order, without obligation other than the safe custody of such policies as may be delivered to the Trustee.

4. Upon receipt of proof of death of the insured, and upon receiving possession of such policies, the Trustee shall use reasonable efforts to collect the proceeds of such policies. The Trustee shall be under no duty to prosecute any action to collect any sums payable under the terms of such policies, or to defend any action relating to such policies, unless indemnified in manner and amount satisfactory to the Trustee. The Trustee may compromise, arbitrate or otherwise adjust any claim arising out of any of such policies.

5. No insurance company shall be under any duty to inquire as to the Trustee's powers or to see to the application of any proceeds paid to the Trustee under any of such policies, and the receipt of the Trustee for any such payment shall be a full release and discharge of liability of the insurance company making such payment.

6. Unless any revocation of this trust is made expressly dependent upon an effective change in any beneficiary designation, it shall become effective upon delivery of written notice to the Trustee and, if the owner's death should occur before such beneficiary designation becomes effective, any proceeds of such policy received by the Trustee shall be paid by the Trustee to the executor or administrator of the owner's estate, and the receipt of such executor or administrator shall be a full release and discharge of liability of the Trustee hereunder.

7. As used in this trust, the term "life insurance policy" shall include pension, profit sharing and any other forms of retirement benefit plans; and the term "insurance company"

shall include the Trustee or administrator of any retirement benefit plan.

D. Education

Whenever provision is made in this trust for the payment for the "education" of a beneficiary, the term "education" shall be construed to include college and postgraduate study, so long as pursued to advantage by the beneficiary, at an institution of the beneficiary's choice; and in determining payments to be made for such college or postgraduate education, the Trustee shall take into consideration the beneficiary's related living and travel expenses to the extent that they are reasonable.

E. Spendthrift Provision

No interest in the principal or income of any trust created hereunder shall be anticipated, assigned or encumbered, or subject to any creditor's claim or to legal process, prior to its actual receipt by the beneficiary.

F. Termination of Trust

Unless sooner terminated in accordance with other provisions of this trust, each trust created hereunder shall terminate twenty-one (21) years after the death of the last survivor of the Trustors and the Trustors' children. All principal and undistributed income of any trust so terminated shall be distributed to the current income beneficiaries of that trust in the proportions in which they are, at the time of termination, entitled to receive the income; provided, however, that if the rights to income are not then fixed by the terms of the trust, distribution under this clause shall be made, by right of representation, to such issue of the Trustors as are then entitled or authorized in the Trustee's discretion to receive income payments, or, if there are no such issue of the Trustors, in equal shares to those beneficiaries who are then entitled or authorized to receive income payments.

G. Controlling Law

The validity of this trust and the construction of its provisions shall be governed by the laws of the State of California. If any provision of this trust is unenforceable, the remaining provisions shall nevertheless be carried into effect.

H. Definitions

As used in this trust:

1. The masculine, feminine or neuter gender, and the singular or plural number, shall each be deemed to include the other whenever the context so indicates.

2. The term "issue" shall refer to lineal descendants of all degrees; the terms "child", "children", and "issue" shall include adopted persons; and the terms "child" and "children" shall include the child or children of the Trustors now living and any other child or children hereafter born to or adopted by the Trustors.

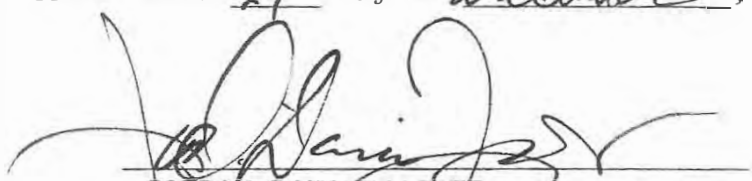
3. The terms "current income beneficiary" and "current income beneficiaries" shall include any person then entitled or authorized to receive income from the trust estate, whether in the discretion of the Trustee or otherwise.

I. Headings

The headings in this trust are inserted for convenience of reference and shall not be considered in the construction of the provisions of this trust.

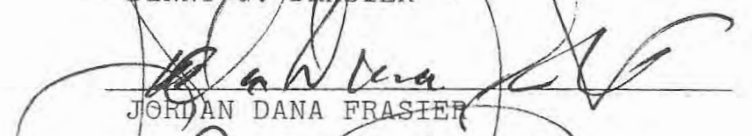
IN WITNESS WHEREOF, the Trustors and the Trustee have executed this Declaration of Trust this 29 day of December, 1980.

"TRUSTORS"


JORDAN DANA FRASIER


DINNY G. FRASIER

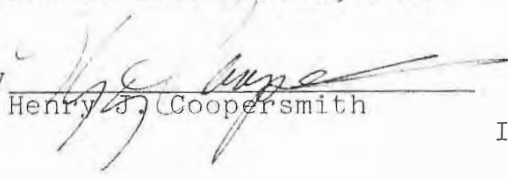
"TRUSTEE"


JORDAN DANA FRASIER


DINNY G. FRASIER

Approved as to form.

HENRY J. COOPERSMITH, INC.

By 
Henry J. Coopersmith

IV.6


SCHEDULE "A"

Trust. Property included in the foregoing Declaration of

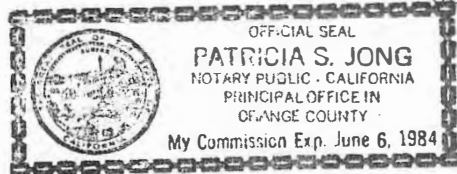
STATE OF CALIFORNIA)
) SS.
COUNTY OF ORANGE)

On this 29th day of December, 1980,
before me, the undersigned, personally appeared JORDAN DANA FRASIER and
DINNY G. FRASIER, known to me to be the persons whose names are
subscribed to the within instrument, and acknowledged to me that
they executed the same.

WITNESS my hand and official seal.



Notary Public in and for said
County and State



THE FIRST AMENDED AND RESTATED JORDAN DANA FRASIER FAMILY TRUST

This Declaration of Trust is made by JORDAN DANA FRASIER and DINNY G. FRASIER, husband and wife ("Trustors" or "husband" or "wife"), and JORDAN DANA FRASIER and DINNY G. FRASIER ("Trustee"), made June 29, 1980 is amended and restated in its entirety, in order to establish a trust for the purposes and upon the terms and conditions hereinafter provided.

ARTICLE ONE

DECLARATION OF TRUST

A. Name of Trust

This Trust may be referred to as the FIRST AMENDED AND RESTATED JORDAN DANA FRASIER FAMILY TRUST.

B. Trustees

On the death, resignation or legal disability of either JORDAN DANA FRASIER or DINNY G. FRASIER, the survivor shall succeed as Trustee. On the death, resignation, or legal disability of the survivor, MARTIN GRAY shall succeed as Trustee. If MARTIN GRAY for any reason fails to qualify or ceases to act as Trustee, then AMY M. FRASIER, NORI BETH CADY and BRADLEY L. FRASIER shall succeed as co-trustees.

C. Trust Estate

The Trustors have transferred and delivered to the Trustee without consideration the property described in Schedule "A" attached hereto and have caused or will cause the Trustee to be named primary or contingent beneficiary of the life property described in Schedule "A" and the proceeds of the life insurance policies described in Schedule "A", together with any other property which may hereinafter be transferred to this trust, is referred to sometimes as the "trust estate".

D. Nature of Property

It is the Trustors' intention that all property transferred to this Trust by the Trustors or by either Trustor

and the proceeds thereof shall continue to retain its character during the joint lifetimes of the Trustors, as the community property of the Trustors ("community estate"), or the separate property or quasi-community property of either Trustor ("separate estate"), as the case may be, subject, however, to all the terms and conditions of this trust. To this end, the Trustors acknowledge that the property described in Schedule "A" and the insurance policies described in Schedule "A" attached hereto are the community property of the Trustors, unless there appears opposite any specific item a statement that the item is the separate property of either Trustor. The Trustee shall have no more extensive power over any community property transferred to this trust than either husband or wife would have under California Civil Code Sections 5125 and 5127 had this trust not been created, and this instrument shall be so interpreted to achieve this intention. Notwithstanding the foregoing, the Trustee shall have the power to convey, encumber, or otherwise dispose of community real and personal property held hereunder without the consent of either Husband or Wife, whether or not Husband or Wife shall then be capable of giving consent.

E. Right to Amend or Revoke Trust

During the joint lifetimes of the Trustors, the community estate may be revoked in whole or in part by either Trustor, and any separate estate may be revoked in whole or in part by the Trustor who created it. The power of revocation shall be exercised by written notice delivered to the other Trustor and to the Trustee. In the event of such revocation, the community estate or the revoked portion thereof shall revert to both Trustors as their community property, and the separate estate or the revoked portion thereof shall revert to the Trustor who created it as his separate property or quasi-community property, as if this trust had not been created. During the joint lifetimes of the Trustors, this trust may not be amended without the written agreement of both Trustors.

Upon the death of either Trustor survived by the other Trustor, the Tax Exemption Trust may not be altered, amended or revoked by any person; surviving Trustor may alter,

amend or revoke the Survivor's Trust, but upon the death of surviving Trustor, having survived deceased Trustor, the Survivor's Trust may not be altered, amended or revoked by any person. No amendment of any provision of this trust shall change the duties, liabilities or responsibilities of the Trustee without the Trustee's consent.

the Trustee shall hold, administer and distribute the trust estate as follows:

1. The Trustee shall divide the trust estate (including any additions made by the Will of the deceased Trustor, by life insurance proceeds or otherwise) into two (2) separate trusts, designated as the "Survivor's Trust" and the "Tax Exemption Trust":

a. The Survivor's Trust shall consist of the following:

(1) Surviving Trustor's interest in the community estate; and

(2) Surviving Trustor's separate estate, if any, included in the trust estate; and

(3) That amount of the balance of the trust estate that will equal the minimum pecuniary amount necessary as a marital deduction to eliminate entirely (or to reduce to the maximum extent possible) any federal estate tax at the death of the deceased Trustor, taking account of: (i) all deductions and credits available for estate tax purposes, and of (ii) the net value of all other property included in the gross estate of the deceased Trustor which passes or has passed, during the lifetime or at the death of the deceased Trustor, under the Will of the deceased Trustor, or otherwise, to or for surviving Trustor so as to qualify for the federal estate tax marital deduction. For purposes of determining the amount of this bequest, final federal estate tax values shall control, and account shall not be taken of any credit that would cause the marital deduction to be disallowed in whole or in part or of any item not deductible for estate tax purposes because claimed for income tax purposes; provided that all transfers by Will or otherwise for which the marital deduction would have been allowed but for disclaimer by the surviving Trustor or non-election by the executor or administrator of the estate of the deceased Trustor shall be treated for this purpose as if that deduction had been allowed. This bequest may be satisfied in cash or in kind, or partly in each, but only

deceased Trustor's support, to the extent paid from the trust, shall be deducted one-half (1/2) from the Survivor's Trust and one-half (1/2) from the Tax Exemption Trust.

