

1 Q. Are there better deals out there?

2 A. Again, I can't answer that question  
3 without looking at it.

4 Q. So that would depend on the individual  
5 property manager?

6 A. Absolutely.

7 MR. MILLSAP: Nothing further. Thank you  
8 for the Court's time.

9 THE COURT: Recross, Mr. Robertson?

10 MR. ROBERTSON: I don't think so, Your  
11 Honor.

12 THE COURT: You're free to step down.

13 Mr. Resnick, do you have any other  
14 witnesses on the Lavender Pinewood issue?

15 MR. RESNICK: Yes.

16 THE COURT: Call your next witness  
17 please.

18 MR. RESNICK: Gina Kim.

19 MR. MILLSAP: Your Honor, if I may,  
20 unless the Court needs Mr. Sims for anything  
21 further, I believe he has a flight to catch.

22 THE COURT: If we are going to have  
23 rebuttal in the case, we are going to have to  
24 schedule it sometime in the distance, so he can  
25 leave now. We will not call him between now and

1 tomorrow.

2 MR. MILLSAP: Thank you, Your Honor.

3 THE COURT: Hold on. Thank you,

4 Ms. Clerk. I am told he has some exhibits in his

5 hand. I want to make sure that our housekeeping --

6 I'm not accusing you of theft. I just want to make

7 sure our record reflects what you have.

8 Counsel, have you figured that out?

9 As long as the witness doesn't leave with

10 any original marked exhibits in his hands.

11 Ms. Kim, if you'll come forward, please,

12 and follow the deputy's instructions.

13 GINA KIM

14 after having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. RESNICK:

17 Q. Gina, you are an attorney?

18 A. Yes, in California.

19 Q. You work for a wonderful man?

20 A. I do.

21 Q. Thank you very much.

22 THE COURT: No further questions, right?

23 MR. RESNICK: I just needed to clear that

24 up.

25 THE COURT: I have to remember that as an

1 example. I know this is a very serious matter to  
2 everyone, and if we smile, it doesn't diminish the  
3 importance of what we are doing here, but I  
4 occasionally recount the courtroom experiences when  
5 I speak and I create a record, and I'm going to use  
6 that. That's a great example. It was done in good  
7 humor.

8 BY MR. RESNICK:

9 Q. In reviewing the files for Mrs. Frasier,  
10 do you recall when my law firm became involved with  
11 Mrs. Frasier?

12 A. I believe November 2016.

13 Q. Between then and now, do you have an  
14 estimate as to how many meetings, personal meetings  
15 you had with Mrs. Frasier?

16 A. Personal meetings that I was in with  
17 Mrs. Frasier, I would say about 18, 18 meetings  
18 including two birthday lunches that you hosted, so  
19 mostly meetings at the office, at the firm, and some  
20 outside as well.

21 Q. To repeat, 18 meetings plus two luncheons  
22 for her birthday?

23 A. Including the lunches, but we did talk  
24 about her case, so I am including that in the 18.  
25 It might be 18, 19, give or take.

1 Q. Where did those meetings occur with the  
2 exception of the two restaurants?

3 A. The location of the meetings?

4 Q. Yes.

5 A. Mostly were at Vogt, Resnick, Sherak, the  
6 office and some were -- there were one or two  
7 meetings at Ms. Mulrain's office where I went there  
8 to meet with Mrs. Frasier.

9 Q. Generally speaking, what was discussed  
10 with Mrs. Frasier, what types of issues?

11 A. Well, there were multiple issues that  
12 were discussed.

13 THE COURT: I want to be very, very  
14 careful here because I'm listening correctly.

15 Ms. Kim was her attorney, and you are  
16 asking questions that cause her to disclose the  
17 content of attorney-client conversations, which  
18 means there will be a waiver of some type available  
19 to Mr. Robertson to drive through that  
20 attorney-client door.

21 MR. RESNICK: I'm only asking that she  
22 define the issues and not the content.

23 THE COURT: I trust you and opposing  
24 counsel as zealous, competent advocates. I just  
25 want to be very careful here.



1           You'll have to monitor it wisely, if you  
2       would, please. You know where you're going, and  
3       I'll just sit back and trust.

4       BY MR. RESNICK:

5       Q.   Let me rephrase the question. During any  
6       of these meetings, did she express her concern as it  
7       relates to the Pinewood or Lavender properties?

8       MR. ROBERTSON:-- Your Honor, I just would  
9       like to indicate that I believe that question calls  
10      for revealing attorney-client confidentiality.

11      THE COURT:-- It might.

12      MR. ROBERTSON: She is free to answer it,  
13      but I just want it on the record that I plan to say  
14      there has been a waiver if she answers that  
15      question.

16      THE COURT: And I'll have to probably  
17      measure the waiver issue and maybe even do some  
18      research because a dime doesn't equal a dollar in  
19      every instance, but that answer will implicate  
20      attorney-client conversations.

21      MR. RESNICK: One second, Your Honor.

22      THE COURT: Yes.

23      BY MR. RESNICK:

24      Q.   Let me rephrase the question. In these  
25      18 meetings you had, was Janie Mulrain present

1 during one or more?

2 A. Yes. One or more, not all, but there  
3 were several, at least, meetings that Ms. Mulrain  
4 was also in attendance.

5 Q. So those meetings that Janie Mulrain  
6 attended with you and Mrs. Frasier, was there  
7 discussions of the Pinewood and Lavender properties?

8 A. Yes. There were some --  
9 THE COURT: Yes, and then your question,  
10 please?

11 BY MR. RESNICK:

12 Q. What was discussed?

13 MR. ROBERTSON: Your Honor --

14 THE COURT: I think right now he's being  
15 inartful, and I'm going to let it go.

16 MR. ROBERTSON: Okay. I just wanted to  
17 make the point that I believe Ms. Mulrain is a  
18 representative of Ms. Frasier, and therefore, she is  
19 not -- her presence does not necessarily mean that  
20 there was no attorney-client privilege, so.

21 MR. RESNICK: Your Honor, we did not  
22 retain Mrs. Mulrain. Ms. Frasier did. She is not  
23 an attorney.

24 MR. ROBERTSON: But she does hold her  
25 power of attorney, so it's a difficult issue, Your

1 Honor.

2 THE COURT: Let me just think for a  
3 moment about what is happening, so I can think and  
4 not listen.

5 Who came first, you or Ms. Mulrain?

6 MR. RESNICK: My firm.

7 THE COURT: Did Ms. Mulrain come because  
8 of your recommendation or introduction?

9 MR. RESNICK: Yes.

10 THE COURT: I struggle when I hear  
11 independent decision-making ascribed to Ms. Frasier  
12 partly because I haven't seen her and I just have  
13 all these -- I'm not sure how I feel about the fact  
14 that Ms. Frasier is an independent capacitated  
15 decision maker who isn't operating with some  
16 guidance.

17 If Mr. Robertson recalled Ms. Mulrain and  
18 walked her through a series of conversations that  
19 she has had with you and your law firm, you would  
20 likely object as implicating a privileged  
21 conversation.

22 MR. RESNICK: I don't think I would  
23 object.

24 THE COURT: You don't think you would  
25 object?

1 MR. RESNICK: As long as it doesn't waive  
2 attorney-client privilege, and I don't think it  
3 would.

4 THE COURT: So Ms. Mulrain's entire  
5 relationship with you, strategy meetings, witness  
6 coaching, common gripes about Judge Hardy, whatever  
7 it is, fair game, not protected?

8 MR. ROBERTSON: Your Honor, I would just  
9 add that if Ms. Mulrain was present for these  
10 meetings that he is asking about, why doesn't she  
11 describe what Ms. Frasier said, and then we won't  
12 have to worry about an attorney for Mrs. Frasier  
13 testifying to what Mrs. Frasier told her.

14 THE COURT: It seems cleaner to me, but I  
15 don't know -- a good lawyer speaks with the witness  
16 before court. There's nothing invidious about it.  
17 In fact, there's a jury instruction that  
18 specifically operates under that.

19 I assume that this witness is prepared to  
20 testify about some things, and Ms. Mulrain isn't. I  
21 don't know. What he suggests is very clean.

22 MR. RESNICK: I'm prepared to do that.

23 THE COURT: Let's leave it to Ms. Mulrain  
24 then to go down this line. I just don't want to  
25 create unintended harm and error.

1 MR. RESNICK: Understood.

2 THE COURT: Okay.

3 BY MR. RESNICK:

4 Q. Gina, did you have any involvement in  
5 preparing a prehearing statement?

6 A. Yes.

7 Q. Did you do the calculations as to the  
8 amount of lost rental income?

9 A. Yes. Based on the report of Mr. Sims.

10 Q. Did you deduct for vacancy or taxes or  
11 broker's commissions?

12 A. No.

13 MR. RESNICK: I have no further  
14 questions, Your Honor.

15 THE COURT: Questions of this witness,  
16 please?

17 MR. ROBERTSON: Very briefly, Your Honor.

18 May I approach to get Exhibit 5?

19 THE COURT: Yes.

20 CROSS-EXAMINATION

21 BY MR. ROBERTSON:

22 Q. So Ms. Kim, are you saying that you  
23 prepared Exhibit 5 then?

24 A. I did not personally prepare this. My  
25 assistant did from my office.

1 Q. Did you review your assistant's work?

2 A. Yes. I believe I did.

3 Q. Are you able to testify that the numbers  
4 on Exhibit 5 are true and correct to the best of  
5 your knowledge with respect to the expenses and the  
6 rental income?

7 A. Well, I don't have the backup evidence in  
8 front of me to give that answer.

9 Q. Okay. So you're not the person to ask  
10 about this exhibit either, correct? It would be  
11 your assistant?

12 A. Technically, yes.

13 MR. ROBERTSON: Okay. That is all I  
14 have, Your Honor.

15 MS. KIM: But I can say that I did give  
16 her explicit instructions on how to prepare this,  
17 how to compile this information. There was no  
18 discretion on her part. She only gathered the  
19 information from other people's reports such as  
20 Mr. Sims' report and moved that information onto  
21 this spreadsheet.

22 MR. ROBERTSON: I don't think I can lay a  
23 foundation through this witness for that document.  
24 Thank you.

25 THE COURT: Do you have any redirect?

1 MR. RESNICK: No, Your Honor.

2 THE COURT: Thank you. You're free to  
3 step down. Counsel, do you have any other witnesses  
4 on this issue?

5 MR. RESNICK: No, Your Honor.

6 THE COURT: Okay. I'm going to defer  
7 arguments on this issue until we get through some  
8 more testimony.

9 I want to hear from the two children. I  
10 am not foreshadowing my decision, but my mind has to  
11 work in a certain way. Before I put these notes  
12 aside, I think I have three more questions.

13 Revealing my ignorance is less important  
14 than having full information, and I cannot remember  
15 when Ms. Frasier stopped serving as a co-trustee.  
16 I'm confident I knew it at one point, and it's even  
17 in the record. Can anybody help me with that?

18 MR. MILLSAP: Your Honor, at the October  
19 16, 2017 hearing, we stipulated to Mrs. Frasier's  
20 resignation as a co-trustee at that hearing.

21 THE COURT: Well done, Mr. Millsap.

22 MR. MILLSAP: Thank you, Your Honor.

23 THE COURT: So I just want to get my  
24 chronology right, and my question is really intended  
25 to inspire arguments as I reveal some uncertainties.

1 It appears to me that Mr. Resnick was  
2 retained, by check, on November 25, 2016. He made  
3 an appearance in this action by pro hac vice  
4 application on March 29th, 2017, and Ms. Frasier  
5 continued to serve as trustee until October of 2017.

6 I pause when I see a loss calculation  
7 dating back to 2015, during which time Ms. Frasier  
8 herself was a co-trustee and could have embarked  
9 upon the selling and the renting of these  
10 properties, and after she was represented by counsel  
11 could have embarked upon selling and renting  
12 efforts, so I'll need you to tie those gaps up in  
13 your arguments.

14 The span of time dating back to 2015  
15 seems unresolved to me, and with that, no response  
16 invited, just bear that in mind as you prepare your  
17 arguments. Let's all stand.

18 (Break taken at 2:46 p.m.)

19 THE COURT: I think it's appropriate to  
20 give Mr. Bradley Frasier the right of a narrative in  
21 which he advocates as a pro se party the relief he  
22 seeks and the bases, but then he will be subject to  
23 cross-examination by any lawyer whose client he  
24 implicates.

25 With that, sir, if you will follow the



1 deputy's instruction, I'll need you on the witness  
2 stand, please.

3 (Whereupon Bradley Frasier was sworn)

4 THE COURT: You may proceed, sir.

5 DR. FRASIER: Thank you, Your Honor. I  
6 can fill-in the gaps of 2015.

7 THE COURT: The time is yours to do as  
8 you please.

9 DR. FRASIER: Thank you so much.

10 So in December 2014, my mother and I --  
11 Dinny Frasier, my mother Dinny Frasier and I had an  
12 agreement that would call for me to pay back the  
13 loan for the medical building that she and my father  
14 had given to me.

15 A little background. We bought the  
16 building in 2008. That was, as everyone remembers,  
17 it was the real estate and financial crash. Banks  
18 were very tight with lending money.

19 I identified the property as a property  
20 that I could expand my practice into. My partner  
21 was not able to participate in the real estate  
22 venture. We were moving a two-person office from  
23 1,500 square feet to 7,000 square feet.

24 My father agreed to loan me \$325,000,  
25 which was half of the down payment for the building.

1 He refused to personally take responsibility for the  
2 loan.

3 If the business and real estate venture  
4 failed, which it certainly could have, given the  
5 circumstances, my wife and I were on the hook for  
6 about \$1.8 million, which was the mortgage, alone.

7 My father indicated to me in personal  
8 conversations and in conversations with my  
9 accountant and his attorney that he considered the  
10 money that he loaned me part of my future  
11 inheritance. He didn't want me to pay him back, and  
12 I offered to pay him back.

13 I said to him that I want to pay you back  
14 because I want to avoid any conflict with my sisters  
15 that might occur after you pass away, and he assured  
16 me that his attorney had taken care of all the  
17 paperwork, and everything was taken care of that  
18 would call for the medical building to come to me,  
19 Amy's house to go to her, and Nori's house to go to  
20 her.

21 I had presented many documents that show  
22 that my father did not declare the building as an  
23 asset or as a liability on his income taxes from  
24 2008 to 2014.

25 I know we spoke previously about Judy

1 Hamilton's opinion, and I understand that you can't  
2 take that, but it is common knowledge and it's  
3 available to everybody on the IRS.gov site that you  
4 have to pay your taxes, and if you have income, you  
5 have to declare it in the year that it was received.

6 That is common knowledge that everyone  
7 here should know.

8 THE COURT: I can take judicial notice  
9 that earnings are reportable and taxable in the  
10 calendar year. Now, what constitutes earnings and  
11 expenses, but yes, I understand.

12 DR. FRASIER: Thank you. So that  
13 resolves one of Mr. Robertson's arguments, which I'm  
14 sure he'll bring up later, that he has brought up to  
15 me before.

16 Anyway, in 2015, early 2015, I have  
17 stated this in all of the documents that I have  
18 provided, I spoke with my sisters and my mother, and  
19 I gave my mother \$50,000 in December 2014, and I  
20 said that we need to resolve this or there will be  
21 legal problems and the lawyers will win and we will  
22 all lose, and I predicted that in 2015, and that has  
23 come true.

24 My sister Amy and her husband Bill  
25 systematically, in a textbook case of undue

1 influence, isolated Dinny from the rest of her  
2 family in order to influence her in an undue manner,  
3 and part of that was to say that the trust owned a  
4 50 percent equity position in the medical building.

5 I know that my parents are listed as 50  
6 percent owners on the deed, which was a requirement  
7 by the bank in 2008 because of the circumstances,  
8 but because of my father's behavior, he didn't  
9 consider himself a 50 percent equity owner.

10 All of the evidence supports that. There  
11 is absolutely zero evidence that shows that my  
12 father wanted to participate in the business aspect  
13 of the building.

14 The family estate attorney, Brooks  
15 Travis, ignored that fact and he ignored Dinny's  
16 wishes and my wishes, and Dinny ultimately fired him  
17 in November 2016 for that.

18 Amy and Bill isolated my mother, and as I  
19 spoke previously, there was just a period of silence  
20 where there was absolutely no communication.

21 I live about an hour south. I came to  
22 see Dinny in March 2016 on her birthday, and Wendy  
23 was there. We have somebody who submitted something  
24 from the cousin Wendy.

25 I brought my mom a present, and she

1 accused me of reneging on our agreement for me to  
2 pay her back in March 2016. She accused me of  
3 reneging on the agreement.

4 I was under the impression that her  
5 attorney was communicating with her. I had asked  
6 him to do that. There were a lot of other things  
7 that were said that I know came specifically from  
8 Amy because they were untruths, and Dinny was very  
9 susceptible to that because she has mild to moderate  
10 cognitive impairment, and she has had that since  
11 about 2010.

12 She had trouble with her short-term  
13 memory. She has kept her wit and her happiness, but  
14 she can't remember what she had for breakfast. She  
15 can remember what she did in 1945, but can't  
16 remember what she had for breakfast.

17 Because of that, I became -- I kind of  
18 backed away. I didn't really communicate with my  
19 mother because she accused me of that, and there was  
20 silence.

21 Again, I left messages, very nice  
22 messages. We need to resolve this, Amy and Bill and  
23 Dinny, or we're going to spend tens of thousands of  
24 dollars in legal fees to do it. Well, as I  
25 mentioned, it's hundreds of thousands of dollars in

1 legal fees.

2 2016 -- I'm sorry. 2015 went on and  
3 Brooks Travis recommended Premier Trust because they  
4 have offices in Irvine, so I said okay. Nori and I  
5 weren't really involved in the decision, but okay,  
6 Irvine, that's good for Dinny because she can go  
7 visit them. It's in Irvine.

8 Well, I don't think anybody knew that  
9 their home was in Nevada, in Las Vegas or Reno.  
10 Nobody knew that.

11 Again, I contacted Nicole Shrive in  
12 November of 2015, and my personal tax attorney  
13 contacted Nicole, and my accountant was saying, What  
14 are we going to do about the medical building? How  
15 are we going to treat this from a tax standpoint?

16 We had been declaring all the tax revenue  
17 and the depreciation and all that, or we had paid  
18 all the taxes.

19 THE COURT: When you use the pronoun  
20 "we," you are referring to your wife and you?

21 DR. FRASIER: My wife and I.

22 THE COURT: You and your wife on your  
23 schedule C or whatever schedule took 100 percent of  
24 the business or the building economic energy,  
25 income, expenses, depreciation?

1 DR. FRASIER: Exactly, yes, and the  
2 building was in the negative about \$38,000 total  
3 profit and loss in late 2014 when my father died, so  
4 he didn't give any more money to the building. He  
5 didn't pay any more for the tenant improvements.

6 It was a concrete shell, so my wife and I  
7 put in over \$550,000 of our own money, plus another  
8 \$200,000.

9 THE COURT: Hold on. Ma'am, I'm going to  
10 have you sit with your husband.

11 Here is the problem. I can see you at  
12 the same time I'm listening to the witness, and you  
13 are communicating nonverbally to everything he is  
14 saying by shaking your head.

15 Now, you're speaking while he is  
16 speaking, so I just need you to sit back there and  
17 be calm. You'll have your chance.

18 DR. FRASIER: My wife and I paid for the  
19 tenant improvements. We occupied 5,000 square feet,  
20 my practice, and then we had 1,000 square feet that  
21 was vacant, and we developed another 1,000 square  
22 feet where we had a tenant for several years.

23 In essence, the building was losing money  
24 for the first -- certainly, as long as my father was  
25 alive. He didn't participate at all, and he didn't

1 want to, and that is why he didn't declare on his  
2 taxes because he didn't consider himself -- he  
3 didn't consider himself part of that.

4 He didn't want to pay taxes. He didn't  
5 want to -- he didn't even declare it to his  
6 accountant, and his accountant didn't ask my  
7 accountant for any of the financial information, so  
8 they would totally -- off of the --- for all intents  
9 and purposes, the money, the \$325,000 was a gift or  
10 a loan, and I don't know how anyone can refute that.  
11 I know there are differences of opinion,  
12 but I don't know how you could refute that.

13 Anyway, we talked with Nicole. We tried  
14 to resolve it. We pleaded with Nicole. Let's  
15 resolve this. Brooks Travis made a mistake. He  
16 shouldn't have declared the building on the Form 706  
17 based on the instructions for the 706.

18 THE COURT: I want to understand that  
19 because you stated declaratively that he shouldn't  
20 have included the ownership on the 706, but your  
21 father was a co-owner on the deed conveying  
22 ownership.

23 You have explained that that arose  
24 because of the title company. If anybody looked at  
25 the public record, your father appeared as a -- I



1 don't know if it's tenants in common or joint

2 tenants. I don't know what it was.

3 DR. FRASIER: Yeah. That's correct.

4 THE COURT: He appeared as an owner.

5 DR. FRASIER: That's correct, okay?

6 However, if you look at the Form 706, and this is,

7 again, on the IRS.gov, they talk about the agreement

8 for special valuation when a property is owned in

9 different -- is owned by the decedent and someone

10 else.

11 It says, The agreement to special

12 valuation is required under Sections

13 2032A(a)(1)(b)(d)(2), and must be signed by all

14 parties who have an interest in the property being

15 valued based on its qualified use as of the date of

16 the decedent's death.

17 It goes on to say, Any person who, at the

18 decedent's death, has an interest in the property,

19 whether present, future, vested or contingent, must

20 enter into the agreement.

21 So Brooks Travis never got my -- never

22 even talked to me about it. He did what he wanted

23 to do. He was communicating only with Dinny and Amy

24 and Bill to the exclusion of Nori and me.

25 I feel that he erroneously filled out the

1 Form 706 based on the trust equity position in the  
2 building.

3 THE COURT: Can we pause just for a  
4 minute so I can contextualize? I don't know what  
5 the equivalency exception was in 2014 and whether  
6 the aggregate estate, when doubled, did the  
7 inclusion of -- remember, we're not revisiting.

8 I'm just trying to figure out if there  
9 should be a surcharge according to Mr. Frasier's  
10 request.

11 Was the -- is this a taxable estate? Its  
12 aggregate value didn't exceed twice the equivalency  
13 exemption, or were no taxes ever paid or would never  
14 be due because of the value of the estate?

15 DR. FRASIER: That's correct, the latter.

16 THE COURT: Let me just have a  
17 confirmation here.

18 MR. RESNICK: Your Honor, it was an AB  
19 trust with the exemption amount was in the B  
20 portion, the decedent's trust.

21 THE COURT: Was the decedent's trust  
22 fully funded up to the exemption amount?

23 MR. RESNICK: I don't know. I assume so.  
24 It should have been.

25 MR. ROBERTSON: We think it was fully

1 funded, Your Honor.

2 THE COURT: What was the exemption in  
3 2014? Was it like five million, something?

4 MR. RESNICK: No. It was probably  
5 roughly three.

6 DR. FRASIER: Roughly, yes.

7 MR. RESNICK: It's gone from one to five  
8 to three, so it's now 11, so I understand from  
9 someone that is smarter than me, it's three.

10 THE COURT: Okay. All right. I just  
11 want to have that as a placeholder. Carry on.

12 DR. FRASIER: I guess the bottom line  
13 with that is Dinny could have gifted the property  
14 like she plans to do without any tax consequences to  
15 the trust.

16 THE COURT: So there was no benefit for  
17 estate tax purposes.

18 DR. FRASIER: That's correct.

19 THE COURT: -- to include or exclude?

20 DR. FRASIER: She could have done the  
21 lifetime exemption. She could have given it to me  
22 under that value.

23 THE COURT: Okay.

24 MR. ROBERTSON: Your Honor, it appears  
25 from the Forbes website that the 2014 federal estate

1 tax exemption was 5.34 million.

2 MR. RESNICK: Correct.

3 THE COURT: So if done right, we could  
4 have protected a \$10 million estate.

5 MR. RESNICK: Correct.

6 DR. FRASIER: Correct.

7 THE COURT: This estate is less than \$10  
8 million?

9 MR. ROBERTSON: It was about eight  
10 million.

11 THE COURT: Okay. That helps.

12 DR. FRASIER: So the attempted  
13 negotiations with Nicole Shrive were not met with  
14 anything productive.  
15 She refused to amend the Form 706 to  
16 correct it. She refused to even negotiate anything,  
17 so we said -- my attorney said, Well, if we can't  
18 negotiate it, we're going to have to litigate it,  
19 and that is when Nicole hired Mr. David Robertson,  
20 and that was in probably February, and I had a very  
21 cordial conversation with Mr. Robertson.

22 I gave him all the information, and he  
23 knew all the information in March 2016 that there  
24 was no business relationship with my parents, that  
25 my mother considered it a loan, that I had paid her

1 \$50,000, which she had accepted as a verbal  
2 agreement of that loan.

3 I pleaded with Mr. Robertson in many,  
4 many, many e-mails. Very nice, professional  
5 e-mails, let's get this thing done. This is what I  
6 want. This is what my mother wants, more  
7 importantly, and this is what is best for the trust.

8 We want to avoid long and drawn out  
9 litigation and all the expenses that accompany that.  
10 I had estimated tens of thousands of dollars, and  
11 again, the disputed value was \$325,000.

12 Mr. Robertson presented the value of the  
13 medical building is \$325,000. It could have been an  
14 easy cash for real estate exchange. It was a simple  
15 deal with absolutely no tax consequences to the  
16 trust.

17 THE COURT: So I understand the general  
18 parameters of your agreements, but I'm concerned  
19 about loss calculation. I'm not foreshadowing. I'm  
20 just trying to get as much information in creating  
21 balance in the courtroom.

22 If you think of Premier and its law firm  
23 as one big whole, then there are different sized  
24 slices of that whole which are attributable to  
25 different actions, one of which may be trying to

1 figure out if we're going to sell two pieces of real  
2 property, completely unrelated to your medical  
3 building.

4 One might be not being able to  
5 communicate except through counsel. One might be  
6 responding to Amy's presence in the dispute, but  
7 yet, you seem to be asserting the entire whole  
8 against the Robertson firm and Premier for what is  
9 but a slice of the litigation field. If I were to  
10 grant your request entirely, it doesn't aggregate to  
11 all fees.

12 DR. FRASIER: Okay. I'll refer you to  
13 the October 2017 hearing where Mr. Robertson stated  
14 that -- you actually gave your talk about  
15 Parkinson's law, and you stated, What is going on  
16 here? Why is this taking so long? What is it?  
17 \$500,000?

18 Then Mr. Robertson correctly stated that  
19 this has to do with the medical building, and yes,  
20 this whole thing started with the medical building.

21 If Brooks Travis had listened to me in  
22 January 2015, we all wouldn't be here today.

23 THE COURT: Well, wait a second. I want  
24 to make sure you really -- that I understand what  
25 you are asserting as your belief.

1 Without the medical building, we wouldn't  
2 have had any of the other issues?

3 DR. FRASIER: Nothing, zero, because  
4 Dinny probably would have stayed with Brooks Travis,  
5 so Mr. Resnick and Mr. Pat Millsap wouldn't be here.  
6 Mr. Robertson wouldn't be here.

7 Nicole Shrive wouldn't be here -- well,  
8 maybe Nicole Shrive would be here because they did  
9 hire Premier Trust, but if we had settled this in  
10 January 2015, none of this would have happened.

11 If we had settled it in November 2015  
12 with Nicole, none of this would have happened, so  
13 yes, I'm saying that we could have avoided over  
14 \$500,000 in legal fees for my mother, over \$150,000  
15 in legal fees for me because I wouldn't have -- I  
16 don't need to give legal fees if there is no legal  
17 action, and I have stated this too.

18 I was going to give my mother \$400,000,  
19 so the aggregate to her would have been \$900,000.  
20 \$500,000 that she didn't have to pay, plus \$400,000  
21 that I would have given her equals \$900,000, plus  
22 three years of interest is about \$960,000, and  
23 hearing this morning that her \$4 million estate is  
24 down to \$1.3 million, she could use that \$960,000  
25 because the way she is using up money with

1 caregivers, and fiduciaries, and lawyers that we  
2 have to fly to Reno, and lawyers from Reno we have  
3 to pay. It's a travesty.

4 THE COURT: The Court will be in recess  
5 for 15 minutes.

6 (Break taken at 3:15 p.m.)

7 THE COURT: Mr. Frasier, if you'll come  
8 back to the witness stand, you may continue.

9 DR. FRASIER: Your Honor, I'd like to  
10 correct my testimony.

11 Mr. Robertson showed me that the \$1.3  
12 million in the survivors' trust was the liquid  
13 asset, the cash, and the trust is worth \$4 million.

14 THE COURT: Including the real property?

15 MR. ROBERTSON: That is correct, Your  
16 Honor.

17 DR. FRASIER: But that doesn't diminish  
18 my \$960,000 amount that my mom should be better off  
19 for today.

20 In early 2016, I worked with  
21 Mr. Robertson initially, and then with  
22 Mr. Williamson, Richard Williamson, regarding trying  
23 to settle the medical building, "dispute," quote,  
24 unquote.

25 I say that because my mother and I wanted



1 the same thing, and so it really wasn't a dispute.  
2 It was an agreement that we wanted to complete, and  
3 the attorneys and trust company prevented us from  
4 doing that, and I understand their confusion  
5 regarding the trust deed, but again, taking all the  
6 circumstances and all the information including the  
7 circumstances in 2008 that required my father to be  
8 on the deed, he wasn't a true 50 percent equity  
9 owner.

10 It's not quite fair that if you buy  
11 something with somebody and you don't do anything,  
12 you don't give any money to that property, and then  
13 six years later, you declare yourself 50 percent  
14 owner, that's not a fair relationship, and my father  
15 certainly wouldn't have done that.

16 THE COURT: Let me be very clear. He and  
17 your mother were not signatories or debtors in any  
18 way on the promissory note and deed of trust that  
19 completed the purchase?

20 DR. FRASIER: Well, that is correct. My  
21 father refused to personally, and I have submitted  
22 letters from the bank that attest to that. He did  
23 not personally guarantee the loan to the bank.

24 THE COURT: So his assets were not used  
25 in the debt eligibility analysis?

1 DR. FRASIER: Of course they were, but  
2 the bank let him off the hook with -- because that  
3 was a stipulation by him, and the bank wanted our  
4 business, and so he stipulated, and the bank -- I  
5 have submitted letters to attest to that, that he  
6 refused to sign for the loan, and again, if the  
7 property had defaulted, if we couldn't pay the rent  
8 and we had to close up shop, my wife and I alone  
9 were on the hook for the \$1.8 million.

10 THE COURT: But the property itself would  
11 have been available for any --- let me just stop  
12 there and reframe it.

13 There was a \$700,000 down payment and a  
14 \$1.8 million loan?

15 DR. FRASIER: It was a \$650,000 down  
16 payment.

17 THE COURT: Okay. So the purchase price  
18 was two and a half million dollars.

19 DR. FRASIER: \$2.2 million.

20 THE COURT: So of 2.2, it was about a 70  
21 percent debt-to-value, somewhere in there. What I  
22 am getting at is if the bank had to foreclose on the  
23 property, the equity value would have made the bank  
24 whole, presumably, because the debt was 70 percent  
25 of the property value, somewhere in there, rough

1 numbers.

2 DR. FRASIER: Okay. So in real numbers,  
3 if we defaulted, my parents would have lost  
4 \$325,000, and my wife and I would have been out  
5 about \$550,000.

6 THE COURT: Right, but that \$325,000 was  
7 at risk to default and loss.

8 DR. FRASIER: Correct. That gift or  
9 loan, if you will, that I offered to pay back.

10 THE COURT: Okay. Carry on, please, sir.

11 DR. FRASIER: Okay. Again, I emphasize  
12 that Mr. Robertson and I worked, and Mr. Williamson  
13 and I worked back and forth with my attorney, Mike  
14 Sullivan, who I hired in June of 2016, and we tried  
15 to come to a settlement.

16 After a certain point, they were silent.  
17 We offered -- I offered the family loan rate that  
18 the IRS recommends. It was like 2.87 percent, which  
19 would have given the trust about \$400,000 in  
20 payback, you know, considering amortization, and  
21 they didn't come back with any counteroffer.

22 They had offered like six and a half  
23 percent. We had offered 2.87 percent, and we were  
24 waiting. Come on. What is your -- many, many  
25 communications, what is your position on the

1 building? What is it you want for me to pay it off?

2 Again, in the documents that I submitted,  
3 Mr. Williamson said in, I think October of 2016, if  
4 Brad accepts this, then this whole issue, this whole  
5 thing is over.

6 That night, I sent him an e-mail, Okay,  
7 what is it that Brad has to accept? What is the  
8 number? I never heard anything. Complete silence  
9 and more frustration.

10 I don't think they were acting in the  
11 best interests of their client, Dinny Frasier, or  
12 the Frasier Family Trust in their silence. It was  
13 complete silence, which is unusual for  
14 Mr. Robertson.

15 I don't mean to say that in a pejorative  
16 sense because I like you.

17 Anyway, I would also like to point out  
18 that in the hearing that you had in October of 2017  
19 with Mr. Robertson, he opined that, quote, "A large  
20 portion of the fees were to resolve the dispute over  
21 the medical building," and then he went on to say,  
22 "I couldn't settle the case no matter how hard I  
23 tried. Dr. Frasier's position was that he shouldn't  
24 have to pay anything. He should just get the  
25 medical building. The trust half of the medical

1 building should just be given to him."

2           There is absolutely no evidence that has  
3 been presented that supports that claim. Everything  
4 that I have presented showed that I was willing to  
5 pay back the loan in November 2015, in February  
6 2016, in March 2016, in April, May, June 2016 and  
7 all of 2016.

8           In fact, I was ready to pay it back when  
9 Dinny fired Brooks Travis because he wasn't  
10 resolving the issue. My mom thought that I was  
11 suing her. Amy told her, Brad is suing you over the  
12 building and --

13           THE COURT: Deputy, if Ms. Amy speaks  
14 again, we'll just have her removed from the  
15 courtroom.

16           I'm not trying to be mean, ma'am. I  
17 promise I'm not, but there are rules here. When you  
18 speak out in disagreement, it violates those rules.

19           I tried when you were standing here and I  
20 tried when you were sitting there, but I can hear  
21 you from where you are here.

22           Anywhere else, whether it's a commission  
23 chamber or the US Senate, you will be removed.

24           I want you to be here to listen, but if  
25 you speak again without any word from me, Deputy

1 Coss is going to escort you out of the room, okay?

2 Thank you.

3 DR. FRASIER: Anyway, Amy and Bill were  
4 influencing my mom during that time from 2015  
5 through 2016. I don't know exactly when they  
6 stopped, but it was -- I have it in my records here,  
7 but they were certainly influencing her during that  
8 time.

9 A friend of mine, a childhood friend of  
10 mine went over to see my mom, and my mom told him,  
11 Yeah, he gave me \$50,000, and he thought we were  
12 even, and it's like I reneged on our agreement, and  
13 still in late 2016, she felt that I reneged on our  
14 agreement.

15 There's lots of evidence that I presented  
16 that shows that Premier and Mr. Robertson and  
17 Mr. Williamson were not involving Dinny in the  
18 decisions.

19 I asked Mr. Williamson, Is my mom of  
20 sound mind and body to make these decisions, and he  
21 said yes. He did not include her in the decisions,  
22 which could have lessened her legal burden.

23 If we had resolved this -- again, we  
24 wouldn't be here today. We would have resolved it  
25 in 2016. We wouldn't have this legal burden that my

1 mom and the trust has had to absorb.

2 Again, I don't like to accuse anybody of  
3 the three letter word I used previously, but it's an  
4 untruth, and I respect Mr. Robertson. He's a very  
5 smart man, and I respect him, and I like him, but he  
6 deliberately told an untruth to the Court to justify  
7 the reason why the case has dragged out so long.

8 It's in the testimony. It's in the  
9 testimony. I have e-mails from him that said, in  
10 March of 2016, it was good to hear that your mother  
11 thought it was a loan. We will consider your  
12 repayment amounts.

13 I don't know where that came from. It  
14 seems like there's a different standard. If I said  
15 something like that in court, it's a felony. I am  
16 in jail. Attorneys can get away with it. It's a  
17 double standard. I'm sorry, but it seems like that  
18 to me.

19 Then we finally had a settlement  
20 agreement. I tried to work with Mr. Resnick  
21 beforehand. I said -- I communicated with  
22 Mr. Resnick. I said, Let's settle this. We don't  
23 want to go to a settlement agreement. My mom  
24 doesn't want to go to a settlement agreement. Let's  
25 go. Let's settle this. I am motivated. I want

1 this; my mom wants this. Let's settle this, okay?

2 Mr. Resnick didn't settle it, and he told  
3 me later on that he didn't settle it because  
4 Mr. Robertson wouldn't let him settle it.

5 Again, we had a settlement agreement in  
6 January 2017, almost two years ago now, and there  
7 was a stipulation to pay me back the \$50,000  
8 repayment that I had given my mom, and that happened  
9 about nine months later, and only after you  
10 threatened monetary sanctions against Mr. Robertson  
11 and Premier.

12 The same thing with the properties. The  
13 stipulation was to give the properties to the three  
14 beneficiaries, and that still hasn't happened almost  
15 two years later.

16 Again, it's Parkinson's law. The more  
17 attorneys you bring in, the more back and forth  
18 communications, the more hearings, the more court  
19 appearances, the more travel, et cetera, et cetera,  
20 and we could have settled this.

21 We thought we had settled in January  
22 2017. We thought we were done. We were done in  
23 January. We were happy. It's finally over.

24 What happened? We're still here two  
25 years later. That is why we want finality, and we



1 appreciate you extending the case to finish it.

2 I have presented a lot of information in  
3 my court documents that show the continual delay,  
4 and dragging out of the proceedings, and I have  
5 communications with my mother that it's dragging  
6 out, and she has said that in her statements.

7 With that being said, I just want to make  
8 a few comments.

9 I agree that real estate property is  
10 valuable, whether it's occupied or not. To an  
11 investor, it's more valuable with a tenant, and yes,  
12 you can get a bad tenant, but that's the exception  
13 rather than the rule.

14 As far as selling the Pinewood home, you  
15 have about 45 days to do a 1031 exchange, and that  
16 is real liberal. You can buy a home or you can sell  
17 a home. You can sell a home and then identify a  
18 property that you're going to buy within 45 days,  
19 and I mean, I don't know, it may be longer, but I  
20 know talking to real estate agents, there's a lot of  
21 leeway with that.

22 They can fudge the time somewhat, but you  
23 can sell the Pinewood home, and then, Okay, Dinny,  
24 we have 45 days to find a new home. We'll do a 1031  
25 exchange and there's no capital gains. That is not

1 an excuse not to sell the home for Premier Trust or  
2 for Janie. I know Janie's hands were tied by  
3 Premier Trust.

4 Again, as far as -- Mr. Robertson has  
5 pointed out to all of us that it was Premier Trust's  
6 responsibility, fiduciary responsibility to maintain  
7 the assets of the trust, and again, I'm looking  
8 forward to a different entity that might be more  
9 aggressive with maintaining the assets.

10 Again, my mom has 24/7 care. She might  
11 require long-term care somewhere, and I am all in  
12 favor of that, of stopping this legal action.

13 In closing, I would like to reiterate  
14 that we do want to transfer this whole jurisdiction  
15 of the trust to California.

16 I have stated the reasons before, and we  
17 really appreciate everything you have done because I  
18 know it's mounds and mounds of legal documents that  
19 you have read through and that you have familiarized  
20 yourself with this case, and we appreciate that, but  
21 obviously, it's nothing personal. It just makes  
22 sense to do that.

23 I do want monetary sanctions because, as  
24 I said, if Nicole had listened to me in November  
25 2015, and we resolved this, there wouldn't have been

1 \$500,000 in legal fees. Yes, there would have been  
2 fees for other things and trust fees, but there  
3 wouldn't have been legal fees related to this legal  
4 action, which was directly related to the medical  
5 building dispute.

6 I was encouraged to hear this morning  
7 that Amy is willing to, is amenable to the A Trust  
8 being split three ways:

9 This is the first time I'm hearing this,  
10 and I think that will go a long way to resolving my  
11 plans to sue her for undue influence. I think if  
12 that happens, I will drop those plans, and again,  
13 I'm sorry to say that.

14 THE COURT: Well, a significant problem  
15 in the trust amendment or beneficiary agreement is  
16 that your mother cannot be excluded as the trustor.  
17 The three children can reach any agreement they  
18 want, but your mother has to be a part of it, if she  
19 has the capacity --

20 DR. FRASIER: Sure.

21 THE COURT: -- to be part of it, or there  
22 can be other -- there can be other pretrial  
23 resolutions, but it's not as easy as Amy changing  
24 her mind.

25 It seemed an important concept to

1 examine, but difficult to achieve.

2 DR. FRASIER: Yeah. Again, it's only a  
3 concept, so I know it's not anything legal, but I  
4 know my mother has told Mr. Resnick what her plans  
5 are and what she wants to do, and she has reconciled  
6 with all her children.

7 Nori and I have indicated that we don't  
8 necessarily want our mother's money. We're more  
9 interested in having a relationship with her.

10 I'm totally fine with her giving my  
11 portion to charity, if I have a portion. I don't  
12 anticipate having a portion, but I am totally fine  
13 with that. I don't need her money. I'm totally  
14 fine with that.

15 THE COURT: So I was really delighted to  
16 hear Ms. Mulrain's testimony, not attaching any  
17 credibility or dispositive words, but just to hear  
18 her describe your mother because this is the first  
19 time your mother has appeared to me two  
20 dimensionally, maybe three dimensionally.

21 Ms. Mulrain said, Well, she gets along  
22 well with men. She is witty and flirtacious in some  
23 of the anecdotal portions of her testimony. It is  
24 really important that I think about your mother as a  
25 living, vibrant person.

1 I want you to end by just taking a moment  
2 to describe how your mother is today, not as a  
3 medical physician, and there is a wonderful place  
4 for urologists, but urologists are not  
5 psychiatrists. You might have done a quick rotation  
6 in medical school, but as a son, I just want you to  
7 describe a little bit what you observe, not  
8 medically, about your mother right now.

9 DR. FRASIER: Yeah. My mother is very  
10 smart, very witty, very funny. She hasn't lost her  
11 sense of humor. She had her --- again, without  
12 getting clinical, her Alzheimer's condition has  
13 deteriorated somewhat, which is what we expect, but  
14 she still understands things.

15 When I saw her Sunday, we had a great  
16 time. She is very much dependent on her caregivers.  
17 I have talked with her doctor, Dr. Haga, about her  
18 medications.

19 There's some medications that I don't  
20 really think that she should taking, but I have kind  
21 of backed off a lot in that respect because I just  
22 don't want to be too overbearing.

23 Dr. Haga is a family practitioner, I  
24 believe. I don't know what his specialty in caring  
25 for patients with Alzheimer's dementia is. I don't

1 think he has any special -- in fact, I have asked  
2 him to have her go see a neurologist, review the  
3 medicines, make sure she is on the correct  
4 medicines. He kind of took offense to that, but no  
5 offense was intended.

6           Anyway, getting back to your question.  
7 My mom is still very delightful, and again, I did  
8 six weeks of psychiatry in medical school, and I see  
9 Alzheimer's dementia patients on a daily basis, and  
10 I have seen my own patients deteriorate in front of  
11 my eyes over the years. -- I have been practicing  
12 almost 30 years, so I have certainly seen that.

13           THE COURT: Would you please describe,  
14 just quickly, your observation of Ms. Mulrain's  
15 continuing involvement and relationship that you  
16 have observed her to have with your mother, and what  
17 relationship you have with her now and what could be  
18 a relationship in the future with you and  
19 Ms. Mulrain?

20           DR. FRASIER: I don't really have a  
21 relationship with Ms. Mulrain. We have spoken on  
22 the phone several times. I met her for the first  
23 time today. It was nice to hear some of her  
24 testimony, but I can't get past my niece and nephew  
25 coming down from Northern California to see my

1 mother, and Ms. Mulrain sending Dinny to her senior  
2 class or senior center.

3 I think that was the day that she could  
4 have missed senior center and spent with her  
5 grandchildren.

6 THE COURT: Was that just an error in  
7 judgment in your opinion, or was it malevolent  
8 against the family?

9 DR. FRASIER: I think it was an extreme  
10 error in judgment, extreme error in human decency.  
11 I apologize for that, but I was flabbergasted by  
12 that, and Nori was as well. It was Nori's children.

13 Going forward, like I said, I think it's  
14 probably best going forward just to start anew with  
15 someone else who we don't have any bad interactions  
16 with.

17 I don't have any other interactions with  
18 Ms. Mulrain. I don't have any with her and my  
19 mother.

20 I have kept away from my mother since  
21 March of 2015 until just recently because -- again,  
22 for reasons that I have already said.

23 I took my mom out on her birthday in  
24 March of this year with my son and his girlfriend,  
25 and we had a great time, and I have noticed that my

1 mother's condition has deteriorated over the past  
2 three years, which is expected, but she is still --  
3 it could be worse. I have patients who are a lot  
4 worse, and she is not there yet.

5 THE COURT: Well, here is where it gets  
6 interesting. Very few witnesses have the right of a  
7 lengthy narrative. It's an exception that we see  
8 infrequently, but to refocus this dispute, you are  
9 asking that the Robertson firm and Premier pay  
10 somewhere in the neighborhood of \$500,000 as a  
11 sanction, and it is time for cross-examination,  
12 which is intended to be hot and uncomfortable, as  
13 what we describe as the crucible of truth.

14 At this point, Mr. Robertson, it's your  
15 witness.

16 MR. ROBERTSON: Your Honor, will I be  
17 allowed to call Ms. Shrive on this issue?

18 THE COURT: It depends on if you want to  
19 cross-examine this witness. I will give you the  
20 right to call Ms. Shrive, but this is the only time  
21 you're going to have to talk to Mr. Frasier. You  
22 don't have to, but this is it, right here, right  
23 now.

24 MR. ROBERTSON: If I could just have a  
25 moment then?



1 THE COURT: Yes, sir.

2 DR. FRASIER: I appreciate the Court  
3 letting me speak.

4 THE COURT: Let me be clear about Shrive.  
5 Of course you can because she was called for the  
6 narrow purpose of the rental sale properties and not  
7 the fee requests.

8 MR. ROBERTSON: Thank you, Your Honor. I  
9 only ask that, Your Honor, because I believe it will  
10 be more efficient to cover some of the issues with  
11 Ms. Shrive rather than with Dr. Frasier, but I will  
12 inquire, make some inquiries here.

13 CROSS-EXAMINATION

14 BY MR. ROBERTSON:

15 Q. Good afternoon, Dr. Frasier.

16 A. Good afternoon.

17 Q. I want to make sure I understand the crux  
18 of your, I will say, concerns.

19 I believe that what you are saying is  
20 that the matter regarding the medical building  
21 should and could have been resolved easily without  
22 prolonged litigation?

23 A. Correct.

24 Q. Your testimony is that it was resolved,  
25 correct, by the settlement agreement?

1           A.   It was resolved, but again, we're still  
2   waiting to follow through with the settlement  
3   agreement stipulations.

4           Q.   Okay. Really, I'm just trying to frame  
5   the time period. What we're talking about is the  
6   settlement agreement was entered into on January  
7   27th, 2017. I don't know if you remember that.

8           A.   Absolutely. That is the correct date,  
9   yes.

10          Q.   What we're looking at is the time period  
11   from when you first talked to Ms. Shrive, which I  
12   believe you said was in --

13          A.   November 2015.

14          Q.   -- late 2015, right? From that point in  
15   time, November 2015 through January 2017, that is  
16   really the time period we're talking about where, in  
17   your mind, this medical building dispute should have  
18   been resolved quickly and easily?

19          A.   Yes, and if we had done the stipulation,  
20   then we wouldn't -- nothing else would have happened  
21   either after that. We thought we were done in  
22   January 2017.

23          Q.   Okay. Do you know why it is the  
24   properties haven't been transferred yet?

25          A.   I don't. I think it's just more of the

1 same from Premier Trust. More of the -- for lack of  
2 a better word, incompetence.

3 Q. Do you recall that the settlement  
4 agreement states in paragraph 8, "Dinny agrees to  
5 amend Trust A to equalize distributions to each of  
6 her children based on the appraised value," and then  
7 handwritten after that, it says, "And distribute an  
8 additional \$10,000 to Nori and Amy equally." Do you  
9 recall that?

10 A. Yes. That's correct.

11 Q. Do you know if Dinny has yet amended the  
12 trust to equalize the distributions?

13 A. We haven't received the buildings, so no.

14 Q. Okay. Do you know if in paragraph 7 of  
15 the settlement agreement -- you seem to be looking  
16 at something, so maybe you have it there?

17 A. I am looking at it, yes.

18 Q. In paragraph 7 it says, "Dinny shall  
19 distribute or authorize to distribute from Trust A  
20 the real property," correct?

21 A. Correct.

22 Q. Do you know if Dinny has distributed the  
23 property?

24 A. No, she hasn't.

25 Q. Do you know if Dinny has authorized

1 Premier to distribute the property?

2 A. Dinny is reliant on Premier and Janie  
3 Mulrain and Mr. Resnick for basically everything.

4 Dinny doesn't make any decisions on her  
5 own right now. She gets up in the morning. She  
6 feeds her dogs and walks her dogs, and that's about  
7 the extent of it, so no, she relies on Premier Trust  
8 to advise her in that regard, to advise her to  
9 complete the settlement agreement.

10 Q. But you understand that Dinny is  
11 represented by Mr. Resnick, and Dinny does not have  
12 communication with Premier, so it would be Dinny and  
13 I guess Mr. Resnick who would be working on the  
14 amendment to Trust A to equalize the distributions  
15 so that the distributions can occur; would that be  
16 your understanding?

17 A. I don't know the interaction between  
18 Premier Trust, Mr. Resnick and you. I don't know.  
19 I'm not privy to all those interactions.

20 Q. Fair enough. You started your narrative  
21 to the Court by saying that you reached an agreement  
22 in December of 2014 with your mother to pay back the  
23 \$325,000 as a loan. Do you remember saying that to  
24 the Judge?

25 A. Yes. My mother initially said, I want

1 you to have the building, and I said okay.

2 Then after discussions with my sisters,  
3 my mother decided, at the urging of my sisters, that  
4 I would pay back the loan, and I asked her, Well, do  
5 you want me to pay interest, and she said no, and I  
6 said, Okay, I'll pay you \$50,000 and then we'll do a  
7 quitclaim deed. It will be real easy, and we'll go  
8 from there.

9 Nori and Amy sanctioned that agreement,  
10 but then subsequent events, that agreement wasn't  
11 completed.

12 Q. Did your mother sign any document saying  
13 that she would agree to this loan arrangement?

14 A. It was a verbal agreement. I did type  
15 out a document, and I gave it to her attorney, and I  
16 sent him a letter in January 2015 stating all of the  
17 facts that you got when you came onboard, and all  
18 the facts supporting my position which you  
19 acknowledged that were true, and he totally ignored  
20 them.

21 Q. Who was that?

22 A. Brooks Travis.

23 Q. Now, would you deny that our law firm at  
24 the very first appearance on this case asked the  
25 Court to order a settlement conference?

1 A. I don't recall that. When was that?

2 Q. This would have been back in --

3 THE COURT: You're talking about when  
4 Judge Polaha had the case?

5 MR. ROBERTSON: This was prior to Judge  
6 Polaha, Your Honor.

7 DR. FRASIER: I wasn't involved in that  
8 at that time. I don't think I was in court then.

9 I'm not aware of that.

10 MR. ROBERTSON: This was when Judge  
11 Stiglich had the case.

12 BY MR. ROBERTSON:

13 Q. Are you aware that after the petition was  
14 filed with the Court, one of things that Premier  
15 asked for was to get a settlement conference because  
16 Premier wanted to get this medical building issue  
17 settled?

18 A. Well, I know that we had a settlement  
19 conference with Dinny in March of 2016 where she  
20 agreed that it was a loan and you agreed it was a  
21 loan, and then you, Nicole and I had another  
22 settlement conference in May of 2016 to try to come  
23 to a mutually agreeable interest rate, and then from  
24 there --

25 THE COURT: Hold on. You have the right

1 of narrative first, but the question was pretty  
2 narrow.

3 It was, are you aware that Premier, at  
4 the first opportunity in court, asked for a judicial  
5 directed settlement conference. That is the  
6 question, and he either does or doesn't know, and  
7 you can move on.

8 DR. FRASIER: No. I'm not aware of that.

9 BY MR. ROBERTSON:

10 Q. Are you aware that Judge Stiglich granted  
11 that request and ordered a settlement conference?

12 A. I never saw that. I'm not aware of that.  
13 I was a willing participate, so.

14 THE COURT: We'll mark that next order,  
15 Ms. Clerk.

16 THE CLERK: Exhibit 6 marked for  
17 identification.

18 (Exhibit 6 marked for  
19 identification)

20 MR. ROBERTSON: May I approach, Your  
21 Honor?

22 THE COURT: Yes, please.

23 MR. ROBERTSON: Thank you.

24 DR. FRASIER: Is this May 10th, 2016?

25 THE COURT: If you look at the very

1 top -- well, go ahead, Mr. Robertson.

2 BY MR. ROBERTSON:

3 Q. If you look at page 2?

4 A. October 5th.

5 Q. This is October 5th, 2016. When I said

6 -- I wanted to make sure I was clear because the

7 Court rephrased or restated my question.

8 I don't know that we asked for a

9 settlement conference -- in the very first papers we

10 filed, we did not. We asked for the Court to

11 confirm the trust and jurisdiction here in Nevada,

12 but at the very first hearing, the very first time

13 we appeared in front of a judge, are you aware that

14 we said, There's a dispute and we would like to get

15 a settlement conference as soon as possible?

16 A. Yeah. That was in October 2016. I see

17 that now, yes.

18 Q. Well, that is when the order was issued.

19 A. Okay.

20 Q. I believe, yes, that is also the date we

21 appeared. That's correct. In fact, Judge Stiglich

22 ordered a mediation to occur within 120 days. Do

23 you see that?

24 A. I do see that, and unfortunately -- yes,

25 I do see that.



1 MR. ROBERTSON: I move admission of six,  
2 Your Honor.

3 THE COURT: It is admitted.

4 THE CLERK: Thank you.

5 (Exhibit 6 admitted into  
6 evidence)

7 BY MR. ROBERTSON:

8 Q. In the supplemental petition for  
9 instructions that Premier filed on November 29th,  
10 2016, are you aware that Premier, again, asked for a  
11 settlement conference, a mediation to resolve the  
12 medical building dispute?

13 A. I don't have that document.

14 THE COURT: Marked next in order,  
15 Ms. Clerk.

16 THE CLERK: Exhibit 7 marked for  
17 identification.

18 (Exhibit 7 marked for  
19 identification)

20 MR. ROBERTSON: Approach, Your Honor?

21 THE COURT: Yes.

22 BY MR. ROBERTSON:

23 Q. What I am showing you, Dr. Frasier,  
24 Exhibit 7 is just the first two pages of the  
25 supplemental petition for instructions. The rest of

1 it is not particularly relevant.

2 If you could turn to page 2 and look at  
3 paragraph 4? The Court held a status conference on  
4 October 5th, which counsel for the co-trustees and  
5 counsel for Bradley Frasier advised the Court they  
6 were embroiled in a dispute over ownership in a  
7 medical building in Oceanside, California. Do you  
8 see that?

9 A. Yes.

10 Q. Number 5, the Court scheduled a bench  
11 trial to resolve that dispute, and also ordered the  
12 parties to participate in a mediation within 120  
13 days. Do you see that?

14 A. Correct.

15 Q. And then paragraph 6, pursuant to the  
16 Court's order after hearing, the deadline to  
17 complete such a mediation expires on or about  
18 February 2, 2016, correct?

19 A. Yes.

20 Q. Isn't it true that you were opposed to  
21 this mediation?

22 A. I had presented -- yes, it is, because I  
23 had presented abundant evidence that I wanted to  
24 resolve this issue without a mediation agreement,  
25 and I was more than willing and motivated, as was my

1 mother, in November 2015, a year before this  
2 document was submitted.

3 THE COURT: Do you seek its admission,  
4 Mr. Robertson?

5 MR. ROBERTSON: Yes, Your Honor.

6 THE COURT: It is admitted.

7 THE CLERK: Thank you.

8 (Exhibit 7 admitted into  
9 evidence)

10 THE CLERK: Exhibit 8 marked for  
11 identification.

12 (Exhibit 8 marked for  
13 identification)

14 DR. FRASIER: I must say, Mr. Robertson,  
15 that I am -- I wasn't opposed to the mediation  
16 settlement agreement, but I wanted to resolve the  
17 issue before that, as I mentioned.

18 BY MR. ROBERTSON:

19 Q. Showing you what has been marked as  
20 Exhibit 8, these are the court minutes of a status  
21 conference held on December 6th, 2016. Do you see  
22 that?

23 A. Yes.

24 Q. In looking at the fifth line down under  
25 status conference, it says, "Counsel Robertson

1 addressed the Court and indicated this matter had  
2 been set to discuss the parties' inability to meet  
3 the mediation deadline previously ordered by  
4 Honorable Judge Stiglich." Do you see that?

5 A. Yes.

6 THE COURT: May I have a copy of the  
7 minute order, please? I'm just looking to see if  
8 Mr. Frasier was represented by counsel at the time.  
9 Was Mr. Sullivan there?

10 DR. FRASIER: Michael Sullivan was there,  
11 yes.

12 MR. ROBERTSON: He was there, yes, Your  
13 Honor. My apologies.

14 THE COURT: Okay.

15 BY MR. ROBERTSON:

16 Q. So anyway, it indicates that Counsel  
17 Robertson addressed the Court and indicated this  
18 matter had been set to discuss the parties'  
19 inability to meet the mediation deadline previously  
20 ordered by the Honorable Judge Lydia Stiglich. Do  
21 you see that?

22 A. Yes, I do.

23 Q. Are you aware that the reason we were  
24 having difficulty meeting the mediation deadline is  
25 that you were opposed to the mediation?

1 A. No. That is false.

2 Q. Okay. Why do you believe that we were  
3 having difficulty meeting the mediation deadline?

4 A. That's a question that I have for you,  
5 and that I have for you from the very beginning.

6 I was motivated. I wanted to settle it,  
7 and it's absolutely false that I was opposed to it,  
8 the settlement. I was motivated.