e. Whenever the Trustee is directed to make a distribution of trust assets or a division of trust assets into separate trusts or shares on the death of a trustor, the Trustee may, in the Trustee's discretion, defer such distribution or division until six months after the trustor's death. When the Trustee defers distribution or division of the trust assets, the deferred division or distribution shall be made as if it had taken place at the time prescribed in this instrument in the absence of this subparagraph, and all rights given to the beneficiaries of such trust assets under other provisions of this instrument shall be deemed to have accrued and vested as of such prescribed time. Such distribution or division shall be made in cash or in kind, or partly in each, and assets allocated in kind shall be on the basis of fair market values at the date or dates of allocation.

f. It is the trustors' intention that the Survivor's Trust qualify for the marital deduction under Section 2056 of the Internal Revenue Code and the Regulations pertaining to that section. Accordingly, if in the future, anyone other than an executor is allowed by law to make the election, the Trustee is and shall be authorized, in the Trustee's sole discretion, to elect and treat as qualified terminable interest property all or any allowable lesser amount of the property interest allocated to the Survivor's Trust and, without limiting the discretion of the Trustee, it is the trustors' expectation that the Trustee will make said election in the Trustee's discretion, unless the timing of the surviving spouse's actual or expected death and that of the deceased spouse and the computation of the combined death taxes in the two estates render such an election inappropriate. The trustors direct that no authorization, direction, power, duty, discretionary authority, or other provisions contained in either of their wills or in this instrument, shall apply to the Survivor's Trust so as to prevent it from qualifying for the marital deduction

accrued or undistributed income) to such one or more persons and entities, including his own estate, and on such terms and conditions, either outright or in trust, as surviving Trustor shall appoint by a Will specifically referring to and exercising this power of appointment (whether his Will is executed before or after deceased Trustor's death, provided that he survives deceased Trustor). Any of the Survivor's Trust not effectively appointed by surviving Trustor in this manner shall be added to the Tax Exemption Trust, to follow the disposition of the Tax Exemption Trust in all respects as hereinafter provided.

6. Upon the death of surviving Trustor, the Trustee shall distribute the balance then remaining, if any, of the Tax Exemption Trust (including both principal and any accrued or undistributed income) to such one or more of the group consisting of the Trustors' issue, and on such terms and conditions, either outright or in trust, as surviving Trustor shall appoint by a Will specifically referring to and exercising this power of appointment (whether his Will is executed before or after deceased Trustor's death, provided that he survives deceased Trustor); further provided, however, that this power shall not be exercisable to any extent for the benefit of surviving Trustor, his estate, his creditors or the creditors of his estate. Any of the Tax Exemption Trust not effectively appointed by surviving Trustor in this manner shall remain in the Tax Exemption Trust, to follow the disposition of the Tax Exemption Trust in all respects as hereinafter provided.

7. Upon the death of surviving Trustor (subject, however, to any power of appointment conferred upon surviving Trustor in this trust), the Trustee may in the Trustee's discretion pay out of the principal of the Survivor's Trust not so appointed by surviving Trustor, or if the Survivor's Trust shall have been exhausted out of the principal of the Tax Exemption Trust, his last illness and funeral expenses, administration expenses, and other obligations incurred for his support, and any inheritance, estate, or other death taxes payable by reason of surviving Trustor's death, to the extent

individual with whom they reside, and on his family, resulting from Trustors' children's presence in his household.

4. When the child attains age twenty-five (25), the Trustee shall distribute to the child one-third ($1/3$) of the principal of the child's trust as then constituted; when the child attains age thirty (30), the Trustee shall distribute to the child one-half ($1/2$) of the undistributed balance of his trust. When the child attains age thirty-five (35), the Trustee shall distribute to the child the undistributed balance of his trust. If the child has already attained age twenty-five (25), thirty (30), or thirty-five (35) at the time the trust estate is divided into separate shares pursuant to this Paragraph, the Trustee shall, upon making the division, distribute to the child one-third ($1/3$), two-thirds ($2/3$) or all of his share, respectively.

5. If a child of Trustors dies before becoming entitled to receive distribution of his entire trust, the undistributed balance of that child's trust shall thereupon be distributed to his then living issue, by right of representation (subject, however, to the provisions of Paragraph J of ARTICLE THREE), or, if there are none, to Trustors' then living issue, by right of representation; provided, however, that if any part of that balance would otherwise be distributed to a person for whose benefit a trust is then being administered hereunder, that part shall instead be added to that trust and shall thereafter be administered according to its terms, except that, in the case of any trust that has been partially distributed because of a beneficiary's attainment of a designated age, any addition shall augment proportionately the distributed and the undistributed portions of the trust.

6. If at any time before full distribution of the trust estate, both Trustors and all of Trustors' issue are deceased and no other disposition of the property is directed hereunder, the trust estate or the portion of it then remaining shall thereupon be distributed one-half ($1/2$) to those persons who would then be husband's heirs, and one-half ($1/2$) to those persons who would then be wife's heirs, the identities and respective

ARTICLE THREE
POWERS AND DUTIES OF TRUSTEE

To carry out the purposes of any trust created hereunder and subject to any limitations stated elsewhere in this trust, the Trustee is vested with the following powers with respect to the trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

A. General Powers

1. To continue to hold any property and to operate at the risk of the trust estate any business that the Trustee receives or acquires under the trust as long as the Trustee deems advisable;
2. To manage, control, grant options on, sell (for cash or on deferred payments with or without security), convey, exchange, partition, divide, improve and repair trust property;
3. To lease trust property for terms within or beyond the term of the trust and for any purpose, including exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements;
4. To borrow money, and to encumber or hypothecate trust property by mortgage, deed of trust, pledge or otherwise, for the debts or the joint debts of the trust and a co-owner of trust property;
5. To carry, at the expense of the trust, insurance of such kinds and in such amounts as the Trustee deems advisable to protect the trust estate and the Trustee against any hazard, damage, or loss and to protect the Trustee against liability with respect to third persons;
6. To commence or defend such litigation with respect to the trust or any property of the trust estate as the Trustee may deem advisable, at the expense of the trust;
7. To compromise, submit to arbitration, abandon

10. To carry out the purposes of any trust created in this Declaration of Trust, subject to limitations or additions stated elsewhere, the Trustee is vested with all the powers set forth in the California Probate Code Section 1120.2, which are incorporated by reference in this trust, and made a part thereof, in addition to those powers now or hereafter conferred by law.

11. The Trustee shall have the power to hold securities or other property in the Trustee's name as Trustee under this trust, or in the Trustee's own name, or in the name of a nominee, or the Trustee may hold securities unregistered in such condition that ownership will pass by delivery.

12. The Trustee is expressly authorized to continue to hold and operate, to sell, or liquidate, at the risk of the trust estate, any business, partnership interest, or capital stock of any corporation, including a closely held corporation, that the Trustee receives or acquires under this trust, as the Trustee deems advisable.

13.(a). To purchase in the Trustee's discretion at less than par, obligations of the United States of America that are redeemable at par in payment of any federal estate tax liability of either trustor in such amounts as the Trustee deems advisable, and for that purpose, the Trustee may partition a portion of the community property of the trust estate and make such purchase from either or both portions. The Trustee shall exercise the Trustee's discretion and purchase such obligations if the Trustee has reason to believe that either trustor is in substantial danger of death, and may borrow funds and give security for that purpose, if the Trustee believes, in the Trustee's discretion, that federal estate taxes can be reduced by doing so. The Trustee shall resolve any doubt concerning the desirability of making the purchase and its amount in favor of making the purchase, and in purchasing a larger, even though somewhat excessive, amount. The Trustee shall not be liable to either trustor, and any heir of either trustor, or any beneficiary of this trust, for losses resulting from purchases

absolute discretion, to make the division and distribution in kind, including undivided interests in any property, or partly in kind and partly in money, and for this purpose to make such sales of the trust property as the Trustee may deem necessary on such terms and conditions as the Trustee shall see fit.

D. Physical Division of Trusts

There need be no physical segregation or division of the various trusts except as segregation or division may be required by the termination of any of the trusts, but the Trustee shall keep separate accounts for the different undivided interests.

E. Transactions with Estate of Deceased Trustor

The Trustee in the Trustee's discretion may purchase any property of a deceased Trustor's probate estate at its fair market value determined by an independent appraisal and make loans to a deceased Trustor's executor or administrator with interest at then current rates and to receive security for such loans in the form of a mortgage, deed of trust, pledge or other encumbrance of any properties of a deceased Trustor's probate estate.

F. Transactions Between Trusts

As between the several trusts as may exist from time to time hereunder, the Trustee in the Trustee's discretion may purchase any property at its fair market value determined by an independent appraisal and make loans with interest at then current rates and to receive security for such loans in the form of a mortgage, deed of trust, pledge or other encumbrance of any assets of the trust.

G. Loans to Trust Estate

The Trustee shall have the power to loan or advance the Trustee's own funds to the trust for any trust purpose, with interest at current rates, and to receive security for such loans in the form of a mortgage, deed of trust, pledge or other encumbrance of any assets of the trust.

him, or the Trustee may apply payments directly for the beneficiary's benefit. However, the Trustee may not make payments to the parent of a minor beneficiary for the minor's account unless the parent shall first agree with the Trustee in writing that he will not use the payments to discharge his legal obligation to support the minor under the laws of the state of his domicile. The Trustee in the Trustee's discretion may make payments directly to a minor if in the Trustee's judgment he is of sufficient age and maturity to spend the money properly.

J. Continuation of Trust for Benefit of Minors

If any part of the trust estate should become distributable to a beneficiary who shall not yet have attained age twenty-one (21), then, anything in this trust to the contrary notwithstanding, the share of the trust estate distributable to each such person shall be retained and administered by the Trustee in a separate trust; and the Trustee shall pay to or apply for the benefit of such person as much of the net income and principal of such person's trust as the Trustee in the Trustee's discretion deems necessary for such person's proper support, care, maintenance and education, after taking into consideration, to the extent the Trustee deems advisable, any income or other resources of such person outside of such person's trust, known to the Trustee. Any net income in any year not distributed shall be accumulated and added to principal at the end of that year. When such person attains age twenty-one (21), the Trustee shall distribute to such person the undistributed balance of his trust. If such person dies before becoming entitled to receive distribution of his entire trust, the undistributed balance of such person's trust shall thereupon be distributed to his then living issue, by right of representation, or, if there are none, to the Trustors' then living issue, by right of representation; provided, however, that if any part of that balance would otherwise be distributed to a person for whose benefit a trust is then being administered hereunder that part shall instead be added to that trust and shall thereafter be administered according to its terms, except that, in the case

participate in the exercise of any discretionary power relating to his distributive share of principal or income whenever this is necessary to prevent the value of said distributive share from being includible in whole or in part in his gross estate for federal estate tax purposes. In any such case, such discretionary power shall be vested solely in the corporate Trustee, if any, otherwise the successor Trustee.