9 MR. ROBERTSON: Move admission of eight,  
10 Your Honor.

11 THE COURT: Eight is admitted.

12 THE CLERK: Thank you.

13 (Exhibit 8 admitted into  
14 evidence)

15 BY MR. ROBERTSON:

16 Q. I think you and I absolutely agree on one  
17 thing, and that is that there have been thousands of  
18 e-mails in this case, correct?

19 A. That's correct.

20 Q. Okay. You said at one point in time  
21 Premier went silent, and I understood what you were  
22 saying in the context of this case is that you were  
23 asking for Premier to state its position. What is  
24 your position in response to the position that you  
25 had presented; is that fair?

1           A.    It was more aimed at you and  
2   Mr. Williamson.  Primarily Mr. Williamson at the  
3   time because I think you were busy with something  
4   else.

5           Q.    Okay.  Do you recall writing an e-mail  
6   indicating that you wanted Premier to state its  
7   position, and I responded and told you what  
8   Premier's position was, and then you wrote a long  
9   e-mail back explaining how this could be resolved  
10  without the mediation?

11          A.    I would have to take a look at that.  I  
12  remember a lot of e-mails like that.  Just about  
13  every e-mail was like that.

14                THE CLERK:  Exhibit 9 marked for  
15  identification.

16                               (Exhibit 9 marked for  
17  identification)

18                THE COURT:  Thank you.

19                MR. ROBERTSON:  Thank you, Your Honor.

20  BY MR. ROBERTSON:

21           Q.    I'm showing you what has been marked as  
22  Exhibit 9.  Like most e-mail exchanges, you have to  
23  start at the back and read your way up because the  
24  exchanges, when you print them out, the oldest one  
25  prints last.

1 At the bottom of page 3, it says, "Hi,  
2 Mike," and that is me writing back to your attorney,  
3 Mr. Sullivan. Do you see that at the bottom of page  
4 3?

5 A. Yes, I do.

6 Q. Let's go to the top of page 4. This is  
7 going to take a little time to read through, but I  
8 think it's important that we read through it.

9 "Please inform your client that our  
10 position is the same now as it has been for many  
11 months as described to him in countless e-mails.

12 "We seek a solution that will not require  
13 anyone to amend their tax returns nor incur  
14 potentially significant IRS penalties.  
15 Unfortunately, the accountants cannot agree upon  
16 that solution.

17 "As a result, we need a mediation to have  
18 a neutral party assist in finding a path, which will  
19 not require anyone to file an amended return, suffer  
20 an audit, or incur tax penalties and interest to the  
21 IRS. That is our position.

22 If Dr. Frasier has a proposal which will  
23 meet those objectives, then we are all ears.  
24 Otherwise, the only solution we know of that will  
25 meet those objectives is to have Dr. Frasier buy out

1 the A Trust for 50 percent of the equity in the  
2 medical building.

3 Did you understand that that was  
4 Premier's position as of that date?

5 A. Yes.

6 Q. And then you wrote back a very long  
7 e-mail that goes into great detail, and I'm not  
8 going to read the entirety of this e-mail, but  
9 basically --

10 A. Well, it's important.

11 THE COURT: Will you pause for a moment  
12 while I do? You don't have to read it out loud,  
13 but --

14 DR. FRASIER: It's very important.

15 THE COURT: I don't want to read the next  
16 e-mail without the context of this intermediate  
17 e-mail.

18 MR. ROBERTSON: Fair enough, Your Honor.  
19 Let's all do that.

20 THE COURT: Just as an aside, I'll have  
21 you focus on at some point, apparently, Mr. Bradley  
22 Frasier writes in the middle of page 3, "As  
23 mentioned, the bank has indicated the willingness to  
24 release Dinny and Jordan, and therefore, the trust,  
25 from the loan," which is inconsistent with the



1 testimony I previously heard.

2 MR. ROBERTSON: We'll get to that in the  
3 next e-mail, Your Honor.

4 DR. FRASIER: May I comment on that?

5 THE COURT: In just a moment. Let me  
6 keep reading.

7 All right. Ask your next question,  
8 please.

9 MR. ROBERTSON: Thank you.

10 BY MR. ROBERTSON:

11 Q. In your e-mail, you propose a solution  
12 that you think would not require any tax returns to  
13 be amended, correct?

14 A. That's correct.

15 Q. Then at the end, you say, "Dinny wants to  
16 resolve this case and not go to mediation," correct?

17 A. That's correct.

18 Q. Okay. So again, it was your position or  
19 at least your position that Dinny did not want to  
20 attend mediation?

21 A. My position was that we could resolve it  
22 without going to mediation, and Dinny did not want  
23 to go to mediation, correct.

24 Q. Isn't it true that you also didn't want  
25 to go to mediation because you thought it was

1 unnecessary?

2 A. We thought we could resolve it without  
3 mediation, that's correct.

4 Q. Now, let's go to the last e-mail, which  
5 is the front page, and again, it's fairly lengthy,  
6 Your Honor.

7 THE COURT: Let's all just read it  
8 privately.

9 MR. ROBERTSON: Very good.

10 THE COURT: I am ready.

11 BY MR. ROBERTSON:

12 Q. Okay. Have you had a chance to read it,  
13 Dr. Frasier?

14 A. Yes.

15 Q. Did you understand that what Premier was  
16 saying is, we have tried as best we can to settle  
17 this. We aren't having any luck, and we really want  
18 to go to a mediation. Isn't that what Premier is  
19 saying?

20 A. No. Premier did not make any attempts at  
21 resolving the dispute. There were no attempts made  
22 to resolve the dispute. That was their contention;  
23 that was your contention, but that is not the truth.  
24 The truth is they delayed it; you delayed it.

25 Q. Is the solution that was reached at the

1 mediation what you proposed?

2 A. No. That was not what I proposed.

3 Q. Okay. So the mediation was successful in  
4 bringing you, both of your sisters, and your mother  
5 all together on an agreement that was not what you  
6 had wanted as set forth in this e-mail?

7 A. Actually, the settlement agreement was  
8 way better off for me. I was proposing to pay  
9 \$400,000, and my mother gifted me the building, so I  
10 walked away happy in that transaction.

11 Q. Yeah. You were better off, and that is  
12 good.

13 A. Yes, I did, but again, we spent a lot of  
14 attorneys' fees on something that could have been  
15 resolved, and I would have happily paid it if we  
16 could have avoided all this legal nonsense.

17 Q. So Dr. Frasier, I just want to make sure  
18 we're clear. The mediation was successful because  
19 the judge was able to get everyone to agree to a  
20 proposal that was not the proposal that you had made  
21 in this e-mail, correct?

22 A. That's correct.

23 Q. Okay. Even though the issue was, in your  
24 mind, clear cut and simple and should have been  
25 easily resolved, in fact, it took an entire day of

1 mediation with the judge to get that resolved.

2 In fact, we left there after 5:00 o'clock  
3 to get the settlement agreement put together; isn't  
4 that correct?

5 A. We sat in a room, and the judge came in  
6 and spent 15 minutes with us, and then came back  
7 later on with the agreement, so we weren't a party  
8 to that, and we were all flummoxed why it took so  
9 long.

10 Q. Do you know if the judge was talking to  
11 Amy separately and Nori separately?

12 A. Yeah. He went to different parties  
13 separately, but again -- yes, it took all day.

14 Q. And the judge did come up with a solution  
15 that did not require any of the tax returns to be  
16 amended, correct?

17 A. That's correct, which is the same  
18 solution that I proposed with a quitclaim deed or a  
19 gift.

20 Q. Now, you seem to blame both Premier and  
21 myself and Mr. Williamson for prolonging the  
22 litigation by not treating the payment as a loan as  
23 you wanted Premier to do, correct?

24 A. That's correct.

25 THE CLERK: Exhibit 10 marked for

1 identification.

2 (Exhibit 10 marked for  
3 identification)

4 THE COURT: Thank you.

5 BY MR. ROBERTSON:

6 Q. Exhibit 10 is an e-mail from you to  
7 Mr. Brooks Travis and myself and Nicole Shrive and  
8 many other people including the trust accountant,  
9 John Gonzalez, your accountant, Judy Hamilton,  
10 Mr. Williamson, your attorney, Mr. Hernandez,  
11 another one of your attorneys, and also Amy and  
12 Dinny, correct?

13 A. Correct.

14 Q. This is dated October 4, 2016. This is  
15 right around the same time, if you look back at the  
16 documents we looked at earlier where the Court was  
17 ordering mediation, this is about the same time that  
18 Premier had said we can't settle this with  
19 Mr. Frasier; we need a mediation; is that correct?

20 A. Well, the truth is -- the real truth is,  
21 and we want the truth, is that you had deferred  
22 resolution to Mr. Travis and Mr. Gonzalez.

23 My accountant, Judy Hamilton, met with  
24 John Gonzalez, who has very limited knowledge of  
25 estate law and trusts, just basically trusts in

1 general, so she was guiding him through this.

2 I wrote this letter to Mr. Travis to tell  
3 him he made a mistake, and because of this mistake  
4 we are embroiled in the legal dispute and spending  
5 lots of money to do it. That is the real truth.

6 Q. Okay. I completely agree with you that  
7 our law firm and Premier were deferring to the  
8 estate attorney for a decision on whether we could  
9 treat this payment as a loan because he is the  
10 person who -- he and the accountant are the people  
11 who made the decision to treat the medical building  
12 as an ownership, and we were deferring to them on  
13 this issue, correct?

14 A. Yeah. That's correct, but then when  
15 Mr. Resnick tried to resolve it, you didn't let him  
16 do that.

17 He was the new estate attorney before the  
18 mediation, so we had an opportunity before the  
19 mediation to resolve this without the expense of the  
20 mediation, which had, I don't know, four or five  
21 attorneys, my accountant, I took a full day off from  
22 my practice. It was very expensive for everybody,  
23 and we could have easily, with all the information  
24 we had, we could have easily avoided the mediation  
25 which is why I wanted to avoid it, not because I

1 didn't want to settle, because I was motivated to  
2 settle. Because I thought we could settle without  
3 it.

4 Q. So Mr. Resnick, who came into the case as  
5 was previously established in, I think it was  
6 November 25th, 2016, late November of 2016, that  
7 would have been about 60 days before the actual  
8 mediation occurred, correct?

9 A. Right.

10 Q. So you believe that Mr. Resnick should  
11 have been able to resolve this, even though we had  
12 been working on resolving it for many months, but he  
13 should have been able to resolve it in those 60  
14 days?

15 A. He was hampered by you, according to him..

16 Q. What proposal did Mr. Resnick make -- let  
17 me withdraw that.. Did Mr. Resnick propose a  
18 resolution that ended up being similar to the  
19 resolution that was reached at the settlement  
20 conference?

21 A. He was completely hampered by you from  
22 doing anything, so there was no proposal.

23 Q. How is it that I was hampering  
24 Mr. Resnick?

25 A. I wasn't privy to those discussions, but

1 in discussions with Mr. Resnick thereafter, he -- I  
2 sent many e-mails to Mr. Resnick, Let's do this. My  
3 mother doesn't want to go to mediation. I'm  
4 motivated; she is motivated. Here is all the  
5 information.

6 I think he was new to the case, and like  
7 you, he wanted to make sure everything was okay, and  
8 then he subsequently told me he was hampered by you.

9 Q. Well --

10 A. That you wanted to go to mediation, that  
11 was your decision.

12 Q. Are you aware that what I told

13 Mr. Resnick was that we had an opinion from the  
14 trust estate lawyer and both of the trust  
15 accountants that we could not treat it as a loan,  
16 and that is why we couldn't enter into the  
17 arrangement that you wanted?

18 A. Well, this was an estate attorney and an  
19 estate accountant who made the mistake on the Form  
20 706. They erroneously filed the Form 706, and you  
21 know, my mom was at risk for tax fraud based on what  
22 they filed.

23 You can't go from not declaring something  
24 to all of a sudden, Well, I have this asset so I'm  
25 going to declare it. You can't do that -- let me



1 finish.

2 Mr. Travis said something that was  
3 laughable. He said, Well, you don't have to declare  
4 an investment until you sell it. Well, okay. What  
5 if you never sell it and just gift it to your kids?  
6 Then it's like -- the IRS will never see it. What a  
7 beautiful concept.

8 Q. Are you aware that Premier commissioned  
9 for an opinion, in light of your argument, from both  
10 Mr. Travis and also the trust accountant as to  
11 whether there was anything wrong with the fact that  
12 Joe and Dinny did not list the medical building on  
13 their tax returns?

14 A. Yeah, but they asked the wrong people.  
15 They were two people who don't know what they're  
16 doing.

17 Q. Are you aware that the opinion that was  
18 given the estate lawyer as well as both of the  
19 accountants was that Joe and Dinny did not need to  
20 report the building on their personal tax returns  
21 because they understood the arrangement to be that  
22 Joe and Dinny were silent partners in the building  
23 and that you would take all the deductions, so the  
24 IRS is not missing anything.

25 The IRS -- you were claiming all the

1 income. You were taking all the deductions. No

2 fraud on the IRS.

3 A. That's correct.

4 Q. But Joe and Dinny were not receiving any  
5 of the income --

6 A. Right.

7 Q. -- were not participating in the  
8 expenses, so all they were going to participate in  
9 is when the building was sold, they would get half  
10 of the equity in it.

11 At that point, they would have to report  
12 the capital gain from the fact that they had  
13 invested and they were silent partners in this  
14 investment; isn't that what they told Premier?

15 A. Again, it's fraudulent. Again, I hate to  
16 use a word like that, but I don't have any other  
17 vocabulary words to describe it.

18 You can't go from not claiming something  
19 on your taxes to all of a sudden, Yeah, I'm a 50  
20 percent equity owner of this property, bingo, all  
21 out of the blue. This is what the Form 706 did.

22 Q. Well, they only needed to report to the  
23 building if there was a gain, so when --

24 A. No, no.

25 Q. Can I finish?

1 A. Yeah.

2 Q. Thank you. If and when the building is  
3 sold, then Joe and Dinny would, as explained to  
4 Premier, they would take half of the equity in the  
5 building at the time it was sold. You would take  
6 the other half, and whatever the difference was  
7 between the equity that Joe and Dinny received and  
8 their cost basis, the \$325,000, that would be  
9 reported on the tax return, the personal tax return,  
10 and they would pay the capital gains tax on that  
11 difference at that time.

12 Did you understand -- whether you agree  
13 with it or not, did you understand that is what was  
14 told to Premier was the explanation for why your  
15 parents never reported this on their personal tax  
16 returns?

17 A. Yes. It's laughable and fraudulent. We  
18 have already established that you have to claim in  
19 the tax year any income, whether it's realized or  
20 not, you have to claim it.

21 If you own something, you have to claim  
22 it. If you have zero income from that, you claim  
23 that. That is on the IRS.gov website.

24 THE COURT: Marked next order, Ms. Clerk.

25 THE CLERK: Exhibit 11 marked for

1 identification.

2 (Exhibit 11 marked for  
3 identification)

4 MR. ROBERTSON: Did we move Exhibit 10,  
5 Ms. Clerk?

6 THE CLERK: You did not.

7 MR. ROBERTSON: May I move Exhibit 10,  
8 Your Honor?

9 THE COURT: Remind me what it is,  
10 Ms. Clerk?

11 THE CLERK: E-mails.

12 THE COURT: It is admitted.

13 (Exhibit 10 admitted into  
14 evidence)

15 MR. ROBERTSON: Are there any others that  
16 have not been admitted?

17 THE CLERK: Nine has not been offered.

18 THE COURT: It will be admitted.

19 (Exhibit 9 admitted into  
20 evidence)

21 BY MR. ROBERTSON:

22 Q. Showing you what has been marked as  
23 Exhibit 11, this is an e-mail from Mr. Travis to  
24 myself and Mr. Gonzalez regarding today's meeting.

25 In this e-mail, he is indicating that

1 Mr. Travis has a conflict and he is not able to  
2 attend. That is the same date, January 27th, that  
3 the mediation occurred, correct?

4 A. Yes.

5 Q. Okay. So Mr. Travis was not able to  
6 attend the mediation, but Mr. Gonzalez did, correct?

7 A. I never saw Mr. Gonzalez. We were all in  
8 separate rooms, so I don't even know who was there.

9 Q. So Mr. Travis prepared a memo that he  
10 attached to this e-mail, which has been filed with  
11 the Court, by the way, where he talks about a  
12 discussion regarding the San Diego commercial  
13 property. Do you see that?

14 A. Where specifically?

15 Q. I'm at the top of page 2 of Exhibit 11.

16 A. Paragraph 2 under 1?

17 Q. No. The title of the document,  
18 discussion --

19 A. Got it, yes.

20 Q. Item 1, The property is co-owned by the  
21 trust as it is written on all legal documents. The  
22 706 correctly shows that the estate co-owned the  
23 building accurately. Do you see that?

24 A. I do.

25 Q. Obviously, you disagree with that,

1 correct?

2 A. Yes, I do.

3 Q. But do you understand, Dr. Frasier, that  
4 Premier is stuck?

5 Its advisors, the trust estate attorney,  
6 both of the accountants for the Frasier Trust are  
7 both -- all three are telling Premier, you can't  
8 treat it as a loan.

9 You're telling Premier, you have to treat  
10 it as a loan.

11 Do you understand that Premier is stuck  
12 in the middle of this dispute?

13 A. When you said let's give it to the  
14 accountants to decide, I thought Premier had an  
15 in-house accountant that was smart and understood  
16 estate law, but that wasn't the case.

17 You sent it back to John Gonzalez, who  
18 doesn't understands estate law or estate tax law,  
19 and he was taking over for Sal Jacinto, and  
20 Mr. Travis didn't understand it either, so Premier  
21 was going to get an expert opinion from the people  
22 who filled out the original document. That is  
23 preposterous.

24 Get an outside opinion of someone who  
25 knows what they're talking about, like a tax

1 attorney or someone like that.

2 Q. Okay. You made that same pitch, I'll  
3 say --

4 A. Yeah, yes.

5 Q. -- to me, and my response, as you may  
6 recall, is let's get your accountant, Judy Hamilton,  
7 on the phone with the trust accountant, and let's  
8 have them hash it out because I don't know the  
9 answer to the question. I'm not a tax lawyer.

10 I trust that you know what you're talking  
11 about, but we had to get the accountants together  
12 and try to figure out a solution. Do you recall  
13 that?

14 A. Yeah. Judy Hamilton was very frustrated  
15 by the whole process, so she finally gave up.

16 She guided John Gonzalez through the  
17 whole process, and it was clear that he didn't know  
18 what he was doing, and then with all the  
19 discussions -- and she said that you were very clear  
20 to keep the discussions as phone conversations and  
21 not to document them, but again, Judy Hamilton spoke  
22 with my father, gave him some options in 2009 what  
23 to do.

24 Those options were on the table in 2016  
25 before the mediation, and Premier and you and

1 everyone else should have heeded those.

2 Judy Hamilton had a simple solution, just  
3 like I did.

4 Q. I just want to make clear that at your  
5 behest, I arranged for a conference call with  
6 Mr. Gonzalez and Ms. Hamilton and myself, sort of to  
7 moderate, to have the two of them see if they could  
8 find a solution to this problem. Do you recall  
9 that?

10 A. Yes.

11 Q. Actually, we weren't able to find a  
12 solution after the first hour-long conference call,  
13 and so I believe we rescheduled and had a second or  
14 even a third conference call where the three of us  
15 worked together to see if we could find common  
16 ground between the accountants. Do you recall that?

17 A. Yeah. All Judy said was that they're out  
18 to get you. I think that is what she said. She was  
19 frustrated by the incompetence of John Gonzalez and  
20 your lack of knowledge of trust law.

21 So basically, yeah, I personally would  
22 have gotten a tax attorney, and not -- get a real  
23 opinion from someone who knows what they're talking  
24 about.

25 Q. Okay. Well, I have to respectfully



1 disagree with your characterization that Mr. Brooks  
2 Travis didn't know what he was talking about, but  
3 let's go back to his opinion, which is the opinion  
4 that Premier was relying on. That is this Exhibit  
5 11.

6 It says, "During the administration of  
7 the trust estate, Mr. Travis presented the current  
8 deed to Brad Frasier, showing that Brad and Patricia  
9 Frasier owned one-half of the commercial property in  
10 their revocable trust, and that Jordan and Dinny  
11 Frasier in the" --

12 THE COURT: Hold on, hold on. It's 4:40.

13 I have rarely seen a reporter work as our reporter  
14 has worked today.

15 Slow down, if you would, please, as you  
16 read, and we have a hard stop at 4:50. We're just  
17 going to have to reconvene tomorrow.

18 MR. ROBERTSON: That's fine.

19 THE COURT: Just plan for that. You have  
20 five minutes.

21 MR. ROBERTSON: Thank you, Your Honor.

22 BY MR. ROBERTSON:

23 Q. I think I'll just start reading again.

24 "During the administration of the trust  
25 estate" -- and I apologize -- "Mr. Travis presented

1 the current deed to Brad Frasier showing that Brad  
2 and Patricia Frasier owned one-half of the  
3 commercial property in their revocable trust and  
4 that Jordan and Dinny Frasier" -- do you have a copy  
5 of this, Your Honor?

6 THE COURT: Yes, sir.

7 BY MR. ROBERTSON:

8 Q. "Jordan and Dinny Frasier in the Jordan  
9 Dana Frasier Trust owned the other half of the  
10 property.

11 "Mr. Travis asked Dr. Frasier if there  
12 was a more recent document that transferred title of  
13 the property held by the Jordan Dana Frasier Family  
14 Trust that was signed by Jordan and Dinny Frasier."  
15 Let me stop there.

16 Do you recall Mr. Travis asking you if  
17 there was a more recent document that transferred  
18 title to the property?

19 A. Well, I must say I have never met  
20 Mr. Travis. I have never seen him in person. I  
21 have only communicated by phone and by e-mail.

22 Q. Okay.

23 A. So I don't remember that, no, because I  
24 mean, this is preposterous.

25 Q. So this may have been a telephone

1 conversation?

2 A. No, it was not. We didn't have a  
3 conversation on that, ever.

4 Q. Okay. So you dispute what Mr. Travis is  
5 saying?

6 A. Yes.

7 Q. No document was produced. Well, let's  
8 just stop there.

9 A. Okay.

10 Q. Regardless of whether Mr. Travis and you  
11 met or talked or did or didn't, was there ever a  
12 more recent document from the original deed that  
13 transferred title of the property held by the Jordan  
14 Dana Frasier Family Trust that was signed by Jordan  
15 and Dinny Frasier?

16 A. No.

17 Q. He goes on. "Therefore, the ownership  
18 interest as shown on the deed, which was the most  
19 recent written document transferring title, was  
20 required to be used in administering the estate due  
21 to the following statute," and then he cites to  
22 Section 1102, I believe, of the Internal Revenue  
23 Code, subsection A.

24 "Except as provided in Section 761 and  
25 1103, either spouse has the management and control

1 of the community real property, whether acquired  
2 prior to or on or after January 1, 1975, but both  
3 spouses, either personally or by duly authorized  
4 agent, must join in executing any instrument by  
5 which that community real property or any interest  
6 therein is leased for a longer period than one year  
7 or is sold, conveyed or encumbered." Do you see  
8 that?

9 A. Yes.

10 Q. Do you disagree that that was the law?

11 A. No. As I mentioned in my previous  
12 testimony, the Form 706 was filled out incorrectly.

13 If there are two parties that own a  
14 building, obviously, if it's a husband and wife,  
15 then it's easy, but if there is another party, then  
16 both parties have to be in agreement with the Form  
17 706 filing.

18 Q. Do you understand that the law is saying  
19 that if there is going to be any transfer of  
20 ownership of the Jordan Dana Frasier Family Trust  
21 one-half ownership in the building, if there is  
22 going to be a transfer of that ownership by deed,  
23 the deed has to be signed by both Joe and Dinny?

24 A. Yeah. Unless one is deceased, yeah.

25 Q. Okay. Then it goes on to say, "The

1 one-half interest in the property in the Jordan Dana  
2 Frasier Family Trust was community property (owned  
3 by husband and wife), and as such required that both  
4 spouses must join in executing any interest by which  
5 that community property or any interest therein is  
6 sold or conveyed.

7 "No such instrument exists which conveys  
8 the community property to any other party.

9 "Also, the statute of frauds requires  
10 that a transfer of real property be done by an  
11 instrument in writing." Do you see that?

12 A. Yes.

13 Q. Now, let's look at paragraph 2.

14 Jordan and Dinny Frasier have not  
15 reported any rental income or expenses from this  
16 property on their 1040s because the property was  
17 held as an investment since inception.

18 Investment properties are not to be  
19 reported on their tax returns until the properties  
20 have been sold.

21 A. That is fraudulent.

22 Q. Do you have an opinion from a tax  
23 attorney that says that Mr. Travis is wrong?

24 A. As I mentioned, it's common knowledge if  
25 you have a property, you have to report that on your

1 income taxes. Whether you make anything or not, you  
2 have to report that.

3 Mr. Travis totally ignored the whole  
4 history of the agreement and totally ignored  
5 everything.

6 Like I said, I have never met Mr. Travis.  
7 I talked to him once on the phone. I sent him a  
8 couple of e-mails, and then he told me, I'm not  
9 going to communicate with you anymore. I am going  
10 to do the paperwork, and the next thing I know, he  
11 says, You need to contact Premier Trust because  
12 they're managing it now.

13 This was all under the influence of Amy  
14 and Bill during that time, so Mr. Travis really did  
15 our family a disservice by his actions.

16 THE COURT: With that, we'll end our  
17 trial. It appears to me that most of tomorrow will  
18 be devoted to trial -- hearing, I should say.

19 I have a somewhat lengthy bail  
20 modification hearing scheduled for 2:00 o'clock.  
21 Have you been successful with that, Ms. Clerk?

22 THE CLERK: Yes.

23 THE COURT: So we have the entire trial  
24 day tomorrow. I begin a five-day trial on Monday,  
25 so if we are not done tomorrow, I'll find time in

1 the near future, in the next week or two or three,  
2 to reconvene additional hearing time, but because I  
3 hope to complete everything tomorrow, I want to  
4 start early, 8:30.

5 MR. ROBERTSON: Very good. So do we.

6 MR. RESNICK: Your Honor, from a  
7 housekeeping standpoint and some semblance of flight  
8 bookings and changes, are you envisioning, based on  
9 what you have seen so far and what you anticipate,  
10 it will go to 5:00?

11 THE COURT: Yes, sir.

12 MR. RESNICK: Okay.

13 THE COURT: I try to conceal any opinion  
14 I have about that. I want to create a final fair  
15 opportunity because I have been stern a couple of  
16 times with Amy, but I also wish to give to Amy the  
17 same right that Mr. Bradley has had, and that will  
18 take some time.

19 I don't know your position on this issue  
20 on behalf of your client. I haven't yet heard  
21 anything that will invite Mr. Rosenauer to the  
22 discussion, but we probably have to plan for another  
23 hour with Mr. Frasier, I would think, based on the  
24 way we have been going, and then we have Ms. Amy and  
25 then we have some other issues.

1                   Although the investigator and some of the  
2   non-trust jurisdictional stuff is sort of clarified  
3   in my mind a little bit as we go through this, so  
4   it's productive for me.

5                   MR. RESNICK: I understand. I promoted  
6   finality. I'm with it.

7                   DR. FRASIER: May I ask a question,  
8   please?

9                   THE COURT: Yes.

10                  DR. FRASIER: When you make your  
11   judgment, I assume you have read a lot of  
12   information, and you have seen a lot of it today.  
13   We have submitted everything.

14                  I assume you take all of that into  
15   consideration, not just the testimony in court?

16                  THE COURT: Yes. Very much so.

17                  DR. FRASIER: Okay.

18                  MR. ROBERTSON: One last housekeeping  
19   matter, Your Honor. If I didn't move admission of  
20   Exhibit 11, I do so.

21                  THE COURT: It is admitted.  
22                               (Exhibit 11 admitted into  
23                               evidence)

24                  THE COURT: Off the record.

25                  (Hearing concluded for the day at 4:50 p.m.)



1 STATE OF NEVADA )  
2 COUNTY OF WASHOE ) ss.  
3

4 I, KATE MURRAY, Certified Court Reporter  
5 of the Second Judicial District Court, in and for  
6 the County of Washoe, State of Nevada, do hereby  
7 certify:

8 That I was present in the above-entitled  
9 court on Thursday, October 11th, 2018, and took  
10 stenotype notes of the above-entitled proceedings;  
11 and thereafter transcribed them into typewriting as  
12 herein appears;

13 That the foregoing transcript is a full,  
14 true and correct transcription of my stenotype notes  
15 of said hearing.

16  
17 DATED: At Reno, Nevada, this 23rd day  
18 of October, 2018.