N. Authority of Trustee

Any instrument executed by the Trustee shall be binding on all parties hereto and on all beneficiaries hereunder. No person shall be under any duty to inquire as to the Trustee's powers or to see to the application of any money or property paid to the Trustee.

O. Occupancy of Residence

The surviving Trustor shall have the right to continue to occupy any real property in the trust estate that Trustors were using for residential purposes (whether on a full or part-time basis, including resort property); provided that the surviving Trustor, in the surviving Trustor's discretion, may direct the Trustee to sell any such property and replace it or rent or lease another residence selected by the Trustor of comparable or lower value. The Trustee shall pay a proportionate part of the mortgage or trust deed payments, property taxes, assessments, insurance, maintenance and ordinary repairs on all such property, or any rent or lease payments equal to the Trustee's proportionate interest in the property. Such payments shall be made out of the income or principal of the trust estate in the Trustee's discretion.

P. Power to Employ Agents and Advisers

The Trustee is authorized to employ custodians, investment advisers, attorneys, accountants, and any other agents or advisers to assist the Trustee in the administration of this trust, and to rely on the information and advice given by such agents and advisers. Reasonable compensation for all such services performed by such agents and advisers shall be paid from the trust estate out of either income or principal as

ARTICLE FOUR
GENERAL PROVISIONS

The following general provisions shall govern the administration of this trust:

A. Right to Add Property to Trust

The Trustors jointly, or either of them, or any other person, may from time to time, with the consent of the Trustee, cause the Trustee to be named as primary or contingent beneficiary of insurance policies and add further property to the trust estate or any part thereof by lifetime transfer, by will or otherwise.

B. Trustees

1. No bond shall be required of any person or bank named as the Trustee in this trust or appointed as the Trustee in the manner specified in this trust.

2. The Trustee may resign at any time by thirty (30) days written notice signed by the Trustee and delivered to each current income beneficiary not under legal disability and to the guardian, conservator or other fiduciary of the estate, if any, otherwise to the parent, of each current income beneficiary under legal disability. If any Trustee at any time resigns or fails to assume the responsibilities of Trustee, a majority in interest of the persons entitled to such notice shall appoint a successor Trustee, by written notice delivered to the resigning Trustee within thirty (30) days after receipt of said notice of resignation. If a successor Trustee shall not be so appointed, the resigning Trustee shall have the right to appoint a successor Trustee or to petition a court of competent jurisdiction to appoint a successor Trustee, at the expense of the trust estate. Any successor Trustee appointed must be a corporation authorized under the laws of the United States or of the State of California or of any other state to administer trusts and having total capital, surplus and undivided profits of not less than Five Million Dollars (\$5,000,000.00).

3. The title to the trust estate shall vest

Article Four, Page One

co-Trustees, as between the Trustees, the corporate Trustee shall have custody of all personal property of the trust estate and shall maintain all records and accounts of the trust estate. Neither Trustee shall be liable for the wrongful act or neglect of the other. The corporate Trustee shall be entitled to the same compensation as though it were acting as the sole Trustee, and the individual Trustee shall only be entitled to such additional compensation for his services as is approved by a Court having jurisdiction over the trust estate.

C. Life Insurance

The rights, powers and duties of the Trustee and of the owner of any life insurance policy payable to any trust created hereunder shall be as follows:

1. The owner of each such policy reserves all rights, options, privileges and benefits of any kind which he may otherwise have or which may accrue on account of such policy, to be exercised by and accrue to him without the consent or participation of the Trustee or any beneficiary of this Trust.

2. Notwithstanding anything herein contained to the contrary, neither Trustor shall have any right, title or interest, either as a beneficiary or as a Trustee, in any life insurance policies under which that Trustor is named as the insured nor in any proceeds therefrom, which may become an asset of this trust or under which this trust may be named as the beneficiary. Should any such policies become an asset of this trust or should any proceeds from such policies be received under this trust, they shall be held and administered by the co-Trustee of the respective insured or by the successor Trustee of the insured, and they shall be administered as though the insured were then deceased, only with respect to those specific life insurance policies and/or proceeds from policies on the life of the respective insured Trustor. The insured Trustor does hereby irrevocably revoke and waive any rights which that Trustor may have in such policies either as beneficiary or as Trustee and does further waive any such rights which that Trustor may have should such policies or proceeds therefrom become assets of this trust in the future.

policy" shall include pension, profit-sharing and any other forms of retirement benefit plans; and the term "insurance company" shall include the trustee or administrator of any retirement benefit plan.

D. Education

Whenever provision is made in this trust for the payment for the "education" of a beneficiary, the term "education" shall be construed to include college and postgraduate study, so long as pursued to advantage by the beneficiary, at an institution of the beneficiary's choice; and in determining payments to be made for such college or postgraduate education, the Trustee shall take into consideration the beneficiary's related living and travel expenses to the extent that they are reasonable. If any beneficiary appears to the Trustee to be in need of educational assistance at a lower level than above mentioned in order to render more probable his admission to such an educational institution, the Trustee is authorized to supply such financial aid as it considers advisable.

E. Spendthrift Provision

No interest in the principal or income of any trust created hereunder shall be anticipated, assigned or encumbered, or subject to any creditor's claim or to legal process prior to its actual receipt by the beneficiary.

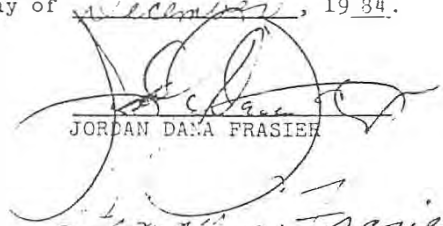
F. Termination of Trust

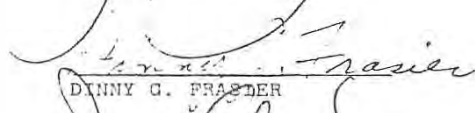
Unless sooner terminated in accordance with other provisions of this trust, each trust created hereunder shall terminate twenty-one (21) years after the death of the last survivor of the Trustors and the Trustors' children. All principal and undistributed income of any trust so terminated shall be distributed to the current income beneficiaries of that trust in the proportions in which they are, at the time of termination, entitled to receive the income immediately before termination; provided, however, that if the rights to income are not then fixed by the terms of the trust, distribution under this clause shall be made, by right of representation, to such issue of the Trustors, in equal shares to those beneficiaries who are

convenience of reference and shall not be considered in the construction of the provisions of this Trust.

The Trustors and the Trustee have
Declaration of Trust this 31st day of December, 19 84.


"Trustors"


JORDAN DANA FRASIER


DINNY G. FRASIER

"Trustee"

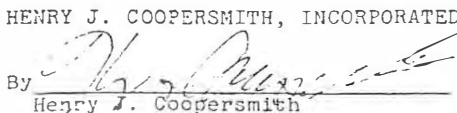

JORDAN DANA FRASIER


DINNY G. FRASIER

APPROVED this 31st day of

December, 19 84

HENRY J. COOPERSMITH, INCORPORATED

By 
Henry J. Coopersmith
Attorney for Trustors

Article Four, Page Seven

STATE OF CALIFORNIA)
)
COUNTY OF Orange)

On December 31, 1984, before me, the undersigned, a Notary Public in and for said State, personally appeared JORDAN DANA FRASIER & DINNY G. FRASIER personally known to me (or proved to me on the basis of satisfactory evidence), to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same.

WITNESS my hand and official seal.

Vivian M Cline
NOTARY PUBLIC



SECOND AMENDMENT

to

JORDAN DANA FRASIER FAMILY TRUST

This Declaration of Trust made by JORDAN DANA FRASIER and DINNY G. FRASIER, husband and wife ("Trustors"), and JORDAN DANA FRASIER and DINNY G. FRASIER ("Trustee"), in order to amend that declaration of trust dated December 31, 1984 by amending it as follows:

Paragraph B. of ARTICLE ONE is amended in its entirety to read as follows:

"B. Trustees

On the death, resignation or legal disability of either JORDAN DANA FRASIER or DINNY G. FRASIER, the survivor shall succeed as Trustee. On the death, resignation, or legal disability of the survivor, AMY MICHELE FRASIER, NORI BETH CADY and BRADLEY L. FRASIER shall succeed as co-Trustee to serve jointly."

DATED: April 8, 1987
"Trustors"

"Trustee"


JORDAN DANA FRASIER


DINNY G. FRASIER

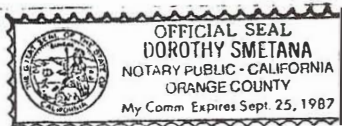

JORDAN DANA FRASIER


DINNY G. FRASIER

STATE OF CALIFORNIA)
) ss
COUNTY OF ORANGE)

On this 8th day of April, 1987
before me, the undersigned, personally appeared **JORDAN DANA
FRASIER and DINNY G. FRASIER**, personally known to me (or proved
to me on the basis of satisfactory evidence), to be the person
whose name is subscribed to the within instrument and acknowledge
to me that they executed the same.

WITNESS my hand and official seal.



Dorothy Smetana
Notary Public in and for
said County and State.

**THIRD AMENDMENT of the
JORDAN DANA FRASIER FAMILY TRUST**

This Declaration of Trust is made by **JORDAN DANA FRASIER and DINNY G. FRASIER**, husband and wife ("settlers" or "husband" or "wife"), and **JORDAN DANA FRASIER and DINNY G. FRASIER** ("trustee"), originally entered into December 29, 1980, firstly amended December 31, 1984, secondly amended April 8, 1987, and thirdly amended this date upon the terms and conditions hereinafter provided.

**ARTICLE ONE
DECLARATION OF TRUST**

A. Name of Trust

This trust may be referred to as the **"JORDAN DANA FRASIER FAMILY TRUST."**

B. Trustees

On the death, resignation or legal disability of **JORDAN DANA FRASIER or DINNY G. FRASIER**, the survivor shall succeed as the trustee. If both **JORDAN DANA FRASIER and DINNY G. FRASIER** shall for any reason fail or cease to act as trustee, the persons listed below, in the order and priority indicated shall succeed as successor trustee:

1. Appointee or appointees of survivor from time to time;
2. Amy Michelle Frasier Wilson, Nori Beth Frasier Cady, Bradley L. Frasier to act as co-trustees. If there is any disagreement by the co-trustees, if there are three trustees, a majority of the trustees shall prevail; if there are two trustees, and there is a question regarding the trust of Amy Michelle Frasier Wilson, then she shall not vote on any provision in which there is a disagreement.
3. MERRILL LYNCH TRUST COMPANY OF CALIFORNIA.

C. Trust Estate

The settlers have transferred and delivered to the trustee without consideration the property described in Schedule "A" attached hereto and have caused or will cause the trustee to be named primary or contingent beneficiary of the life insurance policies described in Schedule "A" and the proceeds of the life insurance policies described in Schedule "A", together with any

other property which may hereinafter be transferred to this trust, is referred to sometimes as the "trust estate".

D. Nature of Property

It is the settlors' intention that all property transferred to this trust by the settlors or by either settlor and the proceeds thereof shall continue to retain its character during the joint lifetimes of the settlors, as the community property of the settlors ("community estate"), or the separate property or quasi-community property of either settlor ("separate estate"), as the case may be, subject, however, to all the terms and conditions of this trust. To this end, the settlors acknowledge that the property described in Schedule "A" and the insurance policies described in Schedule "A" attached hereto are the community property of the settlors, unless there appears opposite any specific item a statement that the item is the separate property of either settlor. The trustee shall have no more extensive power over any community property transferred to this trust than either husband or wife would have under Family Code Sections 1100 and 1102 had this trust not been created, and this instrument shall be so interpreted to achieve this intention. Notwithstanding the foregoing, the trustee shall have the power to convey, encumber, or otherwise dispose of community real and personal property held hereunder without the consent of either husband or wife, whether or not husband or wife shall then be capable of giving consent.

E. Right to Amend or Revoke Trust

During the settlors' joint lifetimes, this trust may be revoked, in full or in part, by an instrument in writing signed by both the settlors jointly, or by either settlor alone; if a settlor revokes the instrument, a copy shall be delivered (personally or by certified mail) to all of the other trustees and settlors. In the event of such revocation, the community or a revoked portion thereof shall revert to both settlors as their community property and the settlor's estate, or the revoked portion thereof shall revert to the settlor who created it as that settlor's separate property or quasi community property, as if this trust had not been created.

F. Amendment

During the settlors' joint lifetimes, the terms of this trust may be amended, with respect to all or a portion of the terms, only by an instrument in writing signed by both settlors and shall be delivered (by a settlor personally or by certified mail) to all trustees.

G. Survivor's Power

After the death of the first settlor to die, the surviving settlor may, in whole or in part, revoke or amend the survivor's trust (described hereafter) by an instrument in writing signed and, if the surviving settlor is not a trustee, delivered (personally or by certified mail) to a trustee; but no person or persons may revoke or amend the tax exemption trust or the marital trust (both described hereafter), except as may be authorized by a power of appointment expressly conferred by the terms of this declaration of trust. After the surviving settlor's death, the survivors trust may not be amended or revoked.

ARTICLE TWO

DISTRIBUTION OF INCOME AND PRINCIPAL

A. Husband and Wife's Trust

During the joint lifetimes of the settlors, the trustee shall hold, administer and distribute the trust estate as follows:

1. The trustee shall pay to or apply for the benefit of the settlors as much of the net income and principal of the community estate, up to the whole of it, as either settlor shall direct from time to time by written notice delivered to the trustee. The trustee shall also pay to either settlor, as his separate or quasi-community property, as the case may be, or apply for his benefit as much of the net income and principal of his separate estate, up to the whole of it, as he shall direct from time to time by written notice delivered to the trustee.

Any net income not distributed shall be accumulated and added to principal.

2. If the trustee deems such payments to be insufficient, the trustee may also from time to time pay to or apply for the benefit of the settlors as much of the net income and principal of the community estate as the trustee in the trustee's discretion deems necessary for their proper support, care and maintenance in their accustomed manner of living, without taking into consideration any income or other resources of the settlors outside this trust. If the trustee deems such payments to be insufficient, the trustee may also from time to time pay to either settlor, as his separate property or quasi-community property, as the case may be, or apply for his benefit as much of the net income and principal of his separate estate as the trustee in the trustee's discretion deems necessary for his proper support, care and maintenance in his accustomed manner of living, without taking into consideration any income or other resources of the settlor outside this trust.

B. Upon the Death of Either Settlor

1. Upon the death of the first settlor (hereinafter called "deceased settlor"), the trust estate shall be divided into separate trusts for the primary benefit of the other settlor (hereinafter called "surviving settlor") as provided below, these trusts (hereinafter called "survivors trust", the "marital trust", if applicable, and the "tax exemption trust").

a. Survivor's Trust

The survivor's trust shall consist of (i) the surviving settlor's share of the community estate and (ii) the surviving settlor's separate estate, both of which include any property that is received by the trustee (from insurance, pension plans and other sources) upon or by reason of the deceased settlor's

death; provided, however, that this fractional share of the community property shall be satisfied by allocating to the survivors' trust any residential properties or tangible personal properties selected by the surviving settlor, and otherwise by division and allocation pursuant to the trustees' powers set out hereinafter in ARTICLES TWO, THREE and FOUR.

- (i) The trustee shall pay to or apply for the benefit of the surviving settlor, in quarter-annual or more frequent installments, all the net income of the survivors' trust and as much of the principal of that trust as the trustee deems appropriate for the surviving settlor's support, comfort, health, care and general welfare, taking into account the surviving settlor's accustomed standard of living and other resources reasonably available for these purposes.
- (ii) If in the trustee's judgment the surviving settlor is under disability, whether or not disability or the need for a conservator has been declared by a court (but subject to the surviving settlor's right to petition a court for a determination that no disability exists), the trustee may withhold income payments that are directed by the above subparagraph (i), and shall instead pay to or apply for the benefit and care of the surviving settlor as much of the trust income and principal the trustee deems appropriate for the same purposes stated above, any income not so distributed to be added to the principal of the survivors' trust.

b. Marital Trust

The marital trust shall be established if and as provided

herein, and distribution shall be made as provided below:

- (i) If the surviving settlor survives the deceased trust settlor for a period of six (6) months, the marital trust shall consist of the smallest fractional share of the remaining trust estate (after making allocation to the survivors' trust and including property received upon and by reason of the deceased settlor's death and tax exemption trust if applicable) necessitates a marital deduction to eliminate (and reduce to the extent possible) any federal estate tax by reason of the deceased settlor's death, and taking into account of: a) the net value of all their property included in deceased settlor's gross estate which passes or is passed to or for the benefit of the surviving settlor, under this declaration of trust, by will or otherwise (including payments to the trustees to be added to this marital trust), and which qualifies for the federal estate tax marital deduction; b) all federal estate tax deductions; and c) all federal credits other than those for state death taxes and for death taxes paid in the estate of one whose death occurs after that of the deceased settlor. In determining this fraction, final federal estate tax values and computations, elections and values for the deceased settlor's estate shall control, except that transfers under this declaration of trust, or by will or otherwise for which the marital deduction would have been allowed but for disclaimer by the surviving settlor or non election under

Internal Revenue Code Section 2056(b)(7) by the deceased settlor's executor shall be treated for this purpose as if the deduction had been allowed. Assets of the trust estate may be allocated to the marital trust (and, if applicable, to each independent share thereof) by either pro rata or non pro rata division in cash or in kind, including undivided interest, or any combination of these ways; only assets eligible for the federal estate tax marital deduction shall be used, and assets eligible for a foreign death tax credit shall be used only if other property of the trust estate is insufficient to fund the marital trust.

- (ii) If the surviving settlor disclaims his or her interest in all or any portion of this marital trust, the trust estate or affected portion thereof shall be added to and administered and distributed as part of the tax exemption trust set forth hereafter. If an election is properly made to qualify only a fractional portion for the marital trust for the federal estate tax marital deduction, this marital trust shall be divided accordingly into separate qualified and nonqualified portions, each portion shall be administered respectively either as a separate "qualified marital trust" or "nonqualified marital trust" during the lifetime of the surviving settlor.
- (iii) The trustee shall pay to or apply for the benefit of surviving settlor, in quarter, annual or more frequent installments all the net income of the marital trust (meaning the income of the qualified or nonqualified trust,

if the trust is so divided) and as much of the trust principal as the trustee deems appropriate (from the qualified trust before the nonqualified trust, if the trust is divided into two trusts) for the surviving settlor's health and support in the surviving settlor's accustomed manner of living, taking account of the surviving settlor's other resources known to the trustee and reasonably available for these purposes, and particularly including the availability of principal payments the trustee can make from the survivor's trust.

- (iv) The settlors intend that this trust qualify for the federal estate tax marital deduction, and all powers of the trustee and all provisions of this declaration, as applied to this trust, shall be interpreted and restricted to achieve that purpose.

c. Tax Exemption Trust

The tax exemption trust shall consist of all the rest of the trust estate, after allocations have been made to the survivors' trust and, if applicable, to the marital trust and including any disclaimed property passing to the tax exemption trust as provided above.

- (i) The trustee of the tax exemption trust shall respect and comply with any directions given and provisions made by the deceased settlor's will for the payment of debts of deceased settlor and the expenses and other obligations of deceased settlor's estate, and for the payment and allocation of any death taxes resulting from deceased settlor's death. To the extent these matters are not covered by the deceased settlor's will: the trustee shall

pay from and charge against the tax exemption trust all federal, state, and foreign estate, inheritance or other death taxes payable (including under Internal Revenue Code Section 4980(A)) on or with respect to any property which passes or has passed under this declaration, under the deceased settlor's will or otherwise and which qualifies for the federal estate tax marital deduction; in all other respects the liability for and the burden of federal, state, and foreign death taxes imposed by reason of the deceased settlor's death shall be paid by the person or from the property upon which an inheritance tax is specifically imposed or, in the case of estate (and other) taxes, shall be apportioned in accordance with the federal and California law; and the trustees of the trust of the deceased settlor may, in the trustees' discretion, pay debts, last illness and funeral expenses of the deceased settlor and the administrative expenses and other obligations of his estate.