19  
20 /s/Kate Murray  
KATE MURRAY, CCR #599  
21  
22  
23  
24  
25

1 CODE: 4185  
2 NICOLE J. HANSEN, CCR 446  
3 Sunshine Litigation Services  
4 151 Country Estates Circle  
5 Reno, Nevada 89511  
6 (775) 323-3411  
7 Court Reporter

COPY

8 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR THE COUNTY OF WASHOE

10 THE HONORABLE DAVID A. HARDY, DISTRICT JUDGE

11 --oOo--

12 IN THE MATTER OF: Case No. PR16-00128

13 JORDAN DANA FRASIER FAMILY TRUST. Dept. No. 15

14 -----  
15 TRANSCRIPT OF PROCEEDINGS

16 HEARING, VOLUME II

17 FRIDAY, OCTOBER 12, 2018

18 APPEARANCES:

19 For Premier Trust, Inc.: DAVID ROBERTSON, ESQ.  
20 ALISON CURTIS, ESQ.  
21 50 W. Liberty Street  
22 Reno, Nevada 89501

23 For Dinny Frasier: BARRY RESNICK, ESQ.  
24 (Pro Hac Vice)  
PATRICK MILLSAP, ESQ.  
510 W. Plumb Lane  
Reno, Nevada 89509

For Janie Mulrain: MICHAEL ROSENAUER, ESQ.  
510 W. Plumb Lane  
Reno, Nevada 89509

SUNSHINE LITIGATION SERVICES (775) 323-3411

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RENO, NEVADA; FRIDAY, OCTOBER 12, 2018, 9:00 A.M.

THE COURT: I think we all stand before the law as we try to preserve the great legacy of justice. It is my privilege to stand for juries when they enter the room. I just love doing it, as they are finders of fact, as they occupy a judicial role. I promise you that nobody stands in my home when I enter a room. It's strange, but thank you for your respect to the tribunal.

With that, Mr. Robertson, you may continue with your cross-examination. You wanted to admit a document?

MR. ROBERTSON: I'd like to admit Exhibit 1, which were the monthly statements that were testified to by both Nicole Shrive and Ryan Gonda.

THE COURT: So I'm not opposed to admitting them. Even with objection, I'm inclined to admit them. But I briefly said I don't intend to read them.

MR. ROBERTSON: Understood.

THE COURT: I believe I understand the purpose of the admission and would have liked to argue the evidence that's in the record.

And with that caveat, do you wish to be

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1 heard?

2 MR. RESNICK: No, Your Honor.

3 THE COURT: All right. One is admitted, Miss  
4 Clerk. You may proceed.

5 (Exhibit No. 1 was admitted into evidence.)

6 MR. ROBERTSON: May I approach the witness,  
7 Your Honor?

8 ~~THE COURT: Yes.~~

9 ~~MR. ROBERTSON: Dr. Frasier, good morning.~~

10 ~~THE WITNESS: Good morning.~~

11

12 CONTINUED CROSS-EXAMINATION

13 BY MR. ROBERTSON:

14 Q I'm handing you a few of the exhibits from  
15 yesterday so you'll have them in front of you.

16 I believe where we left off yesterday  
17 afternoon, we were talking about Exhibit 11, which was or  
18 is the Memorandum from Brooks Travis regarding, as he  
19 says on page one of Exhibit 11, regarding the statutes  
20 that apply to this situation as to why Premier and Sal  
21 Jacinto placed the commercial property interest owned by  
22 Dinny and Jordan into the B Trust.

23 Do you recall that's where we left off?

24 A Yes.

1           Q     And we had already covered his opinion number  
2     one: That the property is co-owned by the trust, as it  
3     is written on all legal documents, and we had covered  
4     item two as to why Jordan and Dinny Frasier did not  
5     report any rental income or expenses. And we covered the  
6     fact that you claimed all of the income and expenses on  
7     your return; correct?

8           A     Correct.

9           Q     And I think we left off here. We were at  
10    Item 3. And Mr. Travis states:

11                     "We suggest the following: That the Jordan  
12    Dana Frasier Family Trust holds an equity position as an  
13    investor in the building, whereby the trust would not  
14    benefit from the operations of the building, but rather  
15    the trust would benefit from the sale of the building at  
16    some point that the trust and Brad and Patricia agree to  
17    sell."

18                     Do you see that?

19           A     I do.

20           Q     And then he has point B. This is 3B:

21                     They suggest that Brad and Patricia Frasier  
22    be given the opportunity to purchase one-half interest in  
23    the property owned by the Jordan Dana Frasier Family  
24    Trust at fair market value.

1 Do you see that?

2 A Yes.

3 Q And then Subsection 3C:

4 "That Brad Frasier keep operating the  
5 building as he's done since the purchase of the building,  
6 while taking any tax benefits, (depreciation, mortgage  
7 interest, deductions, property taxes, etcetera,) and the  
8 tax burden of the rental income."

9 Do you see that?

10 A Yes.

11 Q Now, did you agree with Mr. Travis on this  
12 point?

13 A No. I have disagreements with just -- I  
14 could state my case, if you like.

15 Q I think you had a chance to do that, and we  
16 heard you. We appreciate that.

17 A Okay.

18 Q I'm just pointing out that Mr. Travis had a  
19 different perspective on the situation; correct?

20 A And I've already said that Mr. Travis was in  
21 error in many respects. I respectfully disagree with  
22 him.

23 Q All right. So focusing for a second on his  
24 suggestion, 3B, which was that the property effectively

1 be appraised at today's fair market value, the date as of  
2 this memo, that it be appraised at fair market value, and  
3 that you and your wife pay the trust for one-half of the  
4 equity based upon the fair market value. That was his  
5 suggestion.

6 Did you agree to do that?

7 A That assumes that the trust is a 50 percent  
8 equity owner. And in reality, if you look at the numbers  
9 and the equity position that the trust had, the amount  
10 that I was offering to pay back was equivalent to that.

11 So however we do the numbers, I was willing to pay that  
12 back, which would have satisfied this. However, you  
13 refused to proceed with that.

14 Q So you're telling the Court that you agreed  
15 that you would buyout the trust, one-half equity  
16 ownership at fair market value?

17 A Considering the trust equity position, yes.

18 Q And you would pay for that rather than doing  
19 that through some mechanism whereby there was a transfer  
20 of assets between the trusts?

21 A It would have been a simple money for real  
22 estate transaction, which would have had no tax  
23 consequences to the trust.

24 Q But it involves some transfers between the



1 trust; correct?

2 A Cash for real estate.

3 Q But your proposal still treated the \$325,000  
4 as a loan; correct?

5 A As I mentioned, as I stated, however you call  
6 it, it was an equivalent amount based on what the trust  
7 actual equity was, based on how much money the trust put  
8 into the building versus how much my wife and I put in  
9 the building.

10 Q Okay. We'll move on. We'll come back to  
11 that in a little bit. Can you take a look at Exhibit 10,  
12 which is in front of you? This is the e-mail from you to  
13 lots of folks, including Mr. Travis, but it's addressed  
14 to Mr. Travis; correct?

15 A Yes.

16 Q And the first sentence of the e-mail says  
17 that: You understand that Mr. Robertson, on behalf of  
18 Premier, is deferring to Mr. Travis to make a decision  
19 regarding the dispute over the medical billing; correct?

20 A This was in October 2016.

21 Q Yes.

22 A Yes, roughly seven months after we had been  
23 negotiating this thing.

24 Q But you understood that Premier was relying

1 upon Mr. Travis's advice?

2 A I understood that Premier didn't want to  
3 negotiate and complete the transaction and that they  
4 deferred to Mr. Travis because they didn't know what else  
5 to do.

6 Q Now, would you take a look at Exhibit 9,  
7 which is in front of you as well?

8 A Sure.

9 Q That's an e-mail from myself to Mike  
10 Sullivan. And on the first page of that e-mail, the  
11 third from the last paragraph that starts: "As you  
12 know."

13 Do you see that?

14 A Correct.

15 Q "As you know, Mike, I worked my tail off for  
16 many months, trying to find a middle ground that everyone  
17 could agree upon but with no success."

18 Would you disagree with that statement?

19 A Yes, I would. Very much so.

20 Q So you don't think that --

21 A Very much so.

22 Q Okay. How about the next sentence:

23 "While Dr. Frasier believes everything is  
24 clearcut, other people simply do not share his views and,

1 in fact, they have quite opposite views."

2 Would you agree with that statement?

3 A No. I presented evidence to my opinion, and  
4 we never received any evidence to the contrary. You  
5 never presented any evidence in support of your opinion.

6 Q Okay. So the statement: "Other people  
7 simply do not share his views," you believe that to be  
8 incorrect?

9 A No. I believe other people didn't share my  
10 views, but they didn't provide me with any evidence  
11 supporting their views.

12 Q And you don't believe that Mr. Travis's  
13 memorandum setting forth the Internal Revenue Code  
14 provisions that apply, you don't believe that's presented  
15 you with any evidence for his position?

16 A I don't think Mr. Travis knows the Internal  
17 Revenue Codes if he thinks that you can own a building  
18 and not declare it on your taxes for six years and then  
19 suddenly declare it. I don't think he knows the Tax  
20 Code, to be honest.

21 Q Could you please explain to the Court your  
22 tax background, what training and expertise you have in  
23 taxes?

24 A I pay my taxes. The IRS.gov site is open to

1 everybody. I talked with my accountant. It's not  
2 correct what Mr. Travis did with the medical building.

3 Q Dr. Frasier, we're doing very well at keeping  
4 everything civil, and I appreciate that. But I really  
5 would appreciate it if you'd answer the question I asked  
6 because it will make things go much more quickly.

7 And the question that I asked is: What  
8 background and training do you have with respect to  
9 income tax?

10 A I don't --

11 Q Thank you.

12 A -- except reading the IRS.gov site.

13 Q Thank you. Oh, one other thing on this  
14 Exhibit 9. Could you turn to page three of Exhibit 9?  
15 And about three-quarters of the way down that page,  
16 there's a paragraph you're writing to Mike Sullivan  
17 asking him to convey the information to me.

18 You say, "Please tell Mr. Robertson that the  
19 ball is in his court."

20 Do you see that?

21 A Yes.

22 Q The next sentence says: "He deferred the  
23 resolution of his case to Mr. Travis and felt, quote,  
24 'frustrated,' unquote, when Mr. Travis and Mr. Gonzalez

1 did not respond to our inquiry."

2 Do you see that?

3 A Yes.

4 Q So did you understand that, in fact, we --  
5 Premier and I -- were frustrated because we were trying  
6 to solve this problem the way you wanted to solve it.  
7 And the accountants and Mr. Travis, the estate lawyer,  
8 were not cooperating with the way we wanted to solve it.

9 Did you understand we were frustrated?

10 A I did. And again, this was in December,  
11 2016, eight months after we started.

12 Q So getting back to efforts to try to resolve  
13 this on the terms that were acceptable to you, do you  
14 recall telling me -- now we're all the way back to March  
15 of 2016 -- back in the time period when you say it should  
16 have been easily resolved?

17 A Correct.

18 Q Do you remember telling me, "Mr. Robertson,  
19 if I could just talk to my mom, we could get this  
20 straightened out and very easily"?

21 A Yes, and we did.

22 Q And so, do you recall that it took some time  
23 before we were able to arrange that call with your  
24 mother?

1 A We spoke with my mother in March 2016. Yes.

2 Q Correct. But you recall that it took some  
3 time after you said "If I could just talk to my mom, we  
4 could straighten this out." It took some time between  
5 that point when you asked me to arrange a call with your  
6 mother and the time that we actually had the call with  
7 your mother.

8 A It was about a month, which ---

9 Q That's correct.

10 A --- in legal terms, is a blink of an eye.

11 Q That's correct. It was about a month. And  
12 do you know why it took a month for us to arrange that  
13 call with your mother?

14 A Having observed the legal process over the  
15 past three years, I do know why.

16 Q And why is that?

17 A It's the legal system. It just takes time.

18 Q And during the period of time, your mother  
19 didn't want to talk to you; correct? That's why you had  
20 to go through me.

21 A During this time, again, because of the  
22 disparaging comments made by my sister about me and my  
23 sister Norrie, I was estranged from my mother. Yes.

24 Q And do you know if the reason it took a month

1 to schedule a call was because Dinny did not want to  
2 speak to you and Nicole Shrive had to repeatedly ask  
3 Dinny and encourage Dinny to talk to you?

4 A I don't know what happened leading up to  
5 that. I know you and I spoke in late February, and then  
6 we had the conference March 26th, I believe, or March  
7 26th or 27th, somewhere around there.

8 Q Do you remember we had to set some very  
9 specific ground rules in advance of this call?

10 A I don't remember that.

11 Q Do you remember that Dinny would only speak  
12 with you if the agreement was that she could have her  
13 legal counsel and Nicole on the phone? You do recall  
14 that Nicole and myself and even Mr. Williamson were all  
15 on the phone at the same time? Do you recall that?

16 A No, I think we were all on the phone to hear  
17 what Dinny had to say. I don't remember any  
18 stipulations.

19 Q Do you remember one of the other rules that I  
20 laid out at the beginning of the conversation was that  
21 everyone would remain civil, and that if anyone was not  
22 civil, that Dinny could hang up at any moment?

23 A Yes, I remember that.

24 Q Very good. And in your mind, how did that

1 call go?

2 A I thought it went well initially, but then  
3 again, my mother and I were estranged for probably over a  
4 year at that point, and a lot of familial disagreements  
5 came out.

6 I don't remember the exact details, but I  
7 remember she accused me of not paying back the loan, and  
8 other things came out as well. I don't remember the  
9 details of it, but I remember that it was unpleasant at  
10 the end. Yes.

11 Q Do you recall yelling at your mother?

12 A I wasn't yelling. I may have raised my voice  
13 for emphasis.

14 Q Do you recall using profanity towards your  
15 mother?

16 A I don't remember that. No.

17 MR. ROBERTSON: I have a new exhibit, Your  
18 Honor.

19 THE COURT: Yes.

20 MR. ROBERTSON: This will be Exhibit 12.

21 THE CLERK: Exhibit 12 marked for  
22 identification.

23 (Whereupon, Exhibit No. 12 was marked for  
24 identification.)



1 THE COURT: Thank you.

2 MR. ROBERTSON: If it's all right with the  
3 judge.

4 THE COURT: Sorry. I didn't hear.

5 MR. ROBERTSON: Mr. Resnick is asking if I  
6 can move the podium.

7 MR. RESNICK: So I can see him.

8 THE COURT: Sure. Absolutely.

9 Q (BY MR. ROBERTSON:) Showing you now what has  
10 been marked as Exhibit 12, this has been referred to as  
11 the Henry Coopersmith memo. As you know, it was filed  
12 with the Court prior to today's hearing. And I believe  
13 you had responded in your prehearing statement with  
14 respect to this memo.

15 A Correct.

16 Q And what I want to be clear about,  
17 Dr. Frasier, is I just want to go through the memo  
18 briefly, but I realize you dispute the facts in the memo.  
19 And I'm not trying to get to the question of whether what  
20 the memo says is true or not.

21 What I'm trying to get to is the point that  
22 -- and I'll make a representation to you -- that Nicole  
23 Shrive and Premier was aware of this memo, were aware of  
24 this memo very early on when they became trustees.

1                   And so the point I want to get to is whether  
2                   this memo contains information that Premier -- assuming  
3                   this memo contains information that Premier was relying  
4                   upon, I want to get to the point of whether this helps  
5                   you to understand why Premier believed it had to treat  
6                   the building as an equity ownership. All right?

7                   A       No. I totally disagree with this document.

8                   I saw this document last week for the first time ever.

9                   This was never, ever, ever presented during the  
10                  negotiations that we had in late November 2015. All of  
11                  2016, we didn't see this memo at the mediation

12                 conference. This was a blind-side to me just last week,  
13                 okay?

14                   I will say I spoke with Mr. Coopersmith, and  
15                   he said it doesn't matter what your dad said. He didn't  
16                   put it in a legal document. So it's like having a plan  
17                   for surgery -- this is what he told me -- and then just  
18                   not doing the surgery. Nothing happened.

19                  Q       And on that point, we completely agree --

20                  A       Yeah.

21                  Q       -- that the documents that were  
22                  contemplated --

23                  A       Yeah.

24                   THE COURT: Hold on.

1 THE WITNESS: I'm sorry.

2 Q (BY MR. ROBERTSON:) The documents that were  
3 contemplated in this memo never ended up being -- well,  
4 they may have been drafted, but they were never signed;  
5 correct?

6 A Again, this supports my case of again, for  
7 lack of a better word, the incompetence of Premier Trust  
8 and Nicole Shrive to rely on this document as a -- for  
9 anything. This was a non-document.

10 THE COURT: I'm going to stop the examination  
11 quickly for two purposes and then have you resume.

12 One -- and this is a comment to all. In the normal  
13 course of conversation, we have our own style, and we  
14 take cues, and there's this experience where we often  
15 come close to each other's words. Sometimes we step on  
16 each other's words. And that's okay, until we're being  
17 written.

18 And it is so hard for the reporter to  
19 simultaneously try and capture what people are saying.  
20 And so it's really important that we all recognize only  
21 one speaker at a time. And I'm not criticizing you in  
22 any way. I'm just reminding you that this is going to be  
23 a long day for the reporter, and we have to pause.

24 Second, I just want to understand,

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1 Mr. Frasier, as the testimony continues -- in fact, I  
2 won't ask the questions. I'll just say that I'm still  
3 struggling with the role of the deed document that vests  
4 ownership equally between Bradley Frasier and wife on one  
5 side and parents on the other.

6 Whether it was erroneous, whether it was  
7 mandated by the title company, I'm not sure that I've  
8 heard enough from Mr. Frasier about how we get over that  
9 initial burden. It seems to be a domino that could  
10 affect subsequent analyses.

11 And so as the examination unfolds, that's  
12 just more that I want to know. I heard the explanation,  
13 but I haven't heard the acknowledgment of what it means  
14 later. So with that, I'll just be quiet.

15 THE WITNESS: And may I comment on that now?

16 THE COURT: Not yet. Wait for a question,  
17 please. You will be given a chance.

18 THE WITNESS: Thank you.

19 Q (BY MR. ROBERTSON:) Your Honor, I think we  
20 will be able to clear that up pretty well with Nicole  
21 Shrive's testimony. That's my anticipation.

22 THE COURT: All right. Carry on. Just keep  
23 that in mind, Mr. Frasier. I mean no disrespect if I  
24 don't refer to you as doctor.

1 THE WITNESS: I understand.

2 THE COURT: I know Mr. Robertson does, but in  
3 the courtroom, it's only one person with a title. It's a  
4 way to create balance --

5 THE WITNESS: I totally understand.

6 THE COURT: -- for those that aren't doctors.

7 MR. ROBERTSON: It's just habit, Your Honor.

8 THE COURT: And it's very respectful and  
9 welcome --

10 MR. ROBERTSON: Thank you.

11 THE COURT: -- just I don't.

12 Q (BY MR. ROBERTSON:) Fair enough. I don't  
13 see any point, really, in dwelling on this memorandum,  
14 but I wanted to ask you a question.

15 Do you know if Premier Trust discussed this  
16 memorandum with Dinny and the contents of this memorandum  
17 with Dinny?

18 A I do not.

19 Q Do you know whether Dinny confirmed to  
20 Premier Trust the information in this memo that she  
21 believed that she and your father owned half of the  
22 medical building and that they wanted to leave it to your  
23 children with you as trustee?

24 A I'm sorry. Repeat that.

1           Q     Do you know if Dinny confirmed to Premier  
2 Trust the contents of this memorandum, that she and your  
3 father owned one-half of the medical building, and that  
4 they wanted to leave their one-half to your children with  
5 you as trustee?

6           A     I did not. I would be all in favor of that,  
7 because my children are going to get it anyway. So I'm  
8 ~~totally in favor of that. But I did not know that that~~  
9 ~~was discussed.~~

10          Q     But you wanted Dinny to sign the grant deed  
11 or the deed granting the trust interest during her  
12 lifetime; correct?

13          A     All I know is that my mother wanted me to pay  
14 her back for the loan, and that was the agreement, and  
15 that she and my mother had loaned the money and  
16 considered it a loan. My father considered it a gift of  
17 my future inheritance. That's all I know. And we had an  
18 agreement, and Premier Trust and you knew we had an  
19 agreement.

20          Q     And at the time that your father passed away,  
21 the documents to transfer the one-half interest in the  
22 building to your children, those documents had not ever  
23 been signed; correct?

24          A     That's correct. I knew nothing about those

1 documents. Again, I've seen this memorandum for the  
2 first time last week. I'm frustrated that you and Nicole  
3 didn't present it to me before.

4 Q Well, I'm not here to answer your questions,  
5 but I will say that we did not believe it was necessary  
6 to present this document and create more controversy at  
7 the mediation.

8 A And it's interesting you're presenting it  
9 now.

10 Q Well, we've been asked to be sanctioned.  
11 Thank you. That's why.

12 Anyway, so unfortunately, since the documents  
13 were not finalized, Premier was faced with a situation  
14 where it did not have documents that would transfer  
15 one-half ownership to your children with you as trustee.  
16 Rather, it had no documents whatsoever authorizing them  
17 to transfer ownership to you. Correct?

18 A That's correct. If I had known this, I would  
19 have been on board with that. So it's too bad that  
20 Nicole didn't present this to me. This would have saved  
21 us all -- and again, here's another indication we could  
22 have resolved this in early 2016 or late 2015, which  
23 supports my case.

24 Q Once your father passed away, is the medical

1 building, is it in the survivor's trust or the tax-exempt  
2 trust?

3 A I asked you in February 2016 where it was,  
4 and you couldn't tell me, and you wouldn't tell me. So I  
5 don't know. I don't know where it is, to be honest with  
6 you.

7 Q Do you know whether, if the property was in  
8 the tax-exempt trust, whether that could be changed after  
9 your father passed away?

10 A Well, I know the tax-exempt trust can be  
11 changed, but you can transfer cash for real estate, as  
12 long as it's an equal transfer. That can be done. And  
13 I'm not an accountant, but that's what my accountant told  
14 me.

15 Q So Dinny was not -- if the property was in  
16 the tax-exempt trust, Dinny was not able, by herself,  
17 after your father passed, to just simply gift or change  
18 that trust to gift the medical building to your children;  
19 correct?

20 A No. Yes, you can. I mean, in the settlement  
21 agreement, she agreed to gift it to me. And the way they  
22 did that is they transferred it to a trust and  
23 transferred an equal amount of cash, just like I said.  
24 It's a very simple transaction with no tax consequences.



1           Q     So that is the solution we reached at the  
2     settlement conference where Dinny transferred the two  
3     houses to the daughters and the medical building to you?

4           A     That's correct.

5           Q     That was not your proposal ever before the  
6     settlement conference?

7           A     Sure it was. My proposal was that I would  
8     give my mother cash for the medical building. That's a  
9     simple transaction. And the cash, whether it's buying  
10    out 50 percent of the equity ownership or whatever equity  
11    ownership they had, or paying back the loan, it's the  
12    same cash, whatever you call it, and it would have worked  
13    either way. And I would have been happy with it either  
14    way.

15          Q     Listen to my question and answer this  
16    question only, please. Is the settlement agreement, the  
17    deal that was reached at the mediation, was that proposal  
18    ever presented by you?

19          A     No. Well, let me correct that. My mother --  
20    my father thought that the building was a gift, and my  
21    mother could have gifted the building to me. And you  
22    spoke with her in early 2016, and you said she didn't  
23    want to gift the building to me at that time because we  
24    were estranged, and that's what you told me she said. So

1 that was never an option that was on the table.

2 THE COURT: Yes.

3 MR. ROBERTSON: Thank you.

4 THE CLERK: Exhibit 13 marked for  
5 identification. Exhibit 14 marked for identification.

6 (Whereupon, Exhibit Nos. 13-14 were was  
7 marked for identification.)

8 ~~MR. ROBERTSON: Your Honor, Exhibit 13 is the~~  
9 ~~accounting for the tax-exempt.~~

10 THE COURT: Thank you.

11 MR. ROBERTSON: And Exhibit 14 is the  
12 accounting for the survivor's trust.

13 THE COURT: Thank you.

14 Ms. Clerk, 15 is the survivor and 14? I  
15 listened to you and for some reason didn't write it down.  
16 Tax exempt is 14.

17 Q (BY MR. ROBERTSON:) No. Tax-exempt is 13,  
18 and survivor: 14. They look identical, virtually.

19 So, Dr. Frasier, last line of questioning I  
20 have for you. I want to go back for a minute to Exhibit  
21 9, which was your proposal back in December of '16, about  
22 two months before the mediation. You prepared a lengthy  
23 e-mail proposal, and I'd like to take a look at page  
24 three of that proposal.

1 Do you have that in front of you?

2 A I do.

3 Q Okay. Exhibit 9. This is your e-mail;  
4 correct?

5 A That's correct.

6 Q And roughly just above the middle of the  
7 page -- well, let's say about a third of the way down.

8 A Which page?

9 Q On page 3.

10 A Okay.

11 Q It says: "Dinny has reportedly accepted my  
12 offer of \$387,121.15."

13 Do you see that?

14 A I do.

15 Q And that was calculated as \$325,000, treating  
16 it as a loan at 2.87 percent simple interest over 6.66  
17 years; correct?

18 A Correct.

19 Q And so the next sentence says: "So I can pay  
20 \$387,000, (or \$387,121.15 minus the \$70,000 that has  
21 already been paid.)"

22 Do you see that?

23 A Correct.

24 Q Which goes into the B Trust. So if I

1 understand, you were offering to pay \$387,000,  
2 \$387,121.15 -- I'm just rounding it off to \$387,000 --  
3 on top of the \$70,000 you had already paid, or deduct the  
4 \$70,000 you already paid; correct?

5 A Yeah. The total value that I was proposing  
6 to pay was roughly \$387,000.

7 Q And if you did not get the \$70,000 back?

8 A No. The \$70,000 was already given. It was  
9 already given. I gave the \$50,000 --

10 Q Right.

11 A -- and another \$20,000. So I already paid  
12 that back. So simple math, you subtract the \$70,000 from  
13 the \$387,000 to get what I would then pay. But the total  
14 payment, to be clear, was \$387,000 and change, which is  
15 more than the value of \$384,000 that the trust had  
16 claimed.

17 I didn't see this document until now, so I  
18 don't know. I didn't know when and I asked you how much  
19 the trust had claimed. I apologize for talking over, but  
20 this is astonishing to me. This was \$384,000. I was  
21 offering \$387,000. This could have been a cash for real  
22 estate deal easy, with no tax consequences, in early  
23 2016.

24 Q So again, Dr. Frasier, in the interest of

1 time, this is taking way longer than it should. If you  
2 could just answer my questions. So you offered to pay  
3 \$387,000 and change; correct?

4 A Correct.

5 Q And then it says: "Or \$387,000 and change  
6 minus the \$70,000 that has already been paid. Right? So  
7 you were offering to pay either \$387,000 --

8 A Well, it's the same.

9 THE COURT: Hold on. You weren't finished  
10 with the question.

11 THE WITNESS: Okay.

12 Q (BY MR. ROBERTSON:) You were offering to pay  
13 the \$387,000 and let the trust keep the \$70,000 you'd  
14 already paid, or you pay \$387,000, and the trust gives  
15 you back the \$70,000. You were offering those two  
16 alternatives; correct?

17 A No. I was offering to pay \$387,000, and I  
18 was just simply doing the math in the document for  
19 everybody. And I can do it for you, if you'd like, but  
20 it's a simple math formula where you take what I  
21 recommend paying minus what I've already paid, and that's  
22 what I'll pay. But the total amount is \$387,000, so I  
23 don't understand where you're going with this.

24 Q I'm only going to try one more time, and then

1 we'll move on. I'm trying to read the words you wrote in  
2 your e-mail.

3 You wrote the words: "So I can pay \$387,000  
4 and change, (or \$387,000 minus the \$70,000.) So you're  
5 offering to pay the \$387,000 and let the trust keep the  
6 \$70,000, or \$387,000, and you get the \$70,000 back.

7 A No. The total payment would be \$387,000 and  
8 change, no matter which way you want to dice it. That  
9 was the payment. So you're taking what I wrote in  
10 parentheses to clarify to try to discredit me, and I  
11 think that's a disservice to me.

12 Q I'm not trying to discredit you, Dr. Frasier.  
13 I'm trying to show that you offered to pay as much as  
14 \$457,000. The \$387,000 plus the \$70,000.

15 A No, that's not correct. Again, I wrote this,  
16 so let me clarify it. The total amount was \$387,000 and  
17 change, period. And for people who needed the math, I  
18 said \$370,000 minus the \$70,000 already paid. It's as  
19 simple as that.

20 Q Okay. So your offer to pay was \$387,000 and  
21 change; is that correct?

22 A That's correct.

23 Q Now, have you seen a single document in this  
24 litigation where Mrs. Frasier, your mother, has objected

1 to the accounting of Premier on the basis that Premier  
2 and its counsel prolonged the litigation unnecessarily?  
3 Have you seen a single document where your mother has  
4 argued that?

5 A I've seen documents where my mother has  
6 stated that Premier and the attorneys are dragging out  
7 this thing. And I've seen documents where she fired  
8 Brooks Travis for not resolving this case as late as  
9 November 2016.

10 So yes, there's plenty of references and  
11 e-mails and things like that that state that Dinny also  
12 was unhappy with Premier's performance and your  
13 performance, and she wanted to fire both of you.

14 Q So let me make the question clearer. Have  
15 you read any objection to the accounting filed by your  
16 mother's lawyers that says they object because Premier  
17 and its attorneys drug out the litigation unnecessarily?

18 A I haven't read those documents. No.

19 Q All right. And are you aware of any  
20 objection filed by Norrie objecting that Premier and its  
21 counsel prolong resolution of the case?