- (ii) The trustee shall pay to or apply for the benefit of the surviving settlor during his lifetime quarterly or at more frequent intervals, the entire net income of the tax exemption trust and as much of the principal as is required for the surviving settlor's health and support in the surviving settlor's accustomed manner of living, taking account of the surviving settlor's other resources known to the trustee and particularly the availability of principal payments from the

survivor's trust and marital trust. If the surviving settlor disclaims any interest (but not all of his interest) in all or any portion of this trust, the trust or the affected portion thereof shall be administered and distributed as if the disclaimant had died as to the fraction of the disclaimed interest, but if the surviving settlor disclaims all the survivor's interest, then the entire trust shall be administered as if the surviving settlor had died immediately before the deceased settlor, and the assets shall pass to the children's trust as if the surviving settlor was then deceased.

C. Children's Trust

Upon the death of surviving settlor, the separate trusts established by this declaration of trust, together with any additions thereto (including additions by reason of the surviving settlor's death), and with any undistributed income, shall then be administered and distributed by the trustee as follows:

1. The trustee of the survivors' trust shall respect and comply with any directions given and provisions made by the surviving settlor's will for the payment of debts of the surviving settlor and the expenses and other obligations of his estate, and for the payment and allocation of death taxes resulting from his death. To the extent these matters are not covered by the surviving settlor's will, the trustee shall pay from each separate trust (without charge to any beneficiary) all federal, state and foreign death taxes (including interest and penalties) that are either attributable to that particular trust estate by reason of the surviving settlor's death (such as under an inheritance tax) or a portion to it pursuant

to applicable federal and California law; and the trustee may, in the trustee's discretion pay first from the surviving settlor's trust and second, if necessary, from (as the trustee may decide, either any or all of) the marital trust (or trusts) or the tax exemption trust any debts, last illness and funeral expenses of the surviving settlor and the administration expenses and other obligations of his estate.

2. Surviving settlor's power to appoint the remainder of the survivor's trust.

The trustee shall distribute or retain the survivors' trust (including undistributed income) or the survivors' trust to or for such one or more persons and entities, without limitation and including the surviving settlor's own estate, as he appoints by specific reference to this power (or powers of appointment generally) in his will; the appointment may be outright or in trust, in present or future interest, or in any combination of these, and upon such terms, conditions and new powers of appointment as he may provide. Any portion of the survivors' trust not effectively appointed by the surviving settlor shall be distributed as provided in the following paragraph.

3. Upon the death of the surviving settlor, the trustee shall hold, administer and distribute the tax exemption trust, the marital trust (or, if divided, both the qualified and nonqualified marital trust, and the remaining and unappointed trust estate, if any, of the survivor's trust), as the case may be as follows: the trustee shall distribute the tangible personal property as set forth on Schedule B attached hereto. The trustee shall allocate the settlors' principal residence (or the proceeds thereof if it has been sold) to the trust for Amy Michelle Frasier Wilson. The trustee shall divide the remaining trust estate into as many equal shares as there are children of settlors then living, and children

deceased leaving living issue. The trustee shall allocate one (1) such equal share to each living child of settlors and one (1) such equal share to each group composed of the living issue of a deceased child of the settlors. Each share allocated to a group composed of the living issue of a deceased child of settlors shall be distributed to such issue, by right of representation (subject however, to the provisions of Paragraph J of ARTICLE THREE). Each share allocated to a living child of settlors shall be retained and administered by the trustee in a separate trust hereinafter provided.

4. The trustee shall pay to or apply for the benefit of the child the entire net income of the child's trust, quarter-annually or at more frequent intervals (or in the case of a child who is under twenty-one (21), as much of the net income as the trustee deems appropriate, the excess to be accumulated and added to principal). If the trustee deems such income payments to be insufficient, the trustee may also pay to or apply for the benefit of the child as much of the principal of the child's trust as the trustee in the trustee's discretion deems necessary for the child's proper support, care, maintenance, education, purchase of a home and start of a business or professional career, after taking into consideration, to the extent the trustee deems advisable, any income or other resources of the child outside of the child's trust, known to the trustee, and reasonably available for these purposes.
5. In making payments for the benefit of settlors' children pursuant to this Paragraph C, the trustee shall construe its authority liberally to permit payments reasonably necessary to ease the financial burden on the guardian of the person of settlors' children or other suitable individual with whom they reside and on his family, resulting from settlors' children's presence in his household.

6. When Bradley L. Frasier and Nori Beth Frasier Cady attain age twenty-five (25), the trustee shall distribute to the child one-third ($1/3$) of the principal of the child's trust as then constituted; when the child attains age thirty (30), the trustee shall distribute to the child one-half ($1/2$) of the undistributed balance of his trust. When the child attains age thirty-five (35), the trustee shall distribute to the child the undistributed balance of his trust. If the child has already attained age twenty-five (25), thirty (30), or thirty-five (35) at the time the trust estate is divided into separate shares pursuant to this Paragraph, the trustee shall, upon making the division, distribute to the child one-third ($1/3$), two-thirds ($2/3$), or all of his share, respectively.
7. The trustee desires that the fund set aside for Amy Michelle Frasier Wilson shall last her lifetime so that the trustee will not rapidly dissipate the corpus of this share by distributing the principal and interest of the trust to her. It is the settlors' desire that the trustee be mindful of the fact that Amy Michelle Frasier Wilson has physical limitations that prevent her from obtaining gainful employment, and may have certain spendthrift disabilities, although they do not amount to any legal disability, or a sufficient disability at this time to qualify for public programs. In the event that she does qualify for public assistance, the trustee shall have the absolute discretion whether or not to distribute income or principal to her at the trustee's unfettered discretion. In making the foregoing decisions, Amy Michelle Frasier Wilson shall not participate as a trustee. The trustee shall have unlimited authority to expend funds for her medical care, any therapy that she should ever need, any medical treatment, and other related matters in the trustee's

discretion. The settlors are mindful of the subjective nature of determinations required, and the burden on the trustee, and the anguish that the recipient may have in withholding funds, and the difficulty of making an absolutely correct and perfect decision in making the trust funds last over her lifetime which is not predictable, but has the confidence in the trustee, that the trustee from time to time will try to exercise such good faith and judgment as the trustee deems to be in the interest of Amy Michelle Frasier Wilson, and that the settlors would have made had they been in the position to make such a decision. Amy Michelle Frasier Wilson is the primary beneficiary of her trust and the settlors' hope that she will not need public assistance, public benefits, but in the event that she does qualify for such benefits, these trust funds are intended to supplement and not to diminish the benefits these programs provide, so the trustee is authorized to utilize trust funds for therapies, supplies, recreation, special food, travel, insurance, transportation, and other items in the trustee's discretion that do not, or are not provided for public benefits that would not, to the extent feasible and possible, diminish the beneficiary's right to public benefits and public programs. The trustee is further authorized to buy a suitable residence and keep such title in the name of the trust for the benefit of Amy Michelle Frasier Wilson and to pay such expenses. The trustee is to be mindful that it is the settlors' desire that this trust fund be preserved primarily for the benefit of Amy Michelle Frasier Wilson, and not for any remainder beneficiaries. With that in mind, notwithstanding anything else to the contrary, in addition to the share that Amy Michelle Frasier Wilson shall receive, she shall receive in addition, but within this trust, the settlors' primary residence subject to any loans, liens and encumbrances.

The trustee is authorized to sell such residence and purchase another suitable residence for Amy Michelle Frasier Wilson. The primary beneficiary of this trust is Amy Michelle Frasier Wilson, and she is to be preferred to more remote beneficiaries. Upon Amy Michelle Frasier Wilson's death, the proceeds of this trust, if any, shall be distributed to the settlors' then living grand children and great grand children, if any, or the further remote issue, with each such then living child, grandchild, great grandchild, receiving one (1) equal share of the proceeds. Such amount shall be distributed to such grandchild, great grandchild, or further remote issue, with the preference that such funds be utilized for their education, with any unused funds distributed to each respective grandchild (or more remote issue) at age twenty-five (25), further provided, however, that such amount or amounts may be distributed if the trustee thinks advisable to their respective parent related to the settlors as custodians under the California Uniform Gifts to Minors Act.

8. If at any time before full distribution of the trust estate, both settlors and all of settlors' issue are deceased and no other disposition of the property is directed hereunder, the trust estate or the portion of it then remaining shall thereupon be distributed one-half ($\frac{1}{2}$) to those persons who would then be husband's heirs, and one-half ($\frac{1}{2}$) to those persons who would then be wife's heirs, the identities and respective shares of the heirs of each of them to be determined as though the death of each of them had then occurred and according to the laws of the State of California then in effect relating to the succession of separate property not acquired from a parent, grandparent or predeceased spouse.

D. Special Generation-Skipping Provisions.

1. Definitions: The expression "generation-skipping" in this trust relates or refers to the federal generation-skipping transfer tax in Chapter 13 of the Internal Revenue Code of 1986, as amended (hereafter simply "IRC"), and is used hereafter in terminology associated with various provisions of that tax; for example, "generation-skipping exemption" refers to the exemption provided in Section 2631(a) (or any successor provision) of that tax, and "generation-skipping 'reverse QTIP election'" (or simply "reverse QTIP election") refers to the election provided for qualified terminable interest property under Section 2652(a)(3) (or successor provision) of that tax in this ARTICLE TWO, and the generation-skipping context throughout this trust.

(i) The term "exempt" refers to (or "Exempt" may be added to the title of) a trust or property that has a generation-skipping inclusion ratio (or "IR") of zero (that is, an applicable fraction of zero); and the adjective "nonexempt" (or the additional titling "Nonexempt") indicates a trust or property that has a generation-skipping inclusion ratio (or "IR") of one (applicable fraction of one);

(ii) References to trusts refer also to arrangements that are treated as trusts for generation-skipping purposes and to separate shares of a trust, when appropriate to the context, if the shares are, as "substantially separate and independent shares of different beneficiaries" or otherwise, entitled to be treated as separate trusts for generation-skipping purposes; and

(iii) The term "executor" refers to the person or persons authorized by IRC provisions or Treasury regulations to make the reverse QTIP election under IRC Section 2652(a)(3) and to allocate the exemption under IRC Section 2631(a).

2. Exemption Allocation. In allocating the settlors' generation-skipping exemption, the settlors' executor may include in or exclude from that allocation any property of which the settlor is the transferor for generation-skipping purposes,

including property transferred prior to the settlor's death. These decisions may be based on transfers, gift tax returns, and other information known to the executor, with a requirement of good faith but no requirement that allocations benefit various transferees or beneficiaries of such property equally, proportionally, or in any other particular manner.

No person acting as executor, however, shall make or participate in any generation-skipping election or allocation decision if the power to do so would result in his or her having a general power of appointment (for federal estate and gift tax purposes) over property with respect to which he or she would (or might) not otherwise have such a general power; should this prohibition leave no executor able to make such an election or allocation, the office of executor for this limited purpose shall be filled in the manner that other vacancies in the office of or trustee of this trust would be filled.

(i) Section 2652(a)(3) election. If an election is to be made to qualify all or part of the Marital Trust for the federal estate tax marital deduction, and if a generation-skipping reverse QTIP election is to be made, the Marital trust so qualified shall, if and as necessary, be divided and established as two separate trusts rather than one in order to permit the reverse QTIP election to be made with respect to one of these trusts (the "Reverse Marital Trust," of which the first settlor to die rather than the surviving settlor will be transferor for generation-skipping purposes) but not with respect to the other (still, simply, the "Marital Trust"), with the latter (the Marital Trust) receiving the minimum dollar amount necessary to leave the Reverse Marital Trust with a corpus of the desired value.

(ii) Separate trusts, 0 or 1 inclusion ratios. If some or all of a settlor's generation-skipping exemption is to be allocated to any trust that is otherwise to be established under

this trust, or if some or all of surviving settlor's generation-skipping exemption is later to be allocated to any such trust of which the surviving settlor is transferor for generation-skipping purposes, unless the trust in question will thereby have a generation-skipping inclusion ratio of zero, that trust shall be divided and two separate trusts shall instead be established so that each will have a generation-skipping inclusion ratio of either zero (an "exempt" trust) or one (a "nonexempt" trust), with the nonexempt trust receiving the minimum dollar amount necessary to leave the exempt trust with an inclusion ratio of zero.

(iii) Manner of division: satisfying bequests in kind; payment of interest. Unless otherwise expressly provided in this trust any bequest or funding requirement of a dollar (i.e., pecuniary) amount as opposed to a fractional amount or residual transfer under the two preceding subparagraphs or any other provision of this trust may be satisfied in cash or in kind, in undivided interests, or partly in each; any assets that are used to satisfy the dollar amount shall be valued for this purpose at their date or dates of distribution; and each such dollar amount bequest or funding requirement in this trust shall bear interest from the date specified under applicable local law (and, if none, from the date of my death) to the date of payment, such interest to be at the statutory rate applicable to pecuniary bequests under state law governing the administration (and, absent such statutory rate, at 80 percent of the rate applicable under IRC Section 7520, or successor provision, at the date of my death). The foregoing interest requirement shall be interpreted and adapted to meet the "appropriate interest" requirement imposed by applicable proposed or final generation-skipping regulations (or by substitute or successor provision of the IRC or regulations).

(iv) QTIP taxes. Except as the surviving settlor directs otherwise in accordance with IRC Section 2207A (or successor provision), any estate or gift tax or other transfer tax

attributable to the Exempt Reverse Marital Trust, by reason of surviving settlor's death or an assignment by the surviving settlor shall be paid or recovered, entirely or to the extent possible, first (i) from any or proportionately from all nonexempt trust(s) (inclusion ratio of one) created by this trust due to the death of the first settlor (creator of the trust for generation-skipping purposes), and then (ii), if necessary, from the nonexempt Marital Trust, if any, rather than from the Exempt Reverse Marital Trust (inclusion ratio of zero) or its distributee(s).

Separateness of Exempt and Nonexempt Trusts. Except as otherwise expressly provided in this trust:

(i) When a trust is divided under the provisions of this ARTICLE TWO into exempt and nonexempt trusts or otherwise into separate trusts, each trust shall have the same provisions as the original trust (the "divided trust") from which it is established, and references in this trust to that divided trust shall collectively refer to the separate trusts derived from it; nevertheless, the Trustee may exercise administrative and distributive discretion, and donees of powers of appointment may exercise their powers, differently with respect to each of the separate trusts (even otherwise identical trusts) derived from the divided trust.

(ii) On termination, partial termination, division, subdivision or distribution of any of the various trusts created by this trust, and when it is provided (or appears to be provided) in this trust that various trusts are to be combined, the nonexempt (inclusion ratio of one) or exempt (zero inclusion ratio) or even partially exempt (should any have an inclusion ratio between zero and one) generation-skipping character of the property of the trusts shall be preserved.

(iii) Accordingly, when property is to be added to or combined with the property of another trust or other trusts, or when additional trusts are to be established from one or more

sources, nonexempt property or trusts shall not be added to or combined with exempt property or trusts, even if this requires additional separate trusts to be established with the same terms and provisions. (If, for example, the terms of a divided trust direct that on termination, or on nonexercise of a power of appointment, the trust property is to be added to another trust, then the exempt property of a separate trust that had been derived from the terminating trust shall be added only to an exempt trust derived from the recipient trust, and nonexempt property shall be similarly added only to a nonexempt recipient trust; and if no appropriate recipient trust exists for either exempt or nonexempt property, then a new trust of that character shall be established with the same terms and provisions as those of the trust that would otherwise have received that property.) Furthermore, in any case not covered by the foregoing directions (such as that of a partially exempt trust), if the generation-skipping inclusion ratio of any property that is to be added to or combined with a trust has a different inclusion ratio than that trust, the Trustee shall refrain from making the addition or combination and shall instead establish for that property a trust with provisions identical to those of the trust to or with which the property would have been added or combined.

Authority to Combine or Divide. The Trustee of any trust shall have sole discretionary authority to combine that trust with any other trust or trusts having the same inclusion ratio, including trusts established (during life or at death) by either settlor or any of their issue; and the Trustee shall establish shares within a trust if and as necessary to preserve the rights and protect the interests of the various beneficiaries (such as when trusts being combined do not have identical terms) or if the Trustee otherwise believes that separate shares are desirable (such as because different portions of the trust have different perpetuities periods). Conversely, the Trustee shall have sole discretionary authority to divide separate shares or separable portions of a trust and administer them as separate trusts. In addition (and as an exception to subparagraphs (ii) and (iii) of

the immediately preceding paragraph), trusts with different generation-skipping inclusion ratios may be combined if the Trustee makes a discretionary judgment that economic efficiency or other considerations justify sacrificing their separate generation-skipping characteristics. These powers to combine and divide trusts may be exercised from time to time, and may be used to modify or reverse their prior exercise. In deciding whether and how to exercise the authority granted in the paragraph, the Trustee may take account of efficiencies of administration, generation-skipping and other transfer tax considerations, income tax factors affecting the various trusts and their beneficiaries, present and future financial and other objectives of the trusts and beneficiaries, the need or desirability of having the same or different trustees for various trusts or shares, and any other considerations the Trustee may deem appropriate to these decisions.

Efficient and Tax-Conscious Administration. It is the settlors intention to encourage the Trustee to administer separate trusts under this trust in ways that, in the long run, are intended to reduce unnecessary income and transfer taxation among trusts and their beneficiaries and to make efficient utilization of available tax privileges, such as generation-skipping exemptions. Without limiting the foregoing, the settlors particularly authorize (but do not require) the Trustee, in administering different trusts wholly or in part for the benefit of a particular beneficiary or group of beneficiaries, to adopt different investment strategies and objectives for different trusts based on their generation-skipping ratios, and to prefer making distributions from nonexempt trusts to beneficiaries who are non-skip persons for generation-skipping purposes and from exempt trusts to those who are skip persons. Consistent with these objectives, the Trustee of any trust may share information, consult, and in all reasonable ways coordinate decisions and actions with other trustees and with personal

representatives under this trust, under other dispositions made by me, and under the wills and trusts of others when the various trusts or estates have, in whole or in part, similar beneficiaries or objectives.

"Interpretation". All provisions of this trust, except to the extent inconsistent with the marital deduction objectives of the Marital Trust or other transfer, shall be construed to provide for or to permit division, distribution and administration of trusts and other dispositions in a timely manner consistent with objectives of efficiently using available generation-skipping exemptions and of establishing and maintaining trusts that have inclusion ratios of either zero or one and are thus entirely exempt or entirely nonexempt.

Contingent general power of "Child's Nonexempt Trust". If all or any portion of the assets held in a Child's Nonexempt Trust would otherwise be subject to the generation-skipping tax on the child's death, then the child shall have a general testamentary power of appointment, provided this power will serve to prevent any generation-skipping tax on the appointive property at the child's death. This general power of appointment (which shall not apply to a Child's Trust that is only partially nonexempt) may be exercised in favor of any one or more persons or entities, including the child's own estate, either outright or in trust and on such terms, conditions and further powers (including general powers of appointment), as the child may appoint by specific reference to this particular power (not merely to powers of appointment generally) in his or her last will (or a codicil thereto); provided, however, if the child has no issue living at his or her death, the child shall have instead of the foregoing unlimited testamentary power (but in addition to any other power of appointment he or she may have) the testamentary power to direct that the same assets or portion thereof be applied to the payment of the claims of the creditors of his or her estate.

ARTICLE THREE
POWERS AND DUTIES OF TRUSTEE

To carry out the purposes of any trust created hereunder and subject to any limitations stated elsewhere in this trust, the trustee, is vested with the following powers with respect to the trust estate and any part of it, in addition to those powers now or hereafter conferred by law:

A. General Powers

1. To continue to hold any property and to operate at the risk of the trust estate any business that the trustee receives or acquires under the trust as long as the trustee deems advisable, including loaning funds to a business, or contributing capital to a business;

2. To manage, control, grant options on, sell (for cash or on deferred payments with or without security), convey, exchange, partition, divide, improve and repair trust property;

3. To lease trust property for terms within or beyond the term of the trust and for any purpose, including exploration for and removal of gas, oil and other minerals; and to enter into community oil leases, pooling and unitization agreements;

4. To borrow money, and to encumber or hypothecate trust property by mortgage, deed of trust, pledge or otherwise, for the debts or the joint debts of the trust and a co-owner of trust property;

5. To carry, at the expense of the trust, insurance of such kinds and in such amounts as the trustee deems advisable to protect the trust estate and the trustee against any hazard, damage, or loss and to protect the trustee against liability with respect to third persons;

6. To commence or defend such litigation with respect to the trust or any property of the trust estate as the trustee may deem advisable, at the expense of the trust;

7. To compromise, submit to arbitration, abandon or

otherwise adjust any claims or litigation against or in favor of the trust;

8. To invest and reinvest all or any part of the trust estate in such common or preferred stocks, including stock in the trustee, shares of investments trusts, and investment companies, bonds, debentures, options, financial futures contracts, mutual (including commodities futures contracts, forward and leverage contracts, index) funds, mortgages, deeds of trust, notes, personal or real estate, and any other property the trustee in the trustee's discretion may select foreign or domestic; and the trustee may continue to hold in the form in which received (or the form to which change by reorganization, split-up, stock dividend or other like occurrence), any securities or other properties the trustee may at any time acquire under this trust, it being the express desire and intention that the trustee shall have the full power to invest and reinvest the trust funds without being restricted to the forms of investments that the trustee may otherwise be permitted by law to make; and the investments need not be diversified; provided, however, that with respect to the Survivor's Trust and marital trust, the trustee shall be required to provide the income beneficiary substantially that degree of beneficial enjoyment of the trust property during the term of such trust that the principles of the law of trusts accord to a person who is unqualifiedly designated as the life beneficiary of a trust. In exercising these powers the trustee is not bound by legal restrictions on investment by trustees, and may acquire and maintain insurance on the lives of beneficiaries and may acquire, retain or improve assets on any reasonable basis despite the normal duty of trustees to diversify investments or to avoid or dispose of those that are unproductive, underproductive or of a wasting or overproductive nature. In particular, the settlors authorize and recommend holding, acquiring and investing the bulk of the trust estate or estates in commercial and other real estate if the settlors have

similarly invested in real estate before establishing the revocable trust under this declaration. The settlors also authorize retention or acquisition of residential and tangible properties for use by a settlor, settlors or other beneficiaries.