22 A I have e-mails from Norrie stating that and  
23 her agreeing with me on my position.

24 Q I'll ask the question again. Please answer

1 the question. Has there been any objection filed by  
2 Norrie to Premier's request for approval of the statement  
3 of account saying that the statement of accounts should  
4 not be approved because Premier prolonged resolution of  
5 the medical building in dispute?

6 A I don't know of any.

7 Q Has there been any objection to the statement  
8 of account by Amy -- that you're aware of -- where Amy  
9 complains that Premier and its counsel unnecessarily  
10 prolonged resolution of the medical building dispute?

11 A No.

12 Q So, as far as you know, you are the only  
13 person who has filed an objection to the statement of  
14 accounting on the basis that Premier and its counsel  
15 delayed resolution of the medical building dispute?

16 A To my knowledge, yes. My mother is helpless  
17 and relies on her attorney and her trust company and her  
18 personal attorney to defend her.

19 Q So can you take a look at Exhibit 13, which  
20 is in front of you? That's the accounting for the  
21 tax-exempt trust. And I'll ask you to take a look at  
22 page five. It's numbered five at the bottom.

23 Do you see that?

24 A I do.



1 Q And page five is the summary of transactions  
2 for the period of June 1, 2015, through June 30, 2018.

3 Do you see that?

4 A I do.

5 Q And over that roughly three-year period, if  
6 you go down to about the middle of the expenses, at the  
7 bottom, you'll see legal expenses. They're alphabetized.

8 ~~And the legal expense for that roughly three-year period~~  
9 ~~was \$303,000. Do you see that?~~

10 A Correct.

11 Q And a little bit of that was paid to another  
12 lawyer, but basically, \$300,000 of that was paid to our  
13 law firm. Is that your understanding?

14 A Correct. Yes.

15 Q And the accountants allocated half of that  
16 expense to income, which means it's been allocated to  
17 your mother because she receives the income during her  
18 lifetime. Correct?

19 A I misunder -- I can't understand your  
20 question.

21 Q Okay. Look at the \$303,000 number.

22 A Yes.

23 Q If you look immediately to the left of that,  
24 you'll see the number \$151,000 --

1           A     Correct.

2           Q     -- and change.

3           A     Yeah.

4           Q     And if you look at the top of that column, it  
5     says income. Do you see that?

6           A     Yeah, I don't understand how legal expenses  
7     and income. I don't get that.

8           Q     And then if you look to the left again, you  
9     see another \$151,000 and change number?

10          A     Principal. Yes.

11          Q     And so what the accountants have done is  
12     they've allocated one-half of the legal fees to income  
13     and one-half to principal. Do you see that?

14          A     I don't understand what that means. I  
15     understand that there was \$303,000 legal expense. I  
16     don't understand the accounting method to call this  
17     income or principal.

18          Q     Okay. Do you understand that, under the  
19     tax-exempt trust, the income of the trust goes to your  
20     mother during her lifetime?

21          A     Yes.

22          Q     And do you understand that, under the  
23     tax-exempt trust, the principal of the trust, if it is  
24     not invaded by your mother, used by your mother, that it

1 would pass on, pursuant to the trust, which would be, I  
2 believe, an equal division to each of the children. Is  
3 that correct?

4 A Okay. So let me -- just to clarify, they  
5 paid this \$333,000. They paid \$151,000 out of principal  
6 and \$151,000 out of income. Is that correct?

7 THE COURT: Hold on, please. I talked about  
8 ~~stepping over each other.~~ And I also just want to remind  
9 ~~everybody about cadence.~~ It's just natural, it's  
10 ~~expected that when we read, we quicken our speech.~~ And  
11 please remember that we have a reporter.

12 THE WITNESS: What do you need?

13 MR. ROBERTSON: We need to be very respectful  
14 of the court reporter.

15 THE WITNESS: Sorry.

16 Q (BY MR. ROBERTSON:) I think you were trying  
17 to answer. So you can go ahead, if you like.

18 A So just so I'm clear.

19 Q Just speak slowly.

20 A Just so I'm clear, what you're saying is that  
21 of this \$303,000 legal expense, \$151,000 and change was  
22 paid from principal of the trust, and \$151,000 was paid  
23 from income from the trust. Is that correct ?

24 Q That is correct.

1           A     Okay. Now we're in agreement.

2           Q     Okay. So assuming that there's been no  
3     objection filed by your mother to the payment of the  
4     \$151,000 on the basis that the dispute was not resolved  
5     quickly enough, and assuming that Norrie and Amy have not  
6     filed such an objection, then in the principal column,  
7     the \$151,000 number, if your mother doesn't use that  
8     principal during her lifetime, one-third of that  
9     principal would pass to you. And your burden, your share  
10    of the attorney's fees, that would have been paid would  
11    be \$50,000, roughly.

12                   Do you understand that?

13           A     Plus lost income. The lost income would have  
14    been another \$50,000. So if you want to be true about  
15    it, yeah. A hundred thousand. Yeah.

16           Q     Approximately \$50,000 plus, perhaps in lost  
17    income; correct?

18           A     Which is double what the principal is, yeah,  
19    in this case.

20           Q     So your share of the attorney's fees that  
21    were allocated to the principal would be \$50,000 roughly?

22           A     100,000.

23           Q     Okay. I don't know how you get to \$100,000.

24           A     It's simple. You add \$50,000 plus \$50,000 is

1       \$100,000. \$50,000 for principal, \$50,000 for income.

2       The income doesn't just disappear. It's still there in  
3       the trust.

4       Q       Well, the income is for your mother's -- used  
5       for your mother's living expenses. Do you understand  
6       that?

7       A       No. This is the B Trust. My mother lives  
8       out of the A trust. This is the B Trust, correct?

9       Q       She also has the right to the income out of  
10       this trust.

11       A       I totally understand that, but if you really  
12       want to be truthful, if we're looking for the truth here,  
13       it's not \$50,000. It's \$50,000 plus \$50,000.

14       Q       Okay. So assuming your mother did not use  
15       the income, and it carried over and was there at the time  
16       that she passed, then you're saying you would have  
17       received an additional \$100,000?

18       A       Correct.

19       Q       And then you said you've paid about \$150,000  
20       in legal fees?

21       A       Correct.

22       Q       So because of this dispute dragging on, your  
23       position is you've lost \$100,000 from the trust and  
24       \$150,000 in legal fees.

1           A     Okay. I didn't bring my motion for sanctions  
2 because of me. I brought it for my mother because I'm  
3 protecting my mother.

4           Q     Dr. Frasier --

5           A     Yeah. I'm sorry.

6           Q     Please try to answer the question and make  
7 things go much more quickly.

8           A     Correct.

9           Q     Okay. Thank you. That was easy.

10           So you've lost, by your calculation, about  
11 \$250,000 as a result of the prolongation or delay in  
12 resolving the medical building dispute?

13           A     Just considering legal fees, yes.

14           Q     Okay. Now, Premier and our firm pushed hard  
15 for this mediation, and at the mediation, the case was  
16 settled. And through the mediation, you paid zero for  
17 the medical building. Correct?

18           A     Well, if you consider all of my legal fees,  
19 no.

20           Q     I'm just asking you. In the settlement  
21 agreement, did you pay a penny for receiving the other  
22 half of the medical building?

23           A     That's correct.

24           Q     So you were willing to pay \$387,000 before

1 the mediation. Premier said that's not going to work.  
2 We need to get this to a mediator because it's  
3 complicated. We got it to a mediator. And as a result  
4 of the mediation, you paid zero. So you didn't have to  
5 pay the \$387,000 and change that you had offered.  
6 Correct?

7 A That's correct.

8 Q Okay. So you're saying that you lost  
9 potentially \$250,000 between legal fees that you paid and  
10 legal fees the trust paid, but you gained because you  
11 didn't have to pay the \$387,000, so you are \$137,000  
12 ahead because Premier and its counsel pushed for this  
13 mediation rather than accepting your proposal. Correct?

14 A That is correct.

15 Q No further questions, Your Honor.

16 Oh, one further question. You're asking for  
17 sanctions against Premier and my law firm after our work  
18 resulted in you gaining \$137,000. Don't you think it  
19 would be more appropriate for you to say thank you to  
20 Premier and our law firm?

21 A No, sir. There's a value on three years of  
22 aggravation, anxiety, depression, loss of visitation with  
23 my mother for the last three years. There's a huge value  
24 in that. I would have resolved this in January 2015, and

1 gladly paid that much money and even more to avoid all of  
2 this aggravation that you and Premier have given our  
3 family.

4 THE COURT: On behalf of Ms. Dinny Frasier,  
5 are there any questions?

6 MR. RESNICK: Yes, Your Honor.

7

8 ~~REDIRECT EXAMINATION~~

9 BY MR. RESNICK:

10 Q Actually, one question. A quick question.

11 Dr. Frasier, you recall there was what we refer to as the  
12 first amendment?

13 A Yes.

14 Q One disinheriting you and Norrie?

15 A Yes.

16 Q And you recall we referenced the second  
17 amendment where your mother left everything to a  
18 charity --

19 A Yes.

20 Q -- or charities? If the Court finds that  
21 that second amendment is valid, will you accept that?

22 A Yes.

23 MR. RESNICK: Thank you.

24 THE COURT: Just a moment.



1 MR. ROBERTSON: Obviously no redirect, Your  
2 Honor.

3 THE COURT: I'm endeavoring to follow and to  
4 be the judge that everybody in this courtroom deserves.  
5 And I've put issues in different boxes, and I'm kind of  
6 going from box to box to box.

7 And I don't want argument at this time, but  
8 before I put the lid on this box, I want to hear an  
9 answer from Ms. Dinny Frasier's attorneys. I don't know  
10 when you and Mr. Millsap are going back and forth, and so  
11 I'll invite either one of you to speak.

12 It is clear to me that Ms. Dinny Frasier,  
13 through counsel, perceives injustice and feels aggrieved  
14 by Premier's involvement in her trusts. Through counsel,  
15 Ms. Frasier has asserted wrongdoing in the management of  
16 the two real properties.

17 What I don't know is if Ms. Dinny Frasier has  
18 any position: Supportive, neutral, or opposed, to  
19 Mr. Bradley Frasier's request to sanction Premier.

20 Will I be hearing a position about  
21 Mr. Bradley Frasier's request?

22 MR. RESNICK: Well, I've had communications  
23 with Mrs. Frasier, and it's never been specific to her  
24 son's objections to the fees, but she has objected to the

1 fees numerous times, and generally not specifically. So  
2 probably every other phone call or meeting, she wants,  
3 quote, "stopping the bleeding."

4 THE COURT: Mr. Rosenauer, I don't think your  
5 client's position has been implicated.

6 MR. ROSENAUER: I agree, Your Honor, so we  
7 will have no problem.

8 THE COURT: Thank you.

9 And then back to you, Mr. Robertson,  
10 Mr. Frasier. You will have the right to respond again.  
11 It will be much shorter form than the first one. Instead  
12 of a redirecting yourself, I'm going to allow you to  
13 think about and then just speak directly to the Court  
14 about anything that relates to the possibility. That  
15 will be your right. But let me just pause for a moment.

16 And I think I should follow my own voice when  
17 I speak to jurors, which is be patient. Await the  
18 evidence. Your questions may be answered. I believe  
19 it's appropriate to return to some of my questions only  
20 after, if at all, I hear from Ms. Shrive as a witness,  
21 and then Mr. Frasier has right to speak a final word.

22 Thank you, sir. You may step down. I  
23 acknowledge what several -- so, Deputy, if you'll just  
24 come up, please. I acknowledge what several people in

1 the courtroom must be thinking, and that is wow, we're  
2 taking a long time. But I think this hearing is critical  
3 to bring full-and-final information to the Court. And at  
4 issue are multiple hundreds of thousands of dollars.

5 And with that, you may call your next  
6 witness.

7 MR. ROBERTSON: Thank you, Your Honor. We  
8 appreciate the Court giving full vetting to the issues,  
9 and we would call Nicole Shrive.

10 THE COURT: You'll remain under oath from  
11 your testimony yesterday.

12

13 DIRECT EXAMINATION

14 BY MR. ROBERTSON:

15 Q Even though you testified yesterday, for the  
16 new court reporter's benefit, could you state your full  
17 name and spell the last, please?

18 A Nicole Shrive: S-H-R-I-V-E.

19 Q Now, Ms. Shrive, yesterday we spoke about the  
20 issue of renting or selling the Lavender and Pinewood  
21 properties. Do you recall that?

22 A Yes.

23 Q And today, we're on a completely different  
24 topic. So those issues are not -- you don't need to

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1 think about those or include references to those in your  
2 answers.

3 We're talking today about Mr. Bradley  
4 Frasier's concerns about the delay in resolving the  
5 medical building. Do you understand?

6 A Yes.

7 Q And I will try to limit my questions to that  
8 area. And if you want to try to limit your answers to  
9 that area, that would be great.

10 A Yes.

11 Q Thank you. You already told us a little bit  
12 about your background and that you were the trust officer  
13 for the Frasier Trust.

14 Can you describe for the Court your  
15 understanding when you first became the trust officer --  
16 well, let me back up. When you first became the trust  
17 officer, were you and Dinny able to have open  
18 communication?

19 A Yes.

20 Q And did you speak to her on a somewhat  
21 frequent basis?

22 A Yes.

23 Q And you described those mostly by telephone;  
24 correct?

1 A Yes.

2 Q Can you describe those telephone conferences  
3 to the Court? Tell the Court a little bit about your  
4 relationship with Ms. Frasier before you left Premier.

5 A Well, in the beginning when we spoke, we  
6 would chat about her dog and what's going on with her  
7 life and the things that she would do on a daily basis.

8 We discussed moving bill pay and things of that nature,  
9 and it took her quite some time to settle into the idea  
10 of somebody else helping her with those kinds of things.  
11 And then our relationship changed after she fell.

12 Q After she fell?

13 A Yes.

14 Q Okay. Let's talk about up to the time that  
15 she fell. You had a good, open communication  
16 relationship with her?

17 A Yes.

18 Q And she fell in the fall of '16?

19 A Yes, I believe it was September.

20 Q And how did your communications with her  
21 change after that?

22 A She wasn't feeling really well, so our  
23 discussions became less frequent, and then her demeanor  
24 changed. And she was not -- she got kind of angry and

1 was just upset in general over life. Everything.

2 Q And can you pinpoint approximately the time  
3 period when her demeanor changed?

4 A It was very quick. It was probably within a  
5 month.

6 Q So that would have been late fall of 2016?

7 A Yes.

8 ~~Q And the medical building issue was resolved~~  
9 ~~in January of '17; correct?~~

10 A Yes.

11 Q So all the way up until late fall of '16, all  
12 the way up to a month or two, a couple of months before  
13 the settlement conference, the mediation, during that  
14 time, you had a good, open relationship with Dinny to  
15 talk to her. Is that right?

16 A Yes.

17 Q Did you discuss the medical building issue  
18 with Dinny?

19 A Yes.

20 Q Can you estimate for the Court how many times  
21 the two of you discussed that issue?

22 A At least 70, 80, 100 times. That was topic  
23 of conversation the majority of the time that I spoke  
24 with her.

1 Q Okay. And were you aware that this dispute  
2 over the medical building predated your involvement?

3 A Yes.

4 Q And what did you understand Dinny's position  
5 to be, with respect to the medical building, at least in  
6 the beginning of your time as the trust officer?

7 A She wanted to -- she referenced it as a loan.

8 ~~Q And then did there come a point in time where~~  
9 ~~she changed her mind and said "I want to treat it as an~~  
10 ~~ownership of a building rather than a loan"?~~

11 A Yes.

12 Q And do you recall approximately when that  
13 occurred?

14 A Yes. After the conversation that was  
15 arranged between Premiere and their firm with Dr. Frasier  
16 and his mom.

17 Q So now you're talking about the telephone  
18 call that I was -- that you and I arranged where  
19 Dr. Frasier was able to speak to his mother directly?

20 A Yes.

21 Q Can you tell the Court a little bit about  
22 what was involved in trying to get Dinny to agree to that  
23 call?

24 A It took me about two, two and a half months

1 to convince her to take that call. And she wanted the  
2 ability to basically just hang up and not deal with it if  
3 she felt the need to be done with the call. She wasn't  
4 happy about it.

5 Q So, just to be clear, you're telling the  
6 Court that Dinny did not want to speak to Dr. Frasier,  
7 but Dr. Frasier wanted to speak to her; correct?

8 A Yes.

9 Q And Dr. Frasier indicated, to both of you  
10 directly, as well as to me, that if he could just talk to  
11 his mom, this would all be resolved quickly?

12 A Yes.

13 Q And did you pass that on to Dinny?

14 A Yes.

15 Q And was Dinny -- despite that, was she  
16 resistant to speaking to him?

17 A Yes.

18 Q And did she tell you why she didn't want to  
19 speak with him?

20 A She was angry with him.

21 Q The call was ultimately arranged; correct?

22 A Yes.

23 Q Who was on the call?

24 A Me, you, Rich Williamson, Dinny, Dr. Frasier.



## **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

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**VOL. 8**

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1 Q. Did Janie ever indicate to you or to  
2 Premier that Dinny wanted to sell the Lavender home?

3 A. No.

4 Q. Did Janie ever indicate to you or Premier  
5 that Dinny wanted to rent the Lavender home?

6 A. No.

7 Q. Did the statements you sent out show that  
8 there were expenses being incurred by the trust for  
9 the Lavender property, such as utilities?

10 A. Yes.

11 Q. Did the statements show there was no  
12 rental income being received from the Lavender  
13 property?

14 A. Yes.

15 Q. At any point in time, did either Dinny  
16 Frasier, Mr. Resnick, or Janie Mulrain, at any point  
17 in time ever before, I would say this last month,  
18 this hearing, and the pleadings leading up to this  
19 hearing, did any of them ever say to you or Premier  
20 that Dinny wanted the Lavender house sold?

21 A. No.

22 Q. Did any of those people, Dinny, Janie,  
23 Barry Resnick, ever indicate to you, Premier, prior  
24 to this last month that Dinny wanted the Lavender  
25 house rented?

1 A. No.

2 Q. Did anyone ever indicate to you prior to  
3 the last month that Dinny was done visiting the  
4 Lavender home and didn't want to visit it anymore?

5 A. No.

6 Q. So you understood all the way up until  
7 the recent pleadings that were filed that Dinny  
8 still wanted to keep the Lavender home available to  
9 her to visit?

10 A. Correct.

11 Q. In that case, would it have been  
12 appropriate for Premier to rent out the home, and  
13 thus, prevent Dinny from visiting it?

14 A. No. That would not be appropriate, in  
15 our minds.

16 Q. Let's talk about the Pinewood house for a  
17 minute.

18 At the point when you became involved,  
19 Dinny was living in the San Juan Capistrano home,  
20 correct?

21 A. Correct.

22 Q. Did you know, from reviewing the file,  
23 that Dinny had indicated she wanted to move out of  
24 that home?

25 A. Correct.

1 Q. Did you know that there had been a  
2 request to the trust committee to buy a new home in  
3 Irvine?

4 A. Yes.

5 Q. Did you also know that Janie Mulrain was  
6 out showing homes or at least had sent e-mails and  
7 communicated to Premier that she was out showing  
8 homes to Dinny?

9 A. Correct.

10 Q. Was it your understanding that at any  
11 point in time Dinny might find the home that she  
12 wanted, and at that point, say to the trust  
13 committee, I want to buy this home?

14 A. Yes.

15 Q. Now, did the trust committee want to sell  
16 the Pinewood home in conjunction with the purchase  
17 of the new Irvine home?

18 A. That was my understanding.

19 Q. What was the reasoning for that?

20 A. From the documents, e-mails, and other  
21 communications that I read, my understanding is that  
22 the trust committee was hesitant because the trust  
23 owned several houses, and it didn't want to incur  
24 the purchase of another home in a new location based  
25 on Dinny's past practices of buying more homes.

1                   So they felt like if she was going to buy  
2     an additional home, they wanted her to rent a home  
3     so that she could test it out in Irvine or wherever  
4     it may be and feel comfortable with it, and then at  
5     that point, either simultaneously sell the other  
6     house or some other option.

7                   Q.     Okay. So it was the trust committee's  
8     decision that once Dinny identified the new home and  
9     the trust committee was satisfied that she liked the  
10    new home, they would put the Pinewood house up for  
11    sale at that point when they purchased the new home?

12                  A.     That was my understanding.

13                  Q.     Was it your expectation that Dinny would  
14    find this home at any point in time?

15                  A.     Potentially, yes.

16                  Q.     Did you -- in other words, did you have  
17    any indication from Janie or anyone else that Dinny  
18    had decided to put off this decision for any period  
19    of time?

20                  A.     I recall one e-mail from Janie where she  
21    asked a question about the selling of the Pinewood  
22    home, but since I was at Premier, that is the only  
23    communication that I recall.

24                  Q.     Janie was asking about when is Premier  
25    going to sell Pinewood?

1 A. Correct.

2 Q. Did you indicate to -- or whoever  
3 responded, did they indicate to Janie, the trust  
4 committee wants to sell Pinewood when she identifies  
5 the new house?

6 A. Correct. I went back to my supervisor to  
7 review the trust committee's decision and make sure  
8 I was on point, and then we responded to Janie with  
9 that, that there was this process that needed to go  
10 forward.

11 Q. Okay. During this entire period of time,  
12 you're sending statements every month to Dinny  
13 showing that the house is empty; there are expenses  
14 for the house for utilities, but no income from a  
15 renter, correct?

16 A. Correct.

17 Q. Do you know whether Janie Mulrain also  
18 knew the house was empty?

19 A. I believe she knew it was empty, yes.

20 Q. Now, at any point in time since you have  
21 become the trust officer on the Frasier Trust, which  
22 was August of '17 through present, correct?

23 A. Correct.

24 Q. At any point in time prior to this last  
25 month, has either Dinny or Janie Mulrain or

1 Mr. Resnick ever communicated to you that the  
2 Pinewood house should be rented?

3 A. No.

4 Q. Have Dinny, Janie, or Mr. Resnick ever,  
5 during the time that you are trust officer,  
6 indicated to you that they wanted the Pinewood house  
7 put on the market?

8 A. Yes.

9 Q. That was Janie's e-mail?

10 A. Correct.

11 Q. Where she said, What is happening with  
12 the sale of the Pinewood house?

13 A. Yes.

14 Q. And you responded back, We're waiting for  
15 Dinny to identify the new Irvine house?

16 A. Correct.

17 Q. And then was that the end of the  
18 exchange?

19 A. I believe so.

20 Q. Did you also understand from reviewing  
21 the file that Dinny still would occasionally visit  
22 the Pinewood home?

23 A. Correct.

24 Q. Now, given those circumstances where the  
25 trust committee wants to sell the Pinewood home in

1 conjunction with the purchase of the new Irvine  
2 home, do you know whether the reasoning of the trust  
3 committee had something to do with tax strategy?

4 A. From what I have read in the file, they  
5 had not mentioned tax strategy, but just the  
6 preservation and prudent use of trust assets is what  
7 they focused on.

8 Q. Okay. But they did want that timing to  
9 coincide?

10 A. From what I read, yes.

11 Q. You don't know whether that was for tax  
12 reasons or not?

13 A. I don't recall, no.

14 Q. Would it be fair to say that you have  
15 been waiting ever since you became the trust officer  
16 for Dinny to make a decision on the new home?

17 A. Yes.

18 Q. During that time, if Dinny made a  
19 decision, I want to buy this new home, and conveyed  
20 that to the committee, then would it be fair to say  
21 that the committee was recommending that she move in  
22 and rent it for a period of time to test drive it,  
23 but that the committee wasn't saying, no, we  
24 wouldn't approve a new home even without the  
25 renting. They just wanted her to do that, if

1 possible?

2 A. Correct.

3 Q. So if Dinny notified you at any point  
4 during your tenure, I want to buy this new home, at  
5 that point in time, then your understanding is that  
6 you would have put Pinewood on the market?

7 A. Correct, with the approval of the trust  
8 committee.

9 Q. So was it practical to try to rent out  
10 the Pinewood home during this period when, at any  
11 point in time, Dinny might say, I have identified a  
12 new home, and so now, we're going to move into this  
13 new home and sell Pinewood?

14 A. No. I believe we would have had trouble  
15 finding a renter because it could have been for one,  
16 two, three months, six months.

17 Q. Was there also the potential that if the  
18 renter moved in -- you would have to tell a renter,  
19 we could terminate this at any time because the  
20 owner might want to sell?

21 A. Correct.

22 Q. Is it possible that you get a renter in  
23 there and then you have a hard time evicting the  
24 renter?

25 A. Possibly, yes.



1 Q. So there were potential pitfalls to  
2 renting the property?

3 A. Correct.

4 Q. Was it your judgment as a trust officer  
5 in considering all the circumstances of the  
6 situation that it was appropriate to leave this  
7 property vacant while Dinny was conducting this  
8 search?

9 A. Correct.

10 Q. Would it be fair to say that you didn't  
11 think the search was going to take nearly this long?

12 A. I think that is a fair assessment.

13 Q. So had you known that Dinny was going to  
14 take six months or a year to make a decision, would  
15 that have impacted your decision on whether to  
16 potentially rent out the house?

17 A. It could have.

18 Q. But you were unable to just pick up the  
19 phone and call Dinny because communications had been  
20 severed?

21 A. Correct. They were through Janie  
22 Mulrain.

23 MR. ROBERTSON: Thank you.

24 THE COURT: Cross-examination, if any?

25 MR. MILLSAP: Your Honor, with the

1 Court's permission, Mr. Resnick has asked me to  
2 cross-examine this witness.

3 THE COURT: Sure.

4 MR. MILLSAP: Thank you, Your Honor. I  
5 appreciate it.

6 CROSS-EXAMINATION

7 BY MR. MILLSAP:

8 Q. Good morning, Mr. Gonda. My name is Pat  
9 Millsap. I represent Mrs. Frasier. We're already  
10 running short on time today, so I'm going to be very  
11 brief in respect of your time.

12 A. Thank you.

13 Q. You were able to speak with Ms. Mulrain,  
14 correct?

15 A. I'm sorry. What was question?

16 Q. You had a direct line of communication  
17 with Ms. Mulrain, correct?

18 A. Yes.

19 Q. And you understood her to be  
20 Mrs. Frasier's representative, correct?

21 A. Correct.

22 Q. All right. Did you ever reach out to  
23 Mr. Resnick on behalf of Mrs. Frasier?

24 A. No. Most of those communications with  
25 Mr. Resnick were through our counsel, Mr. Robertson.

1 Q. Okay. But you had the ability to reach  
2 out to Mr. Resnick as well as Mrs. Frasier's  
3 representative, correct?

4 A. Correct, with counsel's advice.

5 Q. And you knew that Mr. Resnick was also  
6 Mrs. Frasier's attorney, correct?

7 A. Correct.

8 Q. Do you know the approximate value of  
9 Trust A?

10 A. If I could look at the statement?

11 Q. Absolutely, yeah. Please do.

12 A. Just to be clear, Trust A being the  
13 survivors' trust.

14 Q. Correct.

15 A. The total account balance that we have  
16 listed, and this is in June of 2018, \$1.13 million.

17 Q. Okay. In your opinion, based on your  
18 knowledge of the assets in Trust A, would there have  
19 been sufficient assets to lease the Lavender and  
20 Pinewood properties while still purchasing another  
21 property in Irvine for Ms. Frasier?

22 A. Yes.

23 Q. Okay. So then it's fair to say you could  
24 have leased the two properties and then still had  
25 sufficient assets to purchase Mrs. Frasier a home in

1     Irvine as she wished, correct?

2             A.     Correct.

3             Q.     Okay.   Why wasn't that done?

4             A.     Due to some of the factors that we  
5     discussed, you know, with the rentals in the -- the  
6     Lavender property in Palm Desert was, from our  
7     understanding, her vacation home, and she continued  
8     to visit there, and so to have a renter there, would  
9     clearly upset her and she wouldn't be able to visit  
10    there whenever she needed to.

11            Then for the Pinewood home, we just felt  
12    it was impractical based on some of the other  
13    reasons we discussed this morning, specifically that  
14    we didn't know -- there was a lot of uncertainty as  
15    to what was happening with this home in terms of the  
16    trust committee's decision to purchase a new home,  
17    and there was uncertainty as to the court  
18    proceedings.

19            There was the high cost of all these  
20    transactions, so we didn't want to make those  
21    decisions lightly to protect the trust assets.

22            Q.     Understood.   How long have you been a  
23    trust officer, Mr. Gonda?

24            A.     Just a little over a year.

25            Q.     Would you agree that it's fair to

1 document decision-making processes as a trust  
2 officer?

3 A. Absolutely.

4 Q. Okay. And that should be done, correct?

5 A. Correct.

6 Q. So it sounds like one of the factors in  
7 your decision-making process to retain the Lavender  
8 and Pinewood properties was because Mrs. Frasier  
9 wanted to visit those; is that accurate?

10 A. Correct.

11 Q. Okay. If that is the case, did you  
12 document the times that she visited the Lavender and  
13 Pinewood properties?

14 A. So what I have read in the file is that  
15 there are two communications showing that she  
16 visited the Lavender property, one showing a receipt  
17 from a hotel that she stayed there and then visited  
18 the Lavender property, and e-mail communications to  
19 support.

20 Then another e-mail communication from  
21 Bill and Amy Wilson showing that she visited the  
22 property at a different time, so that is what we  
23 have, those communications there.

24 For the Pinewood property, her visits to  
25 the Pinewood property, I don't recall being

1 documented. I mean, other than what I have been  
2 told.

3 Q. So your understanding is you personally  
4 did not document visitation to the Pinewood  
5 property, correct?

6 A. Correct, but if I could clarify? Any  
7 visits that did occur were well before my time at  
8 Premier, so I would not have documented those.

9 Q. Understood. To your knowledge then, she  
10 hasn't visited the Pinewood property recently at  
11 all?

12 A. Just from what I have been told from  
13 prior communications.

14 Q. So visitation is not a factor in the  
15 retention of the Pinewood property currently, right?

16 A. Not a strong factor, no.

17 Q. Okay. On the Lavender property, you  
18 indicated that to your knowledge, she has visited it  
19 twice over the period of three years; is that  
20 accurate?

21 A. From the documentation I have read,  
22 correct.

23 Q. Is it possible that you could have leased  
24 those properties on a month-to-month lease?

25 A. Possible, yes.

1 Q. Okay. Is it possible that you could have  
2 leased those properties for a term of one year?

3 A. Again, the Lavender property, having seen  
4 that she visited it as recently as March of 2017,  
5 maybe not because then that would -- it would be  
6 impossible for her to visit. The Pinewood property,  
7 that is a possibility.

8 Q. Okay. Earlier, you heard Ms. Shrive  
9 testify that she had prepared authorization  
10 instructions to sell the home. Do you recall that  
11 testimony?

12 A. Yes.

13 Q. Are you familiar with that documentation?

14 A. Yes, I am.

15 Q. Like we talked about earlier, it's  
16 important to document decisions as a trust officer.  
17 Did you ever document Dinny's desire to retain the  
18 properties in some manner?

19 A. I'm sorry. I don't understand the  
20 question.

21 Q. Did you ever prepare a document analogous  
22 to the authorization to sell that indicates in  
23 writing that Mrs. Frasier desired to retain the  
24 properties for visitation purposes?

25 A. No.

1 Q. Okay. Did you ever obtain any  
2 documentation from Mrs. Frasier indicating that she  
3 did not want the properties leased or put to a  
4 productive use so she could visit them?

5 Did you ever have any documentation to  
6 that effect signed by Mrs. Frasier?

7 A. No.

8 MR. MILLSAP: Nothing further at this  
9 time, Your Honor.

10 THE COURT: Thank you. Redirect.

11 MR. ROBERTSON: I don't think so, Your  
12 Honor.

13 THE COURT: Thank you. You're free to  
14 step down.

15 Do you have any other witnesses on this  
16 discrete issue?

17 MR. ROBERTSON: I don't know if there is  
18 going to be any challenge to the testimony that Amy  
19 and Bill Wilson took Mrs. Frasier out to the  
20 Lavender property, but if there is any question  
21 about that, they are here, and I would call either  
22 one of them to testify that they did take her out  
23 there on multiple occasions.

24 THE COURT: Call Mr. Bill Wilson and be  
25 narrow in the questions.



1 MR. ROBERTSON: Will do.

2 THE COURT: This should take just a  
3 minute or two. Follow the deputy's instructions,  
4 please, sir.

5 WILLIAM WILSON

6 after having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. ROBERTSON:

9 Q. Mr. Wilson, could you please state your  
10 full name and spell the last for the record?

11 A. Yes. My name is William Wilson,  
12 W-i-l-s-o-n.

13 Q. Can you tell the Court the name of your  
14 wife?

15 A. My wife's name is Amy Frasier-Wilson.

16 Q. Is Amy Frasier-Wilson present in the  
17 courtroom here today?

18 A. Yes. She is present in the courtroom.

19 Q. Is she, as you understand it, the  
20 daughter of Dinny Frasier?

21 A. She is, correct.

22 Q. Are you familiar with this Lavender  
23 property in Palm Desert that we have been talking  
24 about?

25 A. Yes, I am.

1 Q. Have you visited the property?

2 A. Yes, I have.

3 Q. On one or more than one occasion?

4 A. Many times.

5 Q. Let's say in the past couple of years,  
6 have you visited that property with Dinny? Let's  
7 say in the last three years?

8 A. It would have been earlier in 2016 as far  
9 as visit, it would have been prior to her fall.

10 Q. Okay. You took her out there because  
11 there was some sort of problem with the home?

12 A. Yeah. They had problems with the HOA,  
13 where essentially rocks were not right or there was  
14 an alarm or other issues, markings on the driveway,  
15 things of that nature there.

16 So essentially, it's an HOA issue that we  
17 would have to go out there and take care of it.

18 Q. Okay. You said you visited the property  
19 many times with Dinny. Is that since her husband  
20 passed?

21 A. It's not -- we have been out there, yes,  
22 with Dinny, Amy and myself and the dogs, yes.

23 Q. Okay. Has Dinny ever expressed to you  
24 that she likes to go visit that home?

25 A. Yes, she has.

1 Q. Has she given you reasoning why she likes  
2 to visit?

3 A. She has fond memories. This is a place  
4 where she and Joe would go many times. She really  
5 passionately loved the place.

6 Q. The last time you were out there was 2016  
7 with her?

8 A. I have to -- I think so, yeah. It's  
9 somewhere around there. I have to go back and look  
10 at the dates, but yeah, somewhere -- it was  
11 definitely before she fell.

12 Q. Do you know if -- have you talked to  
13 Dinny about this issue of whether to keep the  
14 Lavender home at any point in the last couple of  
15 years?

16 A. Well, not since after she fell, so there  
17 are no communications about that. Prior to that,  
18 always the question was, is this a house you want to  
19 keep. Do you want to keep it? Do you go out there  
20 that much? No, she doesn't go out there that much.

21 She was always concerned about the heat.  
22 When she fell, that was one of the places in which  
23 we offered to move her to so that essentially, she  
24 could be in a single story house, smaller house.

25 We offered to move out there with her to

1 be in the house while she recuperated, and she  
2 indicated, no, she didn't want to be out there all  
3 the time because it was very hot, so it was really  
4 during the period of time when it was the cooler  
5 weather. That is when she wanted to go out there.

6 Q. Did Mrs. Frasier ever indicate to you  
7 that she wanted the Lavender house either sold or  
8 rented?

9 A. She could not make up her mind many  
10 times.

11 Q. So she talked about it, but she couldn't  
12 make up her mind?

13 A. We would ask, Do you want to sell it?  
14 You should sell it, you know, and she couldn't make  
15 up her mind what she wanted to do.

16 MR. ROBERTSON: No further questions.

17 THE COURT: Cross-examination?

18 MR. MILLSAP: Nothing for this witness,  
19 Your Honor.

20 THE COURT: Thank you, sir. You're free  
21 to step down. Do you have any other witnesses on  
22 this issue?

23 MR. ROBERTSON: No, Your Honor.

24 THE COURT: Do you have any witnesses on  
25 this matter?

1 MR. RESNICK: Yes, Your Honor. Janie  
2 Mulrain.

3 THE COURT: Ms. Mulrain, please follow  
4 the deputy's instructions.

5 JANIE MULRAIN

6 after having been duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. RESNICK:

9 Q. Janie, how long have you been the POA for  
10 Mrs. Frasier?

11 A. Since December of 2016.

12 Q. During that period of time, you have  
13 communicated with Nicole Shrive?

14 A. Yes.

15 Q. And Ryan Gonda?

16 A. Twice maybe, but mostly with Nicole.

17 Q. Has Ryan Gonda ever contacted you and  
18 asked whether Dinny was interested in selling or  
19 leasing --

20 A. NO.

21 Q. -- properties?

22 A. No. He has never contacted me inquiring  
23 about that, no.

24 Q. Have you ever contacted him?

25 A. Yes.

1 Q. When?

2 A. May I refresh my memory with dates?

3 THE COURT: How close are you to -- can  
4 you give a range to a month?

5 MS. MULRAIN: I recall in November or --  
6 December of 2017 asking him -- it was during a  
7 discussion about my billing, and to follow-up on a  
8 previous letter of authorization executed by Dinny  
9 through Nicole Shrive's facilitation.

10 THE COURT: So sometime in late fall or  
11 early winter 2017?

12 MS. MULRAIN: Yes.

13 THE COURT: Okay.

14 BY MR. RESNICK:

15 Q. And with Nicole Shrive?

16 A. With Nicole, it would be from the onset  
17 of my engagement all the way through to when she  
18 left.

19 Q. By phone?

20 A. By phone, in-person, FaceTime, e-mail,  
21 text messages.

22 Q. What was the essence of those  
23 discussions?

24 A. To follow-up on the progress of putting  
25 the house up for sale because Dinny didn't want to

1 keep it on.

2 Q. Which house?

3 A. Both the Irvine property and the Palm  
4 Desert, Lavender, Palm Desert.

5 Q. You were speaking on behalf of Dinny?

6 A. Yes, and in her presence.

7 Q. In Dinny's presence?

8 A. In Dinny's presence.

9 Q. So while there was phone calls, Dinny was  
10 present?

11 A. Some of them, yes.

12 Q. And others, you just called Nicole?

13 A. To follow-up.

14 Q. Did Nicole ever call you about the status  
15 of the sale or lease of those properties?

16 A. Yes.

17 Q. How often?

18 A. Oh, we talked regularly while she was  
19 there.

20 Q. What did she say about them?

21 A. She was putting it in motion. We were  
22 making arrangements to clear out the remaining  
23 personal properties of the Irvine home, so that we  
24 could put it into her current home in San Juan  
25 Capistrano to prep the house to be vacant and

1 cleaned up ready for sale.

2 Q. You believe she was aware of that?

3 A. Oh, yes.

4 Q. How often did Mrs. Frasier visit  
5 Pinewood?

6 A. One time for sure. Second time was an  
7 attempt, but she never went in because she was too  
8 upset.

9 Q. Why was she upset?

10 A. Due to the condition of the home, and  
11 also at that time, she held a lot of anger towards  
12 the lack of upkeep of the home and how -- I don't  
13 have knowledge of this, but as she related, that the  
14 home was pillaged and taken, brought over a lot of  
15 negative memories.

16 The second time she ran into an old  
17 neighbor of hers and they commiserated and she cried  
18 and so forth.

19 The first time was on February 1 where I  
20 facilitated a FaceTime with Nicole Shrive, the trust  
21 officer, so Nicole and Dinny spoke where I was  
22 standing there, but I held up the phone while they  
23 did the FaceTime to talk about the selling of the  
24 Mercedes which was still stored at the home, and the  
25 sale of the property.



1 Q. During that conversation, what did Nicole  
2 say?

3 A. They're going to put the house up for  
4 sale, but we've got to get the contents out first.

5 Q. And that occurred?

6 A. Yes, it occurred. I helped facilitate  
7 getting a mover to take two trips to get it all  
8 emptied out.

9 Q. When did that occur?

10 A. I think it was April 2017. There are  
11 receipts, so I'll have to confirm with records to  
12 finalize the date.

13 Q. Generally about that date?

14 A. Yeah, April 2017.

15 Q. Let's talk about Lavender. How often  
16 during your tenure as POA did Mrs. Frasier go to  
17 Lavender?

18 A. Once.

19 Q. When was that?

20 A. April of 2017.

21 Q. What was the purpose of that visit?

22 A. She wanted to get a feel of her personal  
23 belongings and say goodbye to the home, and she also  
24 wanted some respite away from the conflict, so she  
25 just wanted to get away for that weekend.

1 Q. Was it a successful trip?

2 A. I wouldn't call that successful.

3 Q. Why not?

4 A. She was upset.

5 Q. What do you believe caused her to be  
6 upset?

7 A. The condition of the home. There were  
8 weeds up to shoulder high in the backyard, and we  
9 tried as best we could before she would go there so  
10 she wouldn't see them, but due to the short time  
11 that she wanted to see it, we didn't have time to  
12 clean everything up.

13 We cleared out the pathway so there would  
14 be a clear way to get into the front entry because  
15 there was overgrowth in the front and backyard.

16 Also, the inside of the home has not been  
17 cleaned, and also, we were worried about the air in  
18 the home. The air conditioning unit wasn't  
19 functioning, so a local contact was able to arrange  
20 last minute maintenance to make sure that the air  
21 did work.

22 We still don't know because I have never  
23 been there, and it would be too costly for me to  
24 have to keep going back and forth from my location  
25 in Orange County to the desert location, so I felt

1 it would be cheaper for a local guy to do that, but  
2 even with hiring a local guy, I don't know for sure  
3 if it's still in a condition that would be  
4 comfortable and safe for her.

5 So Nicole and I talked about getting a  
6 hotel room just in case it's not good for her to  
7 stay, her and her caregiver could be in a hotel, so  
8 that is our plan B in case when we showed up, it  
9 wasn't in a good condition.

10 Q. Do you have any information as to whether  
11 Premier Trust has inspected the property, either  
12 directly or through an agent?

13 A. Not that I'm aware of because when Nicole  
14 and I talked, both of us have never been to the  
15 property, so both of us don't know the condition.

16 Q. You have heard testimony from Ms. Shrive  
17 and Mr. Gonda, and they have testified that their  
18 beneficiary trustor, Mrs. Frasier, was confused as  
19 to whether she wanted to sell or lease the  
20 properties.

21 Do you have an opinion as to that  
22 testimony?

23 A. Well, not my opinion, but I witnessed her  
24 saying she doesn't want to keep it. She doesn't use  
25 it, but she does want to say goodbye to it, and she

1 wants to collect some of her things.

2 I mentioned to her that I didn't see a  
3 lot of family stuff at the San Juan Capistrano home,  
4 and some of her family, I don't even know what they  
5 look like, but in visiting the Palm Desert, I saw  
6 there is quite a few grandchildren pictures, so I  
7 encouraged her to take some of those, so that is why  
8 she wanted to go there and collect some of those  
9 things so she would have mementoes.

10 Q. You had handed to me a 75-page list of  
11 text messages that you told me you generated between  
12 you and Ms. Shrive?

13 A. Yes.

14 MR. RESNICK: May I, Your Honor?

15 THE COURT: Yes, please.

16 MS. MULRAIN: Can I ask, is that my copy?  
17 Can we swap because I have dog-eared pages?

18 MR. RESNICK: Yes. We'll trade.

19 THE COURT: Yes. At some point, if you  
20 will seek the admission, we'll need a clean copy  
21 marked. I'll just let you go with the flow of how  
22 you're going to use it.

23 MR. RESNICK: Well, Your Honor, I want  
24 Ms. Mulrain to educate on these text messages the  
25 communications with Ms. Shrive that deal with the

1 sale or lease of the two properties. Hopefully,  
2 this will refresh her memory specifically as to  
3 those text discussions.

4 MS. MULRAIN: Well, there were e-mail  
5 discussions already that have been filed in prior,  
6 you know.

7 BY MR. RESNICK:

8 Q. Right. In your pleadings?

9 A. Yeah. On March 23rd, 2017, I am not  
10 going to read the whole thing. I will just get to  
11 the point. An excerpt.

12 MR. ROBERTSON: Excuse me, Your Honor.  
13 There are no page numbers on here.

14 MS. MULRAIN: I know. That is why I  
15 needed my copy because there are no page numbers.

16 MR. ROBERTSON: I'm just trying to find  
17 where she is.

18 THE COURT: Counsel is going to have to  
19 follow along, so you're going to have to count the  
20 pages. I see on the front page, there's a date that  
21 says, Wednesday, December 21st.

22 MR. ROBERTSON: What date did you say,  
23 March 23rd?

24 MS. MULRAIN: The 25th page.

25 MR. ROBERTSON: Which page?

1 MS. MULRAIN: If you flip 25 times.

2 MR. ROBERTSON: What is the date?

3 MS. MULRAIN: March 23rd, 2017, so the

4 page preceding, it will show on the very top

5 Thursday, March 23rd, 2017, so if you look at the

6 page right after that.

7 On the very top of that page it says,

8 "Our appointment." Do you have it, Barry?

9 MR. RESNICK: March 23rd, right?

10 MS. MULRAIN: March 23rd, 2017.

11 BY MR. RESNICK:

12 Q. Go ahead. I'll find it.

13 A. Okay. If you look at the page next to

14 March 23rd, 2017, and then the very top has one

15 paragraph ending with the word, "Crazy," and then a

16 second paragraph, so I'm going to read from the

17 second paragraph toward the middle.

18 MR. ROBERTSON: Your Honor, we would

19 object to her reading out loud. She can read it to

20 herself.

21 THE COURT: Sustained. What I want her

22 to do is provide testimony as to what happened, and

23 she can use this document to refresh it.

24 Alternatively, -- I'll stop there. Go ahead and

25 read it to yourself.

1 MS. MULRAIN: Okay.

2 BY MR. RESNICK:

3 Q. Does that refresh your memory as to the  
4 communication you had with Nicole?

5 A. Yes. March 2017.

6 Q. What did you say? What was the  
7 communication?

8 THE COURT: You can just describe it  
9 without reading it directly.

10 BY MR. RESNICK:

11 Q. Yeah. You don't have to read it  
12 directly.

13 A. That she is going to send me a letter of  
14 authorization for Dinny to sign to get the wheels  
15 going, removing the contents of the home, and  
16 putting the home up for sale.

17 Q. Subsequent to this, you removed the  
18 contents?

19 A. Yes. Subsequently, she e-mailed me a  
20 letter of authorization, and Dinny did sign it and  
21 then I sent it back to Premier.

22 Then we got a mover and moved the  
23 contents, the personal property from the contents of  
24 the home to San Juan Capistrano, and she engaged  
25 Greg Marson, a Realtor that both of us know, to

1 proceed to sell the home.

2 He was aware of it because he had called  
3 me many times saying, What is going on with the  
4 case, and I'm sorry, but the progression -- I had to  
5 say it's still litigating, so.

6 Q. During this time, did you communicate  
7 with Mrs. Frasier about what was occurring?

8 A. Yes.

9 Q. What did she say?

10 A. She was very impatient and upset. She  
11 was worried about the money part. You know, I'm not  
12 using the home. It's a waste of money. My money is  
13 going out everywhere. I want the house to be sold.

14 I said, Well, they're doing the best they  
15 can. We have to take it step by step, and she wants  
16 to say goodbye to the home, so I made arrangements  
17 for her and her caregiver to go inspect the  
18 property, and that is why it's so difficult.

19 When she does that, all the angst and  
20 negativity and all the conflicts, it makes the  
21 process hard.

22 Q. So you arranged a caregiver to --

23 A. She had 24/7 caregivers who are always  
24 with her, so wherever she needs to be, they  
25 transport her, so I make sure they know at such and



1 such date and such and such time, in between her  
2 other appointments, she needs to be at the house so  
3 she can say goodbye to it.

4 Q. How many times did she visit Lavender?

5 A. Once during my tenure.

6 Q. During your tenure?

7 A. Yeah. I can't speak to anything prior to  
8 that.

9 Q. Are there other text communications  
10 between you and Ms. Shrive that will help refresh  
11 your memory about communications that Mrs. Frasier  
12 wanted the two houses sold or leased?

13 A. Yes, because the very next page, we both  
14 talked about how there was a lot of terrible  
15 conflicts and memories, and we want to -- both  
16 Nicole and I wanted to protect Dinny from that, so  
17 we were just trying our best to make the sale happen  
18 as soon as we can for Dinny because she didn't want  
19 to keep seeing it. She just wanted to get rid of  
20 it.

21 Q. Did she say that to you more than once?

22 A. More than once, yes.

23 Q. Over what period of time?

24 A. I think from the beginning. From the  
25 beginning of my tenure and throughout the whole

1 entire process of when I coordinated with  
2 Ms. Shrive.

3 Q. Did you communicate that to Premier  
4 Trust?

5 A. Oh, yes. Nicole Shrive of Premier Trust.

6 Q. Via text?

7 A. Again, via text, phone call, FaceTime,  
8 e-mails, all of those.

9 Q. Were you surprised to hear her testimony?

10 A. Which statement?

11 Q. About the understanding that Mrs. Frasier  
12 was confused and not sure she wanted to sell or  
13 lease?

14 A. Not to that part, no. Everything else,  
15 yes, but not to that part. She is not confused. If  
16 you ask her today, she will say, I want to sell that  
17 place. Why is it not sold?

18 Q. When was the last time you talked to  
19 Mrs. Frasier about this?

20 A. About the home sale, I would say last  
21 week when I informed her today is the day. We're  
22 hoping for everything to be done today, and one of  
23 the topics will be the home sale, and she said, Why  
24 is it not done already, and I said, We're trying to  
25 get that done for you. That was our conversation.

1 Q. At any time did you prevent Premier  
2 representatives from communicating with  
3 Mrs. Frasier?

4 A. Not at all. Quite the opposite.

5 Q. What do you mean, "Quite the opposite"?

6 A. When I first -- literally, the day that I  
7 met her at the interview, the first thing she said  
8 to me is, Are you going to be that girl to help me  
9 get rid of Premier and everybody else, and I just  
10 kind of thought, Okay, that is what I'm walking  
11 into.

12 There have been communications where I  
13 kept Nicole up-to-date where she wouldn't even want  
14 to talk to her and --

15 Q. She being?

16 A. I'm sorry. Dinny didn't even want to  
17 talk to Nicole, and I had to facilitate and explain  
18 to her why it's important for her to talk to Nicole  
19 because they're co-trustees.

20 She can't do the job, because I'm a  
21 trustee also on several trusts that I manage, so  
22 communication is key. Please, you need to  
23 communicate.

24 I did facilitate. That is why Nicole was  
25 able to fly down in January. I got appointed in

1 early, middle December, and the first thing we  
2 talked about with Nicole was, When is the first time  
3 you can come down, so I can meet you, and I can help  
4 facilitate a meeting with Dinny, and that took place  
5 the very first week of January.

6 I recommended getting an iPad, so that  
7 way, she could see Nicole's face and build a  
8 rapport. I recommended FaceTime with my own phone  
9 so that they could talk to each other, not through  
10 intermediaries but directly.

11 I facilitated phone calls. I facilitated  
12 relaying messages to the both of them, and a lot of  
13 times, Dinny would bring up, hash up lot of  
14 difficulties, you know, about who said what and what  
15 happened before, and I wasn't there so I don't know,  
16 so I would try to explain whatever happened before,  
17 this is what we need to do now, in order for things  
18 to move forward.

19 I have spent a tremendous amount of time  
20 trying to facilitate because she didn't want to have  
21 anything to do with her kids or Premier. We'll get  
22 to the kids later, but right now, with Premier, I  
23 have expended a tremendous amount of time working  
24 with Nicole Shrive to make that happen.

25 Q. During that first meeting when she

1 interviewed you, who was present?

2 A. So many people. You were present.

3 Another attorney, Bruce.

4 Q. Schwartz?

5 A. Thank you. Bruce Schwartz, a criminal  
6 attorney, and also her friend and neighbor of  
7 30-plus years was there. His wife, Zee, was there,  
8 and another neighbor that used to live there but  
9 moved away, but she still comes back and visits and  
10 vacations, so she was there.

11 Her caregiver was there. I believe it  
12 was your paralegal. The person who notarized that  
13 document, she was there, and then myself, so that  
14 would be seven. Nori was there, but she was asked  
15 to step out during the interview process, so eight  
16 people.

17 Q. That was the meeting where she told you  
18 she wanted to, quote, "Get rid of Premier"?

19 A. Yeah.

20 Q. Any other discussions about the houses or  
21 Premier or the attorney for Premier?

22 A. Well, the houses, she didn't say anything  
23 about the Irvine or the Palm Desert home, but she  
24 went on and on about how she hated the San Juan  
25 Capistrano home, how this is a prison, and she

1 called it the Al Capone house, and I thought that  
2 was weird. What do you mean, Al Capone house?

3 She said that there were like shutters  
4 that come down from the windows from the prior  
5 person who built it or something, so I said --

6 Q. Metal shutters?

7 A. That is what she said. So I thought that  
8 was odd that the house would have that because  
9 typically you see that on the east coast, but not  
10 here in the desert.

11 Q. Did Mrs. Frasier --

12 A. I mean in Irvine.

13 Q. Did Mrs. Frasier ever relay to you that  
14 she likes the Lavender house and would like to keep  
15 it?

16 A. The only positive thing she said about  
17 the Lavender home was that she was glad that that  
18 was an opportunity for two of her -- one or two of  
19 her grandkids, who were very good at golf, and that  
20 enabled them to play.

21 She would go out there with Jordan, Joe,  
22 yes, her husband, Joe, but it's mostly what he  
23 liked. She just goes along with what he likes, but  
24 since he passed away, she said she has never really  
25 had an interest in going out there.

1 Q. Are there any other text messages in that  
2 75-page document to refresh your memory about  
3 discussions either in writing or on the phone with  
4 Premier Trust representatives?

5 A. About the houses?

6 Q. Yes.

7 A. Not right now, not that I can see at the  
8 moment.

9 MR. RESNICK: That's it, Your Honor.

10 THE COURT: Cross-examination.

11 MR. ROBERTSON: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. ROBERTSON:

14 Q. Hi, Ms. Mulrain. I'm David Robertson. I  
15 represent Premier, and I just have a few questions  
16 for you.

17 You have indicated that at the point in  
18 time when you met Dinny, she was complaining about  
19 Premier, and you had to facilitate communications  
20 between Dinny and Premier and Nicole, correct?

21 A. Yes.

22 Q. Okay. Do you know at that point in  
23 December of 2016 about how long Nicole had been the  
24 trust officer assigned to the trust?

25 A. From our conversations, Nicole would say

1 she was the assigned trust officer for the past  
2 year.

3 Q. Okay. So at least a year?

4 A. That is what she said. I don't know.

5 Q. You communicated with Nicole quite a bit  
6 over the course of the period of time after you came  
7 onboard and before Nicole left, correct?

8 A. Yes.

9 Q. Okay. Do you know if Nicole had a good  
10 relationship with Dinny where they communicated  
11 freely and talked on the phone regularly and laughed  
12 and had a good relationship at some point in time?

13 A. Not to my knowledge. Not when I was  
14 hired. The relationship was already fraught.

15 Q. Do you know when, at what point in time,  
16 that relationship changed from all of a sudden  
17 Nicole having a great relationship with Dinny to all  
18 of a sudden, Dinny being negative towards Premier?

19 A. I don't know.

20 Q. But it was before you came onboard?

21 A. It has to be before because I don't know  
22 any time that I have witnessed that that is what it  
23 was.

24 Q. That was in December of '16, correct?

25 A. Yes.



1 Q. Do you know when Mr. Resnick was hired?

2 A. No. He was hired before me.

3 Q. So maybe a month or so before you?

4 A. Yes.

5 Q. You don't know if whether, prior to  
6 Mr. Resnick being hired, whether Dinny and Nicole  
7 got along great. You don't know the answer to that,  
8 do you?

9 A. Well, from Nicole telling me that she had  
10 a good relationship with Dinny.

11 Q. Okay. So Nicole did tell you she had a  
12 good relationship with Dinny, and at some point, it  
13 changed, and at some point, it was before you came  
14 onboard in December?

15 I'm sorry. Let me try again. Nicole did  
16 tell you she had a good relationship with Dinny?

17 A. She did say that.

18 Q. And she communicated well with Dinny,  
19 correct?

20 A. That is what she told me, yes.

21 Q. Then that changed to where there was a  
22 problem and that change occurred before you came  
23 onboard; is that correct.

24 A. That's correct. It changed before I came  
25 onboard.

1 MR. RESNICK: Your Honor, I am having  
2 trouble understanding the relevance to this as it  
3 relates to the non-productivity.

4 MR. ROBERTSON: I'll go back to the  
5 houses, Your Honor, but he brought this out.

6 THE COURT: The objection is overruled.  
7 The relevant standard under 035 is so broad, I have  
8 to listen for a little while, but I do invite you to  
9 cautiously take the time that we have.

10 MR. ROBERTSON: I'll move on. I just  
11 wanted to make sure the record was clear that  
12 Ms. Shrive did at one time have an excellent  
13 relationship with Dinny.

14 MS. MULRAIN: From what she said. I  
15 don't know that. I mean, I only know from what  
16 Nicole said.

17 BY MR. ROBERTSON:

18 Q. Now, was Dinny very clear? You said they  
19 talked about selling the Mercedes, correct?

20 A. Yes.

21 Q. Was Dinny very clear that she wanted the  
22 Mercedes sold?

23 A. Yes.

24 Q. No equivocation about that at all?

25 A. Well, she thought it was already sold

1 until I told her it's not sold. It's still sitting  
2 in the house.

3 Q. Okay. Then it was sold, correct?

4 A. Yes. We made arrangements through  
5 another local contact so that we could get top  
6 dollar.

7 Q. Okay. So that is an example of something  
8 where it was clear that Dinny wanted it sold, and it  
9 was sold, correct?

10 A. Yes.

11 Q. Now --

12 A. She said it should have been sold.

13 THE COURT: Hold on. There is no  
14 question.

15 BY MR. ROBERTSON:

16 Q. Are you saying it was a bad investment  
17 for the trust to hold onto the Lavender and Pinewood  
18 property? Are you saying that those properties went  
19 down in value during this time?

20 A. I'm not saying anything because I'm not  
21 the trust officer on this case, and I will not opine  
22 on something that I have no authority or complete  
23 knowledge of.