9. To have all of the rights, powers, and privileges of an owner of securities held in trust, including, but not by way of limitation, the power to vote, give proxies, and pay assessments; to participate in voting trusts and pooling agreements (whether or not extending beyond the term of the trust); to enter into shareholders' agreements; to consent to foreclosures, reorganizations, consolidations, mergers, liquidations, sales, and leases, and incident to any such actions to deposit securities with and transfer title to any protective or other committee on such terms as the trustee may deem advisable; and to exercise or sell stock subscription or conversion rights.

10. To carry out the purposes of any trust created in this Declaration of Trust, subject to limitations or additions stated elsewhere, the trustee is vested with all the powers set forth in the California Probate Code Sections 16200 to 16249 which are incorporated by reference in this trust, and made a part thereof, in addition to those powers now or hereafter conferred by law.

11. The trustee shall have the power to hold securities or other property in the trustee's name as trustee under this trust, or in the trustee's own name, or in the name of a nominee, or the trustee may hold securities unregistered in such condition that ownership will pass by delivery.

12. The trustee is expressly authorized to continue to hold and operate, to sell, or liquidate, at the risk of the trust estate, any business, partnership interest, or capital stock of any corporation, including a closely held corporation, that the trustee receives or acquires under this trust, as the trustee deems advisable.

(a) To purchase in the trustee's discretion at less than par, obligations of the United States of America that are redeemable at par in payment of any federal estate tax liability of either settlor in such amounts as the trustee deems advisable, and for that purpose, the trustee may partition a portion of the community property of the trust estate and make such purchase from either or both portions. The trustee shall exercise the trustee's discretion and purchase such obligations if the trustee has reason to believe that either settlor is in substantial danger of death, and may borrow funds and give security for that purpose, if the trustee believes, in the trustee's discretion, that federal estate taxes can be reduced by doing so. The trustee shall resolve any doubt concerning the desirability of making the purchase and its amount in favor of making the purchase, and in purchasing a larger, even though somewhat excessive, amount. The trustee shall not be liable to either settlor, and any heir of either settlor, or any beneficiary of this trust, for losses resulting from purchases made in good faith.

(b) Notwithstanding anything in this instrument to the contrary, the trustee is directed to pay the federal estate tax due on either settlor's death in an amount not less than the par value plus accrued interest of such obligations that are eligible for redemption in payment of the settlor's taxes, unless those obligations are selling in excess of par value, without apportionment or charge against any beneficiary of the trust estate or transferee of property passing outside the trust estate. The legal representative of the settlor's estate, or, if

none was appointed, the trustee acting under this instrument, shall select the redemption date of such obligations.

(c) The direction to use accrued interest on Treasury Bonds for payment of death taxes shall not deprive the surviving spouse of any income to which the surviving spouse may be entitled pursuant to the provisions of this trust, and such income shall be taken into consideration in determining the share of income to which the surviving spouse is entitled under the terms of this trust.

B. Determination of Principal and Income

Except as otherwise specifically provided in this trust, the determination of all matters with respect to what is principal and income of the trust estate and the apportionment and allocation of receipts and expenditures between these accounts and principal and income and establishing reserves shall be governed by the provisions of the California Revised Uniform Principal and Income Act from time to time existing. Any such matter not provided for either in this trust or in the California Revised Principal and Income Act shall be determined by the trustee in the trustee's discretion.

C. Division and Distribution of Trust Estate in Kind

In any case in which the trustee is required, pursuant to the provisions of the trust, to divide any trust property into parts or shares for the purpose of distribution, or otherwise, the trustee is authorized, in the trustee's absolute discretion, to make the division and distribution in kind, including undivided interests in any property, or partly in kind and partly in money, and for this purpose to make such sales of the trust property as the trustee may deem necessary on such terms and conditions as the trustee shall see fit.

D. Physical Division of Trusts

There need be no physical segregation or division of the

various trusts except as segregation or division may be required by the termination of any of the trusts, but the trustee shall keep separate accounts for the different undivided interests.

E. Transactions with Estate of Deceased settlor

The trustee in the trustee's discretion may purchase any property of a deceased settlor's probate estate at its fair market value determined by an independent appraisal and make loans to a deceased settlor's executor or administrator with interest at then current rates and to receive security for such loans in the form of a mortgage, deed of trust, pledge or other encumbrance of any properties of a deceased settlor's probate estate.

F. Transactions Between Trusts

As between the several trusts as may exist from time to time hereunder, the trustee in the trustee's discretion may purchase any property at its fair market value determined by an independent appraisal and make loans with interest at then current rates and to receive security for such loans in the form of a mortgage, deed of trust, pledge or other encumbrance of any assets of the trust.

G. Loans to Trust Estate

The trustee shall have the power to loan or advance the trustee's own funds to the trust for any trust purpose, with interest at current rates, and to receive security for such loans in the form of a mortgage, deed of trust, pledge or other encumbrance of any assets of the trust.

H. Taxes and Expenses

1. The trustee in the trustee's discretion may (or shall upon demand by the executor or administrator of a deceased settlor's probate estate if the Will of a deceased settlor so provides) pay to the executor or administrator of a deceased settlor's probate estate if the Will of a deceased settlor so provides) pay to the executor or administrator of the deceased settlor's probate estate such sum or sums as such executor or

administrator may certify to be due and payable from the deceased settlor's probate estate for last illness and funeral expenses, administration expenses and other obligations incurred for the deceased settlor's support, and all inheritance, estate or other death taxes payable by reason of the settlor's death.

2. The trustee shall not provide funds for any payment pursuant to this Paragraph from proceeds received from qualified retirement plans that are excludable from the deceased settlor's gross estate for federal estate tax purposes under Internal Revenue Code Section 2039 or 2042, or any successor statute or from proceeds of life insurance policies on the deceased settlor's life.

3. Anything in this trust or the Will of the deceased settlor in question to the contrary notwithstanding, if the trust estate includes United States obligations which are redeemable at par (unless such obligations are selling in excess of par value) in payment of federal estate taxes, the trustee shall utilize such obligations for the payment of such federal estate taxes to the full extent of the deceased settlor's interest in any such obligations which may be so used, prior to the application of any other assets in the trust estate or the deceased settlor's probate estate.

I. Distribution to Minors

The trustee in the trustee's discretion may make payments to a minor or other disabled beneficiary by making payments to the guardian or conservator of his person, to any suitable person with whom the beneficiary resides or cares for him, or the trustee may apply payments directly for the beneficiary's benefit. However, the trustee may make no payments to the parent of a minor beneficiary for the minor's account unless the parent shall first agree with the trustee in writing that he will not use the payments to discharge his legal obligation to support the minor under the laws of the state of his domicile. The trustee in the trustee's discretion may make payments directly to a minor if in the trustee's judgment he is of sufficient age and maturity to spend the money properly.

J. Continuation of Trust for Benefit of Minors

If any part of the trust estate should become distributable to a beneficiary who shall not yet have attained age twenty-one (21), then, anything in this trust to the contrary notwithstanding, the share of the trust estate distributable to each such person shall be retained and administered by the trustee in a separate trust; and the trustee shall pay to or apply for the benefit of such person as much of the net income and principal of such person's trust as the trustee in the trustee's discretion deems necessary for such person's proper support, care maintenance and education, after taking into consideration, to the extent the trustee deems advisable, any income or other resources of such person outside of such person's trust, known to the trustee. Any net income in any year not distributed shall be accumulated and added to principal at the end of that year. When such person attains age twenty-one (21), the trustee shall distribute to such person the undistributed balance of his trust. If such person dies before becoming entitled to receive distribution of his entire trust, the undistributed balance of such person's trust shall thereupon be distributed to his then living issue, by right of representation, or, if there are none, to the settlors' then living issue, by right of representation; provided, however, that if any part of that balance would otherwise be distributed to a person for whose benefit a trust is then being administered hereunder that part shall instead be added to that trust and shall thereafter be administered according to its terms, except that, in the case of any trust that has been partially distributed because of a beneficiary's attainment of a designated age, any addition shall augment proportionately the distributed and the undistributed portions of the trust.

K. Notice of Events Affecting Interests

Unless the trustee shall have received actual notice of the occurrence of an event affecting the beneficial interests of its

trust, the trustee shall not be liable to any beneficiary of this trust for distribution made or other actions taken in good faith as though such event had not occurred.

L. Court Approvals and Accounting

The trustee shall be under no duty to obtain authority or approval of any court in the exercise of any power conferred in this trust, and shall be under no duty to make current accountings to any court. Annual accountings shall be made by the trustee to each then income beneficiary of this trust not under legal disability and to the guardian, conservator or other fiduciary of the estate, if any, otherwise to the parent of each then income beneficiary of this trust under legal disability. Unless any of such persons object or take exception thereto by written notice delivered to the trustee within ninety (90) days after receipt of each of said annual accountings, such annual accountings shall be deemed settled and shall be final and conclusive in respect to transactions disclosed therein as to all beneficiaries of the trust, including unborn and unascertained beneficiaries, except for the trustee's intentional wrongdoing or fraud.

M. Limit of Trustee's Powers

Subject to any limitations stated elsewhere in this trust, all discretions vested in the trustee shall be absolute and their exercise final and conclusive on all persons interested in this trust. The enumeration of certain powers of the trustee shall not limit general and implied powers of the trustee, subject always to the discharge of the trustee's fiduciary obligations. If at any time during the term of this trust a beneficiary is also a trustee hereunder, he shall not participate in the exercise of any discretionary power relating to his distributive share of principal or income whenever this is necessary to prevent the value of said distributive share from being includable in whole or in part in his gross estate for federal estate tax purposes. In any such case, such discretionary power

shall be vested solely in the corporate trustee, if any, otherwise the successor trustee.