24 Q. So we're clear that you're not  
25 criticizing Premier because you're not saying that,

1 Well, gee, these properties went down in value, and  
2 they should have been sold before they went down in  
3 value, correct?

4 A. You're saying it went down?

5 Q. You're not saying that the trust lost any  
6 money because the properties weren't sold, correct?

7 A. Well, to render that opinion, I would  
8 have to know what the bases of the property, the  
9 value -- there are so many things involved, so  
10 again, I can't say. I don't have enough information  
11 to state an opinion.

12 Q. I think you have answered my question. I  
13 was just making sure that you weren't saying that,  
14 and it sounds like you're not saying that?

15 A. No. I can't say that because --

16 Q. You can't say the trust lost any money  
17 because of the non-sale of the homes, correct?

18 A. Well, I could state the fact that the  
19 carrying cost, the costs of not selling a home, that  
20 there are expenses, and if there is no use of it,  
21 and if there is no other positive upside, then of  
22 course, there will be an expense and -- what you're  
23 saying is loss of value, so if you have an asset  
24 that is not producing and you're paying expenses,  
25 then that is a loss.

1 Q. You don't know whether the houses were  
2 going up in value during this time or down, correct?

3 A. Well, at the time -- well, it depends on  
4 which house you're talking about, different niches,  
5 different markets, different circumstances.

6 THE COURT: So the question is, do you  
7 know if these two homes went up in value or down in  
8 value. That is the question.

9 MS. MULRAIN: It was going up because the  
10 real estate market, in general, was going up.

11 BY MR. ROBERTSON:

12 Q. Do you gather Dinny's mail at home?

13 A. Not at her home.

14 Q. Who does that?

15 A. The caregiver agency.

16 Q. Caregiver agency. Have you seen the mail  
17 that Dinny receives?

18 A. I do.

19 Q. Do you see that every month Premier sends  
20 a statement?

21 A. Well, there might be one or two months  
22 that it didn't come through for whatever reason, but  
23 those are rare.

24 Q. Okay. So as a general rule, every month  
25 Dinny would receive a statement from Premier,

1 correct?

2 A. Yes.

3 Q. As her power of attorney, did you review  
4 those statements?

5 A. No. In the very beginning, I informed  
6 Ms. Shrive that I don't handle trusts. I don't want  
7 to incur expenses of Dinny to do that because it's a  
8 duplication, and at that time, she was in  
9 communication with Dinny, so why should I incur  
10 additional expenses to duplicate efforts.

11 Q. Okay. Fair enough. Now, you have  
12 indicated that you followed up with Nicole and said,  
13 What is going on? Dinny authorized the sale of the  
14 Pinewood property.

15 A. No. I do not follow-up with Nicole. She  
16 was doing her job and getting it ready for sale.  
17 I followed up with Ryan because nothing  
18 happened.

19 Q. You're right. I apologize. The original  
20 authorization of sale was back when Nicole was  
21 there?

22 A. That's correct.

23 Q. And you followed up with Ryan saying,  
24 What is the status of selling Pinewood?

25 A. Yes.

1 Q. Was the response back that the trust  
2 committee wanted to sell Pinewood in conjunction  
3 with the purchase of the new Irvine home?

4 A. It actually took a while because after  
5 Nicole left, I was informed that until somebody was  
6 assigned, I should go through Leah. So I do talk to  
7 Leah directly because I forward her bills, and I  
8 inquired with her what is going on with the  
9 properties, with the sale, and she keeps saying,  
10 I'll talk to somebody and get back to you.

11 Time and time again, nothing, nothing,  
12 nothing. I said, Well, look, we have a letter of  
13 authorization and you are aware of it.

14 THE COURT: Ma'am, you need to slow your  
15 cadence down, please.

16 I passed over our mid-morning break. The  
17 court reporter has to take every word down, so if  
18 you can just slow a little bit.

19 MS. MULRAIN: Okay. Even though Nicole  
20 left, there is another trust officer there, Leah,  
21 her assistant, and she was copied on a majority of  
22 the e-mails and she is also aware because on the  
23 phone, I also know that Nicole told her and she also  
24 relayed messages from Nicole to me, so she is aware,  
25 so that is why I didn't understand why nothing is

1 done after Nicole left.

2 BY MR. ROBERTSON:

3 Q. Okay.

4 A. So when I asked Leah, she would get back  
5 to me after she contacts Premier people. To a point  
6 -- fast-forward to November of 2017, when nothing is  
7 still done, I said, Look, is there a trust officer  
8 assigned; because I was told somebody would be  
9 assigned, and that is when she contacted Ryan and  
10 had Ryan e-mail me.

11 Q. Okay.

12 A. I think that is what you were getting at  
13 is only until then that I got a response.

14 Q. Okay. These conversations were all about  
15 sale of Pinewood, correct?

16 A. Yes.

17 Q. But not about renting it?

18 A. Actually, there is an e-mail in November  
19 or December that I would have to look at to refresh  
20 my memory to see if that conversation included a  
21 rental.

22 Q. I don't have that e-mail, so as you sit  
23 here today, you can't recall any kind of extensive  
24 discussions --

25 A. Well, I have the e-mail on my chair, so



1 can I grab it?

2 Q. We'll move on. Is it fair to say there  
3 were no extensive discussions between Premier and  
4 Dinny, to your knowledge, about renting either the  
5 Palm Desert or the Irvine homes?

6 A. No. That is the problem. Premier  
7 doesn't communicate with Dinny. That is why there  
8 is none.

9 Q. So you're not aware, as you sit here  
10 today, of any communications where Dinny told  
11 Premier she wanted either of those properties  
12 rented, correct?

13 A. Not to my knowledge.

14 Q. Okay. But you do recall that she signed  
15 a letter of authorization and that you followed up  
16 with Ryan and said, What is going on with the  
17 Pinewood sale?

18 A. Yes.

19 Q. So that is a sale issue. What did Ryan  
20 say in response on that issue?

21 A. He e-mailed back and mentioned that the  
22 trust committee -- he talked to the trust committee  
23 and wanted Dinny to rent the house to live, but  
24 those are apples and oranges. We're not talking  
25 about selling of the home for her to right away move

1 into because you have got two unproductive assets  
2 that should be sold regardless if she is leaving the  
3 San Juan Capistrano home or not, and that is why my  
4 e-mail back to him and explained back to him, you're  
5 confusing the situation.

6 Q. So you didn't understand why the trust  
7 committee wanted to sell the Pinewood home at the  
8 same time as Dinny chose a new home; is that fair?

9 A. No. They're conflating two different  
10 discussions.

11 Q. So you didn't understand that reasoning?

12 A. It depends on what reasoning you're  
13 referring to.

14 Q. Did you understand that the trust  
15 committee wanted to sell the Pinewood home at or  
16 about the same time as Dinny purchased a new home in  
17 Irvine?

18 A. I didn't understand that is what their  
19 position was.

20 Q. Okay. You didn't understand that. Were  
21 you assisting Dinny in looking for a new home in  
22 Irvine?

23 A. In the very beginning.

24 Q. That is because she was unhappy in San  
25 Juan Capistrano, correct?

1           A.    Yes.  You were actually part of that  
2   conference call in the very beginning when I was  
3   hired, as soon as I came onboard, what needs to be  
4   done.  One of it was to help Dinny move back to  
5   Irvine, and we talked about, Okay, if we do that,  
6   what are her options.  So I took her to look at both  
7   assisted living and single family homes.

8           Q.    That's correct, and you're right.  I was  
9   part of that conversation.

10           THE COURT:  It is 12:10.  We did not take  
11   a mid-morning break.

12           As you think about the length of your  
13   cross-examination, how much more do you have, and  
14   then I'll ask the same question, how much on  
15   redirect.

16           If this witness is done in the next five  
17   minutes, we'll stay, but if there is any chance she  
18   goes behind five minutes, we're going to break.

19           MR. ROBERTSON:  I think I can be done in  
20   less than five minutes.

21           THE COURT:  Well, I'm talking about --

22           MR. ROBERTSON:  Total.

23           THE COURT:  -- redirect and recross, and  
24   I don't want to push it.  We need a break.  I'm  
25   losing employees at this point because we just sat

1 here the entire time.

2 MR. ROBERTSON: I would prefer to finish  
3 my cross, if you don't mind, Judge. I'll try to  
4 keep it to one or two questions.

5 THE COURT: If you can finish your cross  
6 within five, that's when we'll break and then we'll  
7 return to redirect.

8 BY MR. ROBERTSON:

9 Q. So you undertook to show Dinny homes in  
10 Irvine?

11 A. Yes.

12 Q. Was Dinny able to find a home that she  
13 liked in Irvine?

14 A. There were some that she was happy with,  
15 yes, and there were others, not so much.

16 Q. Was there one that she located that she  
17 was willing to do what the trust committee  
18 recommended, and that is, move in for a few months  
19 and test drive and then buy it on a lease option?

20 A. At that time, there was no discussion by  
21 Premier about renting. At that time, the whole  
22 trajectory was, she gets to buy the house, and I was  
23 in constant communication with Nicole.

24 Okay, we're going to be number one or  
25 number two, but I have to perform because we're

1 selling ourselves as a cash buyer. Can you raise  
2 the funds, and so we need to line it up, and she  
3 said if she can't raise the funds right away, we can  
4 look at alternatives, so we talked about having  
5 short-term loans, we talked about Opus Bank as an  
6 option of getting some short-term lending to make  
7 that happen, and it was in a specific e-mail where I  
8 outlined options for her.

9 MR. ROBERTSON: Your Honor, I have to  
10 take back what I said. I don't think I can finish  
11 in less than five minutes.

12 THE COURT: All right. Thank you. If  
13 you'll step down, please.

14 Mr. Resnick, this issue has an amount in  
15 controversy of several hundred thousand dollars and  
16 it must be fairly and fully vetted, so by my  
17 questions, I'm not saying to move along.

18 I just want to know because I have got to  
19 schedule the afternoon and figure out -- you need to  
20 figure out flights and accommodations so we can  
21 continue trial tomorrow.

22 What other witnesses do you have on this  
23 issue?

24 MR. RESNICK: I have redirect of  
25 Ms. Mulrain. I have Gina Kim, short testimony, and

1 the expert appraiser Alan Sims.

2 THE COURT: Okay. Well, that will take  
3 us at least through half of the afternoon.

4 I am going to not entertain any arguments  
5 now about the \$4,000. We may return to argument,  
6 although I think I know your arguments from what you  
7 have written.

8 I am not going to entertain any evidence  
9 about the other objections, which have been  
10 submitted on paper. We can put those arguments in  
11 at the right time.

12 As soon as we're done with this issue, I  
13 will allow Mr. Bradley Frasier to take the witness  
14 stand and air his grievances, and then be available  
15 for cross-examination by three attorneys, and then I  
16 will allow Ms. Amy Frasier-Wilson to take the  
17 witness stand, express her concerns, and be subject  
18 to cross-examination.

19 Then I'll turn to what is next after  
20 that, but that is how I see the afternoon going.

21 Please make arrangements to continue  
22 trial at 8:30 tomorrow morning, and we'll get as  
23 much done tomorrow as we can, so I don't have to set  
24 us into Monday as well, but we are going to finish  
25 all of the issues we have identified.

1 We're going to take an abbreviated lunch.

2 It will be one hour. I'll see you at 1:15.

3 (Lunch break taken at 12:14 p.m.)

4 THE COURT: Ms. Mulrain, if you'll come  
5 back to the witness stand? You remain under oath.

6 Mr. Robertson will continue his examination.

7 I wanted to speak for a moment about the  
8 bench memorandum. I have not read it. I haven't  
9 called for it, but I'm happy it arrived.

10 In fairness, I think you should be given  
11 a chance to file a similar statement, and I would  
12 give you five days, until after five days having  
13 expired from the close of this hearing, keeping it  
14 similarly brief, but then I'll read them at the same  
15 time.

16 MR. ROBERTSON: Fair enough, Your Honor.  
17 Your Honor, a housekeeping matter. Mr. Berge is  
18 here. I was wondering if we could release him on  
19 10- to 15-minute call.

20 THE COURT: Yes.

21 MR. ROBERTSON: Thank you.

22 THE COURT: He should be prepared to  
23 participate tomorrow if we don't get to him today.

24 MR. BERGE: Yes, sir.

25 THE COURT: Thank you so much.

1 You may continue, Mr. Robertson.

2 MR. ROBERTSON: Thank you, Your Honor.

3 BY MR. ROBERTSON:

4 Q. Good afternoon, Ms. Mulrain.

5 A. Good afternoon.

6 Q. I think when we left off before the lunch  
7 break, we were talking about you were working with  
8 Dinny to find a home in Irvine to move into because  
9 she was unhappy with the San Juan Capistrano home?

10 A. Yes.

11 Q. Can you describe for the Court generally  
12 your efforts in that regard?

13 A. There was a Realtor engaged. She  
14 identified homes that she might like, single story,  
15 close to walking path, in the vicinity of the  
16 neighborhood that she had lived in before her fall,  
17 and also, as predicated on the availability of what  
18 was on the market.

19 Q. Okay. As you indicated, this was a  
20 decision that was arrived at jointly between you and  
21 Dinny and Premier, and I was on the call as well,  
22 indicating that trying to get her back to someplace  
23 where she felt more familiar appeared to be a good  
24 idea, if possible, correct?

25 A. It appears that that was a decision that



1 was already determined before I came onboard, but  
2 after I came onboard, we had the call for me to help  
3 execute that, yes.

4 Q. All right. You didn't disagree with that  
5 decision. You felt --

6 A. No, no. I don't disagree with that  
7 decision.

8 Q. Whatever became of your efforts to find a  
9 new home for Dinny in Irvine?

10 A. Well, we identified some homes that she  
11 found it would be acceptable, but in the meantime, I  
12 corresponded with Nicole to make sure we were able  
13 to execute, to close escrow, to have funds available  
14 to buy the home, and I kept her updated as to which  
15 home, the parameters, the dollar value that we were  
16 looking at, the pricing and so forth.

17 I laid out an e-mail that, in general,  
18 these are the parameters we're looking for, so if  
19 you can go to the trust committee, and instead of  
20 identifying an address of a particular home, it  
21 would be best if this is a generality.

22 Q. Fair enough.

23 A. After that, she came back by saying the  
24 trust committee said too much properties on the  
25 portfolio. The Irvine and the San Juan home need to

1 be sold before buying the new home because there are  
2 too many properties on the portfolio.

3 Q. Did she also indicate to you that the  
4 trust committee wanted to sell the Irvine home, the  
5 Pinewood home at or about the same time as Dinny --  
6 as buying the new home?

7 A. I remember when Dinny was looking for the  
8 new home to purchase, if there was problems raising  
9 capital, maybe a short-term financing would be  
10 required. That is what I remember.

11 Q. Okay. I'm just trying to get to this  
12 point of whether you understood the trust  
13 committee's position that they wanted Dinny to  
14 identify the new home before they sold the Pinewood  
15 home. Did you understand that?

16 A. That wasn't my impression, that one  
17 needed to go first before the other.

18 Q. Okay. So your understanding was that  
19 Pinewood could be sold. It was irrelevant whether  
20 Dinny found a new home, only that Pinewood would be  
21 sold before the new home was bought, correct?

22 A. Not about the timing, just the Pinewood  
23 home needed to be sold because she couldn't go back  
24 to it, and before we even looked to buy a new home,  
25 I also had an ADA contractor to go in there to

1 assess the situation to see how much cost it would  
2 be to make it ADA compliant, and that was what we  
3 arrived at because she could never go back there.

4 So the talking of selling simultaneously,  
5 I don't recall talking about that.

6 Q. But you testified just a minute ago that  
7 Nicole responded that the Pinewood home had to be  
8 sold and the San Juan Capistrano home had to be sold  
9 before the new home was purchased?

10 A. No. I don't know when that San Juan  
11 Capistrano home came into the discussion.

12 Q. Okay. Maybe I misunderstood you. Did  
13 you understand that the trust committee wanted  
14 Pinewood sold before buying the new Irvine house?

15 A. At that time, no.

16 Q. You didn't understand that?

17 A. No.

18 Q. Okay. Was Dinny able to find a home that  
19 was satisfactory to her and to the trust committee?

20 A. There were several she was waffling on,  
21 but there was one particular that she really liked  
22 because it mirrored the floor plan that she had with  
23 the Palm Desert house.

24 Q. Okay.

25 A. But we had to pull out because, you know,

1 the response from Premier that the Irvine home --  
2 you know, too much property on the portfolio with  
3 the Irvine home, that we can't buy without selling  
4 something.

5 Q. Did you just simply stop looking for a  
6 new home for Dinny after that?

7 A. Yes, because you needed to sell the homes  
8 before a new one could be purchased, so why look if  
9 you haven't sold the home?

10 We were told that no new home could be  
11 purchased without the selling and offloading of  
12 existing properties, so we can't proceed to continue  
13 to look for a home to buy if the homes are not sold,  
14 so I don't understand why we would exert expenses  
15 and effort to do that if the homes were not sold.

16 Q. You were here for Nicole Shrive's  
17 testimony, correct?

18 A. Yes.

19 Q. Do you recall the discussion about the  
20 fact that the trust committee wanted Dinny to move  
21 into a home on a lease option basis, to rent it  
22 because she had just bought a home and after only a  
23 few months was unhappy with it, and the trust  
24 committee was concerned that they didn't want that  
25 to happen again because there were a lot of costs

1 associated with buying a home and selling it.

2 They wanted Dinny to move in, live in it  
3 for a few months on a lease option, and then pull  
4 the trigger if she liked it on a sale. Do you  
5 recall that?

6 A. No. I don't recall that with Nicole. I  
7 recall that with Ryan.

8 Q. Okay. Did you ever pursue that? Did you  
9 ever pursue finding a home on a lease option for  
10 Dinny?

11 A. No, because there was no money to buy,  
12 and Premier had stopped making any distribution or  
13 refused to give any funds, so again, I have to  
14 consider the costs associated with time expended, so  
15 again, why go through efforts to incur expenses when  
16 we don't have the ability to enter into the lease of  
17 a home. You need proof of funds, and there is none.

18 Q. Just to be clear. Premier told you that  
19 they agreed with Dinny buying a home in Irvine, but  
20 they wanted her to rent initially and then buy in a  
21 lease option. You got that from Ryan, correct?

22 MR. MILLSAP: Objection. Misstates  
23 testimony.

24 THE COURT: We'll see. Let her answer  
25 the question. It's overruled.

1 MS. MULRAIN: I would have to refresh  
2 that e-mail that Ryan sent to me, so if I could see  
3 that e-mail?

4 BY MR. ROBERTSON:

5 Q. Without referring to your documents, just  
6 from your memory here today, do you recall whether  
7 Premier said they wanted her to rent first and then  
8 buy?

9 A. They did say that.

10 Q. Did you ever pursue finding a home for  
11 her to rent and then buy?

12 A. No. You can't buy something or enter  
13 into a lease without having proof of funds.

14 Q. Is it your testimony that the trust did  
15 not have \$1.3 million in it?

16 A. It's not for me to know what is in the  
17 trust because I don't handle anything to do with the  
18 trust.

19 Q. Did you ever request from Premier proof  
20 of funds that you could show to a prospective seller  
21 or renter?

22 A. It was established that Premier refused  
23 to make distributions or provide funds, so that has  
24 been their stance, so why would I expect anything  
25 other than that.

1 Q. Do you have any document, a text or  
2 e-mail or anything, a letter to Premier saying that  
3 Dinny at any time wanted to rent either the Lavender  
4 home or the Pinewood home?

5 A. No.

6 MR. ROBERTSON: One moment, Your Honor.

7 THE COURT: Yes.

8 MR. ROBERTSON: That's all I have, Your  
9 Honor. Thank you.

10 THE COURT: All right. Redirect, please?

11 REDIRECT EXAMINATION

12 BY MR. RESNICK:

13 Q. Do you recall when Mr. Gonda said that  
14 Premier was willing to rent a property for  
15 Mrs. Frasier?

16 A. November or December of 2017.

17 Q. Prior to that, did Premier or the  
18 representative state that was acceptable?

19 A. That the decision --

20 Q. To rent?

21 A. To rent, no.

22 Q. During all your communications with  
23 Nicole Shrive that was never brought up?

24 A. No. Renting was not with Nicole.  
25 Renting discussion was with Ryan.

1 I don't recall renting with Nicole other  
2 than we had to unload the properties before a new  
3 one could be purchased.

4 MR. RESNICK: May I, Your Honor?

5 THE COURT: Yes.

6 BY MR. RESNICK:

7 Q. Are you familiar --

8 MR. ROBERTSON: Do you have a copy of the  
9 document for me?

10 MR. RESNICK: Oh, I'm sorry.

11 BY MR. RESNICK:

12 Q. Are you familiar with this document?

13 A. Yes.

14 Q. Did you help in the preparation of this  
15 document?

16 A. I supplied the information for your firm  
17 to compile the information, yes.

18 Q. The information, would that be the  
19 attached pages?

20 A. The attached pages were from the  
21 accountings that Premier provided, but what I  
22 provided was utility bills for the properties, and  
23 that is reflected on the very top of the first page  
24 where it says, "Expenses based on Janie's bills."

25 What that is inferring is expenses based



1 upon the utility bills that I forwarded to your  
2 office.

3 Q. The heading, "Expense from Premier's  
4 accounting," 6/2015, 6/2018 totaling \$61,669.83. Do  
5 you believe that to be a correct number?

6 A. Yes, based upon the information here,  
7 yes.

8 THE COURT: Could I have a little bit of  
9 testimony about what composes those expenses? I  
10 know it's set forth, I'm sure, in supporting  
11 documents, but --

12 BY MR. RESNICK:

13 Q. Can you help us out, Ms. Mulrain, as to  
14 what the expenses were?

15 THE COURT: Just generally.

16 MS. MULRAIN: Electricity, utility, HOA,  
17 water.

18 THE COURT: Property tax?

19 MS. MULRAIN: HOA.

20 BY MR. RESNICK:

21 Q. Were there property taxes in there?

22 A. I think so. I believe so.

23 THE COURT: Is it your position that  
24 there are paper documents supporting the summary  
25 that \$61,669 came out of Premier's held funds to pay

1 expenses for these two homes? Is what you're  
2 saying?

3 MS. MULRAIN: Yes. I'm saying there are  
4 utility bills supporting utilities paid, yes.

5 THE COURT: Thank you.

6 BY MR. RESNICK:

7 Q. Were there maintenance expenses?

8 A. You mean like handyman and odds and ends  
9 stuff?

10 Q. Such as those?

11 A. --Yes. I know the Palm Desert one did.

12 I'm not aware of the Irvine.

13 Q. Were there lawn maintenance expenses  
14 paid?

15 A. Yes.

16 Q. For both?

17 A. For the Palm Desert, yes, and the San  
18 Juan Capistrano, but not Irvine. Irvine is like a  
19 courtyard, so it's behind gates, so HOA really can't  
20 see too much, so it doesn't need regular attention  
21 unless you want to have the outlay.

22 MR. RESNICK: I move to have that entered  
23 in.

24 THE COURT: Let's mark it as next in  
25 order, Ms. Clerk. Do you have any objections,

1 Mr. Robertson?

2 MR. ROBERTSON: Yes, Your Honor. I am  
3 not sure that we have laid a proper foundation for  
4 this document.

5 THE COURT: So I don't know how it was  
6 created, from what source.

7 MR. ROBERTSON: Right.

8 THE COURT: I think a couple of questions  
9 about foundation would be appropriate. Go ahead,  
10 please.

11 MR. RESNICK: Sure.

12 BY MR. RESNICK:

13 Q. The attachment to the summary, are you  
14 familiar with that listing?

15 A. Yes.

16 Q. What is it?

17 A. The attachments are pages from the trust  
18 accounting Premier provided under the headings for  
19 real estate expenses for Irvine and Palm Desert  
20 homes.

21 Q. Thank you.

22 THE COURT: So you relied upon documents  
23 that were produced by Premier; is that correct?

24 MS. MULRAIN: Yes.

25 THE COURT: Did you do this actual work?

1 MS. MULRAIN: No.

2 THE COURT: Who did?

3 MS. MULRAIN: Mr. Resnick's office.

4 THE COURT: Okay.

5 MR. ROBERTSON: In that case, Your Honor,  
6 I would object to admission of the document. If she  
7 can't vouch for it. She didn't go through and tally  
8 them up. She can't vouch that these numbers are  
9 correct.

10 MS. MULRAIN: I only provided --

11 THE COURT: Hold on. There is not a  
12 question. Just wait. Let me just think.

13 The nature of the evidence is  
14 permissible. It is relevant and helpful. The  
15 question is whether there is any mischief.

16 The law firm needs somebody to sit in the  
17 witness stand through whom the document will be  
18 admitted, so I guess the question is whether she is  
19 just -- this is not impolite. I'm just using it  
20 descriptively.

21 She is a breathing straw person, or  
22 whether she independently confirmed the analysis.  
23 If she confirmed the analysis, I'm going to overrule  
24 the objection, but if not, we're going to have to  
25 call somebody from your office or give her time or

1 something.

2 BY MR. RESNICK:

3 Q. Ms. Mulrain, did you verify the summary  
4 page to the attachments?

5 A. Yes.

6 Q. As to the calculation of the expenses?

7 A. Yes.

8 THE COURT: Okay. I'm satisfied.

9 Overruled.

10 MR. RESNICK: Nothing more, Your Honor.

11 THE COURT: Thank you.

12 THE CLERK: Is Exhibit 3 admitted?

13 THE COURT: Yes. Thank you, Ms. Clerk.

14 (Exhibit 3 marked for  
15 identification and admitted  
16 into evidence)

17 THE COURT: Mr. Robertson?

18 RECROSS-EXAMINATION

19 BY MR. ROBERTSON:

20 Q. Do you know if Dinny would open the  
21 monthly statements that were sent to her by Premier?

22 A. During my tenure, no.

23 Q. Premier sent the statements showing the  
24 expenses for these properties and there is no income  
25 for these properties, and your testimony is that

1 Mrs. Frasier never once opened, to your knowledge,  
2 any of Premier's monthly statements?

3 A. No, because a lot of these utilities went  
4 straight to Premier, not to her home.

5 Q. But I'm just asking whether Mrs. Frasier  
6 did anything to inform herself about what was going  
7 on with these properties by reviewing the monthly  
8 statements from Premier?

9 A. I know she did with Nori right in the  
10 beginning when I was involved. Nori was helping her  
11 with the bills, writing out the checkbook and so  
12 forth, control of the PO box key, and she was very  
13 resistant when I came onboard. She said I'm the  
14 fiduciary and I need to do that role with Dinny  
15 being the neutral third party, and she got quite  
16 upset because she wanted to remain in that role.

17 It was during that conversation, she  
18 informed me that she would go over all the bills,  
19 open up the utility, and go over it with her mom.

20 After, when I took over, I would open up  
21 the bills, sent the one that is trust asset  
22 property, changing it to Premier so Nicole would pay  
23 it, and anything that goes to the house I will show  
24 her before I would e-mail it to Nicole.

25 Q. As her power of attorney, did you ever

1 tell or advise Dinny, Hey, Dinny, you probably  
2 should be opening these statements from Premier  
3 because they have information about your trust?

4 A. The utility bills?

5 Q. No. The statements from Premier that  
6 came in monthly about the trust. You said you did  
7 not see her open those.

8 The question is, did you ever advise her  
9 that she should be opening those envelopes and  
10 looking at the income and expenses of the trust?

11 A. I did, and she said, I don't like people  
12 sending paperwork with me. I want someone to go  
13 over it with me. I don't need somebody to send me  
14 papers in the mail. That doesn't mean anything to  
15 me. I want somebody to go over it, and that is why  
16 I facilitated meetings where Nicole to come down to  
17 explain things to her, and Nicole even authorized me  
18 to have certain log-on for certain trust accounts  
19 opened at Opus Bank so that I could log-on and show  
20 Dinny.

21 Dinny requires somebody to go over things  
22 with her, take the time to explain it, not just,  
23 here you go. That is how she works.

24 Q. After Dinny indicated that she did not  
25 want any further communication from Premier, who

1 would have been the person who should have opened  
2 those things up and gone over them personally with  
3 her, if Premier could not?

4 A. Are you referring to the utility bills  
5 that we're talking about or bank statements?

6 Q. No. I'm referring to the monthly  
7 statements that came from Premier every month that  
8 showed the expenses of the trust?

9 A. Well, the monthly statements, she wants  
10 to go over it with the trust company, and when the  
11 trust company doesn't communicate because the  
12 directive was trust company communicate to Dinny  
13 through her attorney. That is exactly what she  
14 wrote and sent to you.

15 Q. That Premier should only communicate with  
16 her through her attorney?

17 A. Yes.

18 Q. So she expected Premier then to go over  
19 the statements with her attorney as opposed to with  
20 her? I'm confused.

21 A. She wants communication that Premier  
22 directs at her to go through her attorney.

23 Q. Okay. Just to be clear, you don't have  
24 any document that you're aware of, text message,  
25 letter, e-mail, anything where Dinny requested



1 either the Lavender home or the Pinewood home be  
2 rented, correct?

3 A. No, I don't.

4 MR. ROBERTSON: Thank you.

5 THE COURT: All right. Counsel, that is  
6 first and second direct and cross. I'm going to ask  
7 a few questions, and now, you'll have the right to  
8 ask follow-up questions based upon what I ask.