N. Authority of Trustee

Any instrument executed by the trustee shall be binding on all parties hereto and on all beneficiaries hereunder. No person shall be under any duty to inquire as to the trustee's powers or to see to the application of any money or property paid to the trustee.

O. Occupancy of Residence

The surviving settlor shall have the right to continue to occupy any real property in the trust estate that settlors were using for residential purposes (whether on a full or part-time basis, including resort property); provided that the surviving settlor, in the surviving settlor's discretion, may direct the trustee to sell any such property and replace it or rent or lease another residence selected by the settlor of comparable or lower value. The trustee shall pay a proportionate part of the mortgage or trust deed payments, property taxes, assessments, insurance, maintenance and ordinary repairs on all such property, or any rent or lease payments equal to the trustee's proportionate interest in the property. Such payments shall be made out of the income or principal of the trust estate in the trustee's discretion.

P. Power to Employ Agents and Advisers

The trustee is authorized to employ custodians, investment advisers, attorneys, accountants, and any other agents or advisers to assist the trustee in the administration of this trust, and to rely on the information and advice given by such agents and advisers. Reasonable compensation for all such services performed by such agents and advisers shall be paid from the trust estate out of either income or principal as the trustee in the trustee's discretion shall determine.

Q. Disclaimer

The trustee may disclaim, release, or restrict the scope of any power held in connection with any trust created herein, including any administration power, whether such power is expressly granted in this trust, in a will, or implied by law, by a written instrument specifying the power to be disclaimed, released, or restricted and the nature of any such restriction. Any power disclaimed or released by the trustee shall be extinguished, except to the extent this trust or the document creating the power expressly provides that such power pass to another.

R. Allowance of Marital Deduction

It is the settlor's intention that the marital trust shall be entitled to a marital deduction under federal law, and that the surviving spouse shall have the full benefits of a life beneficiary in the marital trust. Anything in the Declaration of Trust to the contrary notwithstanding, as to the marital trust, the trustee shall exercise the powers and discretions granted in this trust, and by statute only in a manner consistent with this intention and with the allowance of the federal estate tax marital deduction. Any such powers and discretions that may disqualify the marital deduction for the marital trust shall not be applicable to such trust.

S. Power to Adjust for Tax Consequences

Without limiting the surviving settlor's rights, the trustee shall have the power in the trustee's discretion to take any action to make any election to minimize the tax liabilities of any trust created in this Declaration of Trust, and for the benefit of the beneficiaries, to allocate the benefits among the various beneficiaries, and to make adjustments in the rights of any beneficiaries, or between the income and principal accounts, to compensate for the consequence of any tax election or any investment or administration decision that the trustee believes has had the effect, directly or indirectly, of preferring one beneficiary or group of beneficiaries over others.

T. Counteraction in Revocable Trust or Nonprobate Transfer Rules (CA Prob. Code, Part 1 of Division 5, enacted 1992); see esp. Prob. C. Sections 5023(a) and 5023(b)(3), but cf. Section 5011.

The Settlers intend that the terms of this declaration of trust shall be carried out as written, and the provisions of Articles 2 and 3 of Part 1 of Division 5 of the California Probate Code (dealing with consent to nonprobate transfers) shall have no application to this trust.

U. Independent Signature of Trustee

If at any time there is more than one trustee, if all the trustees consent, any bank account, savings account, brokerage account or similar account may provide that all transactions for withdrawals, writing of checks, and like funding may be duly and validly authorized on the signature of one trustee.

V. Distributions

The trustee is authorized to make prorata or non prorata distributions.

ARTICLE FOUR

GENERAL PROVISIONS

The following general provisions shall govern the administration of this trust:

A. Right to Add Property to Trust

The settlers jointly, or either of them, or any other person, may from time to time, with the consent of the trustee, cause the trustee to be named as primary or contingent beneficiary of insurance policies and add further property to the trust estate or any part thereof by lifetime transfer, by will or otherwise.

B. Trustees

1. No bond shall be required of any person or bank named as the trustee in this trust or appointed as the trustee in the manner specified in this trust.
2. The trustee may resign at any time by thirty (30) days written notice signed by the trustee and delivered to

each current income beneficiary not under legal disability and to the guardian, conservator or other fiduciary of the estate, if any, otherwise to the parent, of each current income beneficiary under legal disability. If any trustee at any time resigns or fails to assume the responsibilities of trustee, a majority in interest of the persons entitled to such notice shall appoint a successor trustee, by written notice delivered to the resigning trustee within thirty (30) days after receipt of said notice of resignation. If a successor trustee shall not be so appointed, the resigning trustee shall have the right to appoint a successor trustee or to petition a court of competent jurisdiction to appoint a successor trustee, at the expense of the trust estate. Any successor trustee appointed must be a corporation authorized under the laws of the United States or of the State of California or of any other state to administer trusts and having total capital, surplus and undivided profits of not less than Five Million Dollars (\$5,000,000).

3. The title to the trust estate shall vest forthwith in any successor trustee, but the resigning trustee shall nevertheless execute and deliver all instruments and perform all acts necessary to vest such title in any successor trustee of record. No successor trustee shall be under any duty to examine the accounts, records and acts of any former trustee, nor shall any successor trustee be liable or responsible for the wrongful act or neglect of any former trustee. The term "trustee" as used in this trust shall include any successor trustee.
4. Any corporate trustee shall be entitled to receive reasonable compensation for services rendered hereunder in accordance with the corporate trustee's schedule of

compensation currently in effect when the services are performed. Any individual trustee shall only be entitled to reasonable compensation for services actually rendered hereunder.

5. If the trustee shall for any reason be unable to act as trustee with respect to any real property situated outside the State of California because of the laws of such situs state, such person or persons or corporation as may from time to time be appointed by the trustee in writing (referred to as the "appointed trustee" shall act as trustee with respect to such property. The appointed trustee shall have all the powers and duties with respect to such property as are given to the trustee in ARTICLE THREE of this trust, and the appointed trustee shall also make annual accountings to the trustee. The appointed trustee shall remit to the trustee the net income from such property, and the proceeds thereof if such property be sold, exchanged or otherwise disposed of. Such appointed trustee may employ the trustee as agent in the administration of such property. The trustee may remove such appointed trustee and appoint another by ten (10) days written notice signed by the trustee and delivered to the appointed trustee. No bond shall be required of any trustee or agent under the provisions of this Paragraph, or if a bond is required by law, no surety bond shall be required on such bond.
6. If at any time during this trust there are co-trustees, as between the trustees, the corporate trustee shall have custody of all personal property of the trust estate and shall maintain all records and accounts of the trust estate. Neither trustee shall be liable for the wrongful act or neglect of the other. The corporate trustee shall be entitled to the same

compensation as though it were acting as the sole trustee, and the individual trustee shall only be entitled to such additional compensation for his services as is approved by a court having jurisdiction over the trust estate.

C. Life Insurance

The rights, powers and duties of the trustee and of the owner of any life insurance policy payable to any trust created hereunder shall be as follows:

1. The owner of each such policy reserves all, rights, options, privileges and benefits of any kind which he may otherwise have or which may accrue on account of such policy, to be exercised by and accrue to him without the consent or participation of the trustee or any beneficiary of this trust.
2. Notwithstanding anything herein contained to the contrary, neither settlor shall have any right, title or interest, either as a beneficiary or as a trustee, in any life insurance policies under which that settlor is named as the insured nor in any proceeds therefrom, which may become an asset of this trust or under which this trust may be named as the beneficiary. Should any such policies become an asset of this trust or should any proceeds from such policies be received under this trust, they shall be held and administered by the co-trustee of the respective insured or by the successor trustee of the insured, and they shall be administered as though the insured were then deceased, only with respect to those specific life insurance policies and/or proceeds from policies on the life of the respective insured settlor. The insured settlor does hereby irrevocably revoke and waive any rights which that settlor may have in such policies either as beneficiary or as trustee and does further waive any

such rights which that settlor may have should such policies or proceeds therefrom become assets of this trust in the future.

3. Trustee shall be under no duty to pay premiums, assessments or other charges upon any of such policies, to ascertain or notify any person with respect to such payments, or to otherwise keep any of such policies in force. If at any time the owner should be under legal disability, the trustee may in the trustee's discretion pay any premiums upon such policies. The trustee shall hold such policies subject to the owner's written order, without obligation other than the safe custody of such policies as may be delivered to the trustee.
4. Upon receipt of proof of death of the insured, and upon receiving possession of such policies, the trustee shall use reasonable efforts to collect the proceeds of such policies. The trustee shall be under no duty to prosecute any action to collect any sums payable under the terms of such policies, or to defend any action relating to such policies, unless indemnified in manner and amount satisfactory to the trustee. The trustee may compromise, arbitrate or otherwise adjust any claim arising out of any of such policies.
5. No insurance company shall be under any duty to inquire as to the trustee's powers or to see to the application of any proceeds paid to the trustee under any of such policies, and the receipt of the trustee for any such payment shall be a full release and discharge of liability of the insurance company making such payment.
6. Unless any revocation of this trust is made expressly dependent upon an effective change in any beneficiary designation, it shall become effective upon delivery of written notice to the trustee and, if the owner's death should occur before such beneficiary designation becomes effective, any proceeds of such policy received by the trustee shall be paid by the trustee to the

executor or administrator of the owner's estate, and the receipt of such executor or administrator shall be a full release and discharge of liability of the trustee hereunder.

7. As used in this trust, the term "life insurance policy" shall include pension, profit-sharing and any other forms of retirement benefit plans; and the term "insurance company" shall include the trustee or administrator of any retirement benefit plan.

D. Education

Whenever provision is made in this trust for the payment for the "education" of a beneficiary, the term "education" shall be construed to include college and postgraduate study, so long as pursued to advantage by the beneficiary, at an institution of the beneficiary's choice; and in determining payments to be made for such college or postgraduate education, the trustee shall take into consideration the beneficiary's related living and travel expenses to the extent that they are reasonable. If any beneficiary appears to the trustee to be in need of educational assistance at a lower level than above mentioned in order to render more probable his admission to such an educational institution, the trustee is authorized to supply such financial aid as it considers advisable.

E. Spendthrift Provision

The interests trust beneficiaries under this declaration of trust shall not be transferable by voluntary assignment or encumbered, and to the extent permissible by law shall be free from execution, attachments, creditor's claim, bankruptcy, or to legal procedures for the satisfaction of creditors' claims prior to its actual receipt by the beneficiary.

F. Termination of Trust

Unless sooner terminated in accordance with other provisions of this trust, each trust created hereunder shall terminate twenty-one (21) years after the death of the last survivor of the