9 There is this concept that Premier was  
10 reluctant to purchase a new home until Ms. Frasier  
11 experimented in the home by leasing it for a short  
12 while. Do you know what I'm talking about, that  
13 concept?

14 MS. MULRAIN: Uh-huh, uh-huh.

15 THE COURT: Did you ever discuss that  
16 concept with Ms. Frasier? Did you tell her Premier  
17 wants you to do a lease option?

18 MS. MULRAIN: I informed her of Ryan's  
19 e-mail that they want her to lease and rent, and her  
20 response was that's too many changes. I don't want  
21 to do that.

22 THE COURT: Counsel, you are going to  
23 wonder where I'm going because I am exceeding the  
24 scope.

25 Are you familiar with a Ph.D by the name

1 of Klein?

2 MS. MULRAIN: Dr. Sandra Klein, yes.

3 THE COURT: Have you ever met her?

4 MS. MULRAIN: Yes.

5 THE COURT: Okay. Were you involved in  
6 Dr. Klein's assessment of Ms. Frasier?

7 MS. MULRAIN: I have to clarify because I  
8 met Dr. Klein initially during what is called a  
9 multidisciplinary assessment.

10 What that entails is at UC Irvine, an  
11 occupational therapist, gerontologist, psychologist,  
12 neurologist, all of that to assess her overall care,  
13 and that is when I met Dr. Klein, so that she would  
14 have a sliver -- her participation was a sliver of  
15 that overall assessment, and that has nothing to do  
16 with the capacity assessment.

17 Later on, when I asked her, Well, we need  
18 you to do the capacity piece, I was not involved in  
19 that.

20 THE COURT: You just said two things.  
21 When I asked her to do the capacity piece, I was not  
22 part of it. Did you --

23 MS. MULRAIN: I asked her to do --

24 THE COURT: May I finish my question?

25 MS. MULRAIN: Sure.

1 THE COURT: Did you facilitate the  
2 assessment between Dr. Klein and Ms. Frasier?

3 MS. MULRAIN: When you say "facilitate,"  
4 making an appointment is exactly what I did.

5 THE COURT: So you made an appointment?

6 MS. MULRAIN: Yes.

7 THE COURT: Were you present when  
8 Dr. Klein performed the assessment?

9 MS. MULRAIN: No, I was not.

10 THE COURT: Where did the assessment  
11 occur?

12 MS. MULRAIN: UC Irvine.

13 THE COURT: Who transported her? The  
14 caregiver?

15 MS. MULRAIN: The caregiver.

16 THE COURT: Did you speak to Dr. Klein  
17 about your observations, the family dynamic, the  
18 litigation? Did you give her a little preview of  
19 what was going on?

20 MS. MULRAIN: I didn't volunteer a  
21 preview. She asked me.

22 THE COURT: I don't want you to  
23 editorialize. Nobody is trying to trick you. So  
24 yes, you did; is that correct?

25 MS. MULRAIN: Yes.

1 THE COURT: You gave her background  
2 information?

3 MS. MULRAIN: Yes.

4 THE COURT: Have you known Dr. Klein  
5 before with other cases?

6 MS. MULRAIN: No.

7 THE COURT: So you don't have an existing  
8 relationship?

9 MS. MULRAIN: No.

10 THE COURT: Did Ms. Frasier know  
11 Dr. Klein before she was transported by her  
12 caregiver to UC Irvine? Is that what happened?

13 MS. MULRAIN: Uh-huh. Yes. It was at UC  
14 Irvine.

15 THE COURT: Did Ms. Frasier know  
16 Dr. Klein before that assessment, or did she meet  
17 Dr. Klein for the first time at that assessment?

18 MS. MULRAIN: I have to clarify. There  
19 are two components. She met Dr. Klein at the  
20 multidisciplinary team assessment because she was  
21 the psychologist for that piece, so she met her  
22 there.

23 THE COURT: I'm trying to determine if  
24 there was a preexisting relationship between  
25 Dr. Klein and Ms. Frasier.

1 I know that Dr. Klein fills a role in an  
2 interdisciplinary team. What types of interaction  
3 did they have before the assessment?

4 MS. MULRAIN: None.

5 THE COURT: So Dr. Klein knew Ms. Frasier  
6 just through paperwork as the team discussed the  
7 different needs?

8 MS. MULRAIN: No. She interviewed Dinny  
9 twice before the actual capacity assessment, and  
10 then she interviewed her again during the  
11 assessment, I think, one or two more times.

12 THE COURT: Is Ms. Frasier receptive to  
13 strangers asking questions of her? Generally, will  
14 she just talk to anybody who comes in and is nice,  
15 or is she generally resistant to strangers?

16 MS. MULRAIN: It depends on the  
17 circumstances. If you're asking her probing  
18 questions about medical and her trust and  
19 litigation, she is hesitant, but if you're talking  
20 to her just like a conversation, Hi, Dinny, how are  
21 you doing, and so forth, she is very open.

22 She is very social. She is very happy.  
23 She is very engaging, but the moment you want to ask  
24 her, How do you feel. What about your kids, and  
25 what pain you have, that type of thing, then she

1 gets --

2 THE COURT: Counsel, I'm not asking to  
3 compromise Dr. Klein's work. I'm asking because I'm  
4 trying to figure out if I send somebody to meet with  
5 Ms. Frasier, what is the best way to develop a  
6 relationship of trust, of social and emotional  
7 intimacy. Who is the segue?

8 That is why I'm asking the questions  
9 because just a knock on the door from a stranger  
10 doesn't seem right to me, but having a facilitator  
11 who may be involved, whether under attack,  
12 defensive, offensive also doesn't seem right. That  
13 is why I'm asking the questions, and with that, you  
14 can follow-up on any questions that I have asked, if  
15 you wish. You're not required, of course.

16 MR. ROBERTSON: No questions here, Your  
17 Honor.

18 MR. RESNICK: I do, Your Honor.

19 FURTHER REDIRECT EXAMINATION

20 BY MR. RESNICK:

21 Q. So there were three prior capacity  
22 assessments with Dr. Spar?

23 A. Uh-huh.

24 Q. With each one of those, did a caregiver  
25 go up with her to UCLA?

1 A. Yes.

2 Q. Did anyone else go with her?

3 A. I did.

4 Q. What was the reason you went there?

5 A. She was nervous. She was literally sick  
6 to her stomach. She didn't want to go. She was so  
7 nervous about doing well.

8 She kept saying that they're trying to  
9 tell me that I don't have the ability to make any  
10 decisions. I know what I'm doing.

11 She put a lot of pressure on herself, and  
12 we just tell her to answer the questions, everything  
13 will be fine. There's a lot of coaching to put her  
14 at ease, but she has a lot of anxiety, and we had to  
15 consult her doctor about her medication.

16 Q. Her attending physician?

17 A. Her attending physician, yes, because as  
18 Dr. Frasier alluded to earlier, certain medication  
19 will impair or change how a person might present, so  
20 with her anxiety, she was on anxiety medication, but  
21 she can't have that if the anxiety medication is  
22 going to make her not recall or more docile.

23 THE COURT: I get it. I'm ready for  
24 another question.

25

1 BY MR. RESNICK:

2 Q. Is this what you did also prior to  
3 Dr. Klein meeting with her?

4 A. No, because she built a rapport with  
5 Dr. Klein, and because of the circumstance of the  
6 case, I felt it best that I am not around because I  
7 was already being accused by her children of undue  
8 influence and also by Premier of me of undue  
9 influence.

10 I thought I can't be anywhere near that,  
11 even if my presence would bring her comfort and she  
12 asked me to go, and I told her for the sake of the  
13 situation, just try to suck it up, and you know, to  
14 do it.

15 Q. Do you believe this is because she met  
16 Dr. Klein before, during the team?

17 A. Yes, yes, yeah. Dr. Klein had lengthy  
18 conversations with her, and the first --

19 THE COURT: Hold on. I don't want  
20 lengthy, lengthy answers. I don't want you to tell  
21 a story. Just listen to the question and answer the  
22 question.

23 BY MR. RESNICK:

24 Q. Yes or no?

25 A. Repeat the question.



1 Q. Do you believe that is why she was  
2 comfortable with Dr. Klein?

3 A. Yes, and Dr. Spar too.

4 MR. RESNICK: And Dr. Spar as well.

5 Thank you.

6 THE COURT: Thank you. My next set of  
7 questions is similar, and that is the attending  
8 physician who does home visits with the last name  
9 starting with the letter H.

10 MR. RESNICK: Dr. Haga.

11 THE COURT: Haga?

12 MR. RESNICK: Yes.

13 MS. MULRAIN: Michael Haga.

14 THE COURT: Could you describe  
15 Ms. Frasier's relationship with Dr. Haga, how long  
16 it is, how subtle and comfortable or the opposite  
17 that it might be?

18 MS. MULRAIN: Sure. Shortly after I came  
19 onboard, I think I engaged Dr. Haga around March  
20 2017. Definitely in 2017, and he quickly gained a  
21 rapport with her.

22 She is very witty and she is quite flirty  
23 with males, so it just -- yeah, they had a good  
24 rapport, and he has a very good bedside manner. He  
25 puts her at ease and explains things to her, so she

1 has gotten to trust him.

2 THE COURT: Okay. But you brought  
3 Dr. Haga in, and his relationship with Ms. Frasier  
4 is about a year and a half?

5 MS. MULRAIN: Yes.

6 THE COURT: Thank you. Questions on  
7 those questions?

8 MR. ROBERTSON: No, Your Honor.

9 MR. RESNICK: No. Thank you, Your Honor.

10 THE COURT: Wonderful. Thank you.

11 You're free to step down. Your next witness,  
12 please?

13 MR. MILLSAP: Your Honor, we would call  
14 Alan Sims.

15 THE COURT: Thank you, Mr. Millsap. You  
16 may proceed.

17 MR. MILLSAP: Your Honor, in the interest  
18 of time, I wanted to offer a stipulation to  
19 Mr. Robertson.

20 We intend to proffer expert testimony  
21 under NRS 52.75. I'm happy to lay the foundation as  
22 to his qualifications as an expert, but if we can  
23 stipulate to that, I think that will abbreviate  
24 matters very much.

25 THE COURT: Is this a stipulation that

1 was discussed before, or is Mr. Robertson hearing it  
2 for the first time now?

3 MR. MILLSAP: He is hearing it for the  
4 first time now. That is why I'm offering to go  
5 through the exercise. As Your Honor can see, we  
6 have gone long on time.

7 THE COURT: Do you challenge this witness  
8 for his expert qualifications?

9 MR. ROBERTSON: To be candid with you,  
10 Your Honor, I don't think I know enough about his  
11 qualifications to know one way or another, so if we  
12 can at least do a brief --

13 THE COURT: I would like to have a little  
14 background, if you will?

15 MR. MILLSAP: Absolutely, Your Honor.  
16 I'm happy to go through it.

17 ALAN SIMS  
18 after having been duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MR. MILLSAP:

21 Q. Mr. Sims, can you state and spell your  
22 name for the record, please?

23 A. Yes. My name is Alan Sims, A-l-a-n,  
24 S-i-m-s.

25 Q. Do you own and operate an entity?

1 A. I'm sorry?

2 Q. Do you own and operate your own business  
3 entity?

4 A. Yes, I do.

5 Q. What is the name of that business entity?

6 A. It's under my name, Alan R. Sims.

7 Q. What operations does that entity perform?

8 A. I'm a real estate appraiser, a commercial  
9 real estate appraiser.

10 Q. All right. Are there any special  
11 licensures required to be a commercial real estate  
12 appraiser?

13 A. Yes. I'm a general certified appraiser.  
14 I have been an appraiser now for 25 years. Specific  
15 qualifications are the education level you need to  
16 become a commercial real estate appraiser, education  
17 has spanned over 15 years during those 25 to make  
18 sure the qualifications are current.

19 Q. Just to take a step back for the Court's  
20 clarification, prior to being licensed as a real  
21 estate appraiser, did you undergo education and  
22 training in that field?

23 A. Yes. Prior to becoming a real estate  
24 appraiser, I was an engineer. I decided to go into  
25 the appraising field back in New Jersey.

1                   There is a pseudo-Federal license, it's  
2     good in New Jersey as well as in California. I had  
3     to complete close to 3,000 hours of apprenticeship  
4     over a seven-year period. I also had to take  
5     independent classes that were separate that are  
6     roughly -- took about four years to go through the  
7     classes.

8           Q.    Then after you obtained your licensure as  
9     an appraiser, did you complete continuing education  
10    in the field?

11          A.    Every year, I have to complete continuing  
12    education, yes.

13          Q.    Can you describe that for the Court's  
14    benefit?

15          A.    The continuing education is every two  
16    years, we have to make sure we're current on Uniform  
17    Standards of Appraisal Practice.

18                   THE COURT: Hold on. You're way too  
19    fast.

20                  MR. SIMS: Uniform Standards of  
21    Professional Appraisal Practice every two years.

22                   THE COURT: One more interruption. Most  
23    people sit back, but you're actually sitting too  
24    close and your words are popping. So just about  
25    four inches behind where you were.

1 MR. SIMS: Yes, Your Honor. My ears are  
2 still plugged up.

3 THE COURT: Okay.

4 BY MR. MILLSAP:

5 Q. Thank you. Mr. Sims?

6 A. As far as the continuing education, I  
7 just completed them for this year. I had to  
8 complete 15 hours, and then every two years, I have  
9 to complete 45 hours in subjects dealing with  
10 complex appraisals down to simple analysis.

11 Q. You mentioned earlier, I believe you said  
12 you have 25 years' experience in the field. Did I  
13 hear that correctly?

14 A. Yes.

15 Q. Can you describe in that 25-year span the  
16 type of appraisals that you perform?

17 A. I opted to go to commercial field instead  
18 of residential field back when I started, so all my  
19 appraisal work has been large in scale as well as  
20 single family homes.

21 When I came to California, most of the  
22 appraisal work I did -- I live up in Big Bear  
23 Lake -- close to 900 of them were single family  
24 homes.

25 I do about two to three commercial

1 appraisals a month, and they span from shopping  
2 centers to complex situations where I need to  
3 analyze partnerships.

4 Recently, this year, I completed my first  
5 Lithium mine. I converted over and I started doing  
6 some mineral appraisals too.

7 Q. Have you ever qualified to testify as an  
8 expert witness in a court of law as a residential  
9 appraiser?

10 A. As a residential appraiser, and also,  
11 commercial in Federal Court back in California, and  
12 Superior Court.

13 I usually testify about one time a year,  
14 maybe two times a year in the last six years since I  
15 have been here.

16 Q. Have you ever been disqualified from  
17 testifying as an expert witness in a court of law?

18 A. No, I haven't.

19 MR. MILLSAP: Your Honor, I would move to  
20 qualify Mr. Sims as an expert.

21 MR. ROBERTSON: May I just ask a couple  
22 of questions on voir dire?

23 THE COURT: Limited voir dire, yes, sir.

24

25

1 VOIR DIRE EXAMINATION

2 BY MR. ROBERTSON:

3 Q. Mr. Sims, you have talked about preparing  
4 appraisals, and when I think of an appraisal, I  
5 think of something that determines the fair market  
6 value of the property. Is that what you have been  
7 doing?

8 A. Either fair market value or whatever the  
9 assignment is. It could be a partnership dispute.  
10 It could be a Bankruptcy Court that I'm doing it  
11 for, so not specifically fair market value. It is  
12 whatever the value you want. There are different  
13 types of value.

14 Q. In this case, your assignment was  
15 different. It was not to place the value on the  
16 properties. It was to determine the fair rental  
17 value, correct?

18 A. It was what we call a rental analysis.

19 Q. Have you ever testified as an expert on  
20 rental analysis?

21 A. Yes. That is part of the income approach  
22 standard of care we do as appraisers. We usually  
23 have to go out and look at what rental values are  
24 for similar properties.

25 MR. ROBERTSON: Your Honor, I think he is



1 qualified.

2 THE COURT: He will be designated as an  
3 expert to provide technical, scientific information  
4 for the Court's benefit.

5 MR. MILLSAP: Thank you, Your Honor.

6 DIRECT EXAMINATION - CONTINUED

7 BY MR. MILLSAP:

8 Q. Mr. Sims, were you contacted by  
9 Mr. Resnick in regard to providing a monthly  
10 estimated rental value for certain properties?

11 A. Yes, I was. I was contacted for what we  
12 call a static assignment, what are the rents for  
13 properties during specific periods of time, and with  
14 that, I went ahead and prepared my analysis.

15 Q. Just so we're clear, were you asked to  
16 perform your analysis on two separate properties?

17 A. Yes, I was. One property was 3 Pinewood,  
18 No. 2 in Irvine, California, and the other one was  
19 78985 Lavender Circle in Palm Desert, California.

20 Q. Okay. Can you describe for the Court the  
21 process you used to arrive at your estimated rental  
22 value for each home?

23 A. You have -- nowadays, things have changed  
24 a little bit. You can do Airbnb. You can do  
25 private websites.

1 I did a very conservative analysis which  
2 I went to the Multiple Listing Service that is  
3 represented by a real estate agent, and that is  
4 where I got all my information from on this report.

5 Q. Is it fair to say that the figures you  
6 have provided are based upon the most conservative  
7 analysis you could have engaged in?

8 A. Could you say it again? I'm sorry.

9 Q. Sure. Is it fair to say that the monthly  
10 estimated rental values are based upon the most  
11 conservative figures you could have relied upon?

12 A. Yes, it is. Basically, it follows a  
13 linear projection of what I have seen in the data.

14 Q. Okay. Is the process that you used  
15 generally accepted in your industry?

16 A. It's a basic standard that we have to  
17 adhere to to make any type of rental analysis. We  
18 do make some adjustments on some rental analysis  
19 because of the size of the property or something  
20 like that, but other than that, it's kind of cut and  
21 paste on this type of analysis.

22 You read something on MLS, and then you  
23 analyze that information.

24 Q. So no reason to believe that the process  
25 you engaged in in this case is suspect or rejected

1 in the industry? This is commonplace for you,  
2 correct?

3 A. It's commonplace. Any real estate agent  
4 could get the same information. Any real estate  
5 appraiser could get the same information.

6 Q. Let's turn to the Lavender Circle  
7 property. Can you first tell the Court the  
8 period --

9 A. That is on tab 1, okay.

10 Q. Okay. So the period of rental analysis,  
11 can you describe for the Court when that was?

12 A. I was asked to appraise or not appraise,  
13 excuse me, to look at the rental analysis from 2015  
14 through 2018.

15 Normally, on -- you would get a value  
16 that is common within the year and apply that for  
17 each month, but on this specific case, it's down in  
18 the Palm Springs area, and it's a seasonal rental.

19 We have from December through April, we  
20 have a high season down there, just started, and  
21 then from May through November, you have a low  
22 season down there. It's called snowbirds.

23 Everybody comes down in that period of  
24 time, and we also have in April, we also have  
25 something called Coachella Valley, which has also

1 just started, so we have some peak areas and times  
2 down there that people rent their house out, and  
3 that is usually how they make their mortgage  
4 payments as well as how they may pay their taxes  
5 each year.

6 Q. Did you separate your analysis of monthly  
7 estimated rental value into peak season versus off  
8 season?

9 A. Yes. The information was presented that  
10 way to me with the analysis I have. The real  
11 estate, the MLS would list peak rates during that  
12 period of time, and also, they would list nominal  
13 rates during the summertime when it's hot down  
14 there.

15 Q. And the peak season, you said, is  
16 December through April?

17 A. December through April, yes.

18 Q. All right. Can you tell us for the  
19 Lavender property, the estimated monthly rental  
20 value for the peak season in the year 2015?

21 A. Yes. \$3,100. The property is located in  
22 Sun City. It's a 55-plus community, and it also has  
23 Mountain Vista Golf Course there, so you have that  
24 resort, and that is where the peak season comes into  
25 play.

1 Q. Okay. What is the estimated monthly  
2 rental value for peak season in 2016?

3 A. \$3,250.

4 Q. Same question for 2017?

5 A. \$3,400.

6 Q. And 2018?

7 A. \$3,600.

8 Q. Okay. I know you already stated this,  
9 but say it for me again, if you don't mind. The off  
10 season is the months of May through November,  
11 correct?

12 A. Yes. May through November for 2015, it  
13 was \$1,500. You see a difference right away.

14 In '16, it was \$1,600 a month. In '17, I  
15 had limited data so I stuck conservatively to the  
16 year before, \$1,600 a month, and then in 2018, I had  
17 \$1,650 a month.

18 Q. That discrepancy in rental value comes  
19 from the fact that it's a retirement community?

20 A. It's a retirement community. Again,  
21 during peak season, you either find individuals  
22 living there, getting away from the snow, or they  
23 rent this out as income-producing property.

24 Q. Turning your attention to the Pinewood  
25 property in Irvine, is there a peak or off season

1 for the Pinewood property?

2 A. No. It's in Irvine, which is very  
3 popular in Southern California. I pass that area  
4 almost every weekend. It's just a standard rent,  
5 but it's high demand.

6 The property values in that specific area  
7 are about a million dollars.

8 Q. So you were able to quantify the  
9 estimated monthly rental value on an annual basis  
10 instead of monthly, correct?

11 A. Yes. It's best to do it that way because  
12 it's fair to all parties concerned when doing rental  
13 values.

14 It might fluctuate, but those rental  
15 values were obtained the same way, this time with 13  
16 rental comparables in that specific area, and the  
17 data is in the report with all the comparable rental  
18 information there too.

19 Q. For the year 2015, what was the estimated  
20 monthly rental value of the Pinewood property?

21 A. \$3,100 a month.

22 Q. How about for the year -- if you don't  
23 mind, I'm going to ask you to list the years 2016,  
24 2017 and 2018?

25 A. \$3,200 a month for 2016; \$3,300 a month

1 for 2017, and \$3,350 per month for 2018.

2 Again, when you look at my report in  
3 depth, you can see I'm very conservative. I am  
4 below all the rents that were taken in because that  
5 is the way I like doing a report.

6 I don't maximize this. All the data is  
7 below what is usually published.

8 Q. Do you have your report in front of you  
9 right now?

10 A. Yes, I do. I have all the information in  
11 front of me.

12 Q. Is all the supporting data that you  
13 relied upon in reaching these calculations contained  
14 in your report?

15 A. Yes, it is.

16 MR. MILLSAP: Your Honor, can we mark the  
17 report as next in line?

18 THE COURT: Yes. It will be marked next  
19 in order.

20 THE CLERK: Exhibit 4 marked for  
21 identification.

22 (Exhibit 4 marked for  
23 identification)

24 BY MR. MILLSAP:

25 Q. Mr. Sims, the exhibit that is in front of

1 you, Exhibit 4, did you prepare that report  
2 yourself?

3 A. I'm sorry, sir. Again?

4 Q. I apologize. Exhibit 4 that is in front  
5 of you, did you prepare that exhibit yourself?

6 A. Yes, I did.

7 Q. You were familiar with the contents of  
8 that report?

9 A. Yes, I am.

10 Q. All of the contents of the report are  
11 accurate and truthful to the best of your knowledge?

12 A. To the best of my knowledge, yes, sir.

13 MR. MILLSAP: I would move to admit that  
14 into evidence, Your Honor.

15 MR. ROBERTSON: Normally, expert reports  
16 are not admitted into evidence, Your Honor.

17 THE COURT: They are not. It's a rule.  
18 This witness is available to testify, and his live  
19 testimony dominates over his written report.

20 MR. MILLSAP: Understood, Your Honor.

21 THE COURT: If is there a compilation --  
22 is there a compilation of some type that I can refer  
23 to as to those yearly amounts?

24 MR. MILLSAP: There is, Your Honor. If I  
25 can lay a little foundation for the Court and the



1 reason I sought this exhibit's admission, as the  
2 Court is well aware, typically there would be an  
3 expert disclosure deadline, and these reports would  
4 be produced to opposing counsel and we would go  
5 through depositions, et cetera.

6 In this case, because it's an evidentiary  
7 hearing, I wanted to admit the report into evidence  
8 for the Court's benefit because there is a  
9 compilation on page 1 that provides a summary of the  
10 monthly estimated rental values, and then as well, I  
11 thought it would be beneficial for the Court's  
12 analysis to have all the supporting documentation on  
13 how these figures were arrived at and calculated.

14 THE COURT: I actually want a compilation  
15 that summarizes what he just said.

16 MR. ROBERTSON: Your Honor, I am planning  
17 on using, and I would stipulate to the admission of  
18 this document, which has his calculations on the  
19 back of this document.

20 THE COURT: So we'll cause that to be  
21 marked next in order. As to his processes and the  
22 data you relied upon, I don't need and won't use the  
23 report, but the compilation that summarized his  
24 conclusion will be very helpful for me, and if it's  
25 marked next in order, I would cause it to be

1 admitted.

2 MR. MILLSAP: Absolutely, Your Honor.

3 If I may, I might supplement that  
4 compilation separate and apart from the report, if  
5 that pleases the Court.

6 THE COURT: I don't understand what  
7 you're saying.

8 MR. MILLSAP: The compilation is  
9 contained within the report itself, so rather than  
10 tearing out the page, I was going to supplement the  
11 record with a separate page that is just the  
12 compilation.

13 THE COURT: That is what I thought I saw  
14 in Mr. Robertson's hand. I thought maybe it already  
15 existed.

16 MR. MILLSAP: If Mr. Robertson doesn't  
17 mind using that copy, we can mark that.

18 MR. ROBERTSON: Where is it in his  
19 report? I didn't see it in his report.

20 THE COURT: It's on page 1.

21 MR. MILLSAP: I'm actually looking at  
22 page 1 of his report. If I could approach, Your  
23 Honor? Are you in possession of this?

24 THE COURT: Would you look and see what  
25 Mr. Robertson is trying to show you?

1 MR. MILLSAP: Yes. Mr. Robertson -- I  
2 apologize, Your Honor, for the confusion.  
3 Mr. Robertson is in possession of a document that  
4 was file stamped with the Court in advance of this  
5 hearing.

6 What I was looking at is the compilation  
7 in his actual report.

8 THE COURT: Sure. If you want to somehow  
9 redact it or create a separate document, it is  
10 admitted, but you'll have to do the housekeeping at  
11 some point.

12 MR. MILLSAP: Thank you. We'll  
13 supplement the record. Thank you for the Court's  
14 indulgence in that respect, Your Honor.  
15 I think my remaining questions are  
16 relatively brief having discussed the monthly rental  
17 values.

18 BY MR. MILLSAP:

19 Q. In your industry, are you familiar with  
20 the terminology of highest and best use of property?

21 A. Yes. Highest and best use is a term that  
22 we have to put in every appraisal report. It  
23 basically tells -- I have to present what is the  
24 most profitable use of the property. In other  
25 words, what is the most money it can make. That is

1 usually what I base the appraisal value on.

2 If you're holding a property, you have  
3 two decisions. Either you're going to rent it or  
4 you're going to sell it, and that is basically it.

5 Q. So if I'm understanding correctly,  
6 highest and best use of the property involves an  
7 analysis of the most financially prudent way to  
8 utilize that property?

9 A. It's called maximum productivity. In  
10 other words, what is the maximum I can get for it.  
11 Sometimes, you hold and sell, and sometimes you rent  
12 during that period of time until you sell.

13 Q. Based upon your analysis of the Lavender  
14 Circle property, what would you opine is the highest  
15 and best use of that property?

16 A. Well, if you look at the information I  
17 have here, usually, the property value is kept down  
18 because of the 55-plus community, and that works  
19 along with Proposition 13 in California, so they  
20 keep the property rather low with the 55-plus crowd.

21 Q. Let me interrupt you. What is  
22 Proposition 13?

23 THE COURT: I got it.

24 BY MR. MILLSAP:

25 Q. Proceed, Mr. Sims.

1           A.    With that, we go ahead and most of the  
2   properties down there are being rented because of  
3   the use of that property in that specific area.  
4   They're just rented or they could be used by the  
5   owner.  If they're not being used, they're being  
6   rented because they're making money.

7           Q.    So the highest and best use of the  
8   Lavender Circle property would be as a rental  
9   property?

10          A.    Yes.  It would be the highest and best  
11   use for the property in that specific area near the  
12   country club, yes.

13          Q.    Based upon your analysis of the Pinewood  
14   property in Irvine, what would you opine is the  
15   highest and best use of that property?

16          A.    Well, being that the property -- let me  
17   reference something here, please.

18                THE COURT:  Let me stop you.  I qualified  
19   this witness for a certain expertise.

20                He is not helping with highest and best  
21   use because there's a human dynamic that is included  
22   in that highest and best use, and he is not going to  
23   be able to bring that dynamic into the analysis, and  
24   that dynamic is embodied by all of you and my file.

25                So I don't need him to tell me that the

1 highest and best use is renting it when that is not  
2 what is going to help me, so I'm going to have you  
3 move to a different subject, please.

4 MR. MILLSAP: Understood, Your Honor.

5 If I may, I do believe at the conclusion  
6 of this proceeding, there may be some argument on  
7 the Prudent Investor Act and financially prudent  
8 management of property with respect to these two  
9 properties, so respectfully, I do think on some  
10 level, it's relevant.

11 THE COURT: You have created your record,  
12 and respectfully, he is qualified for information I  
13 am unfamiliar with, and I am familiar with highest  
14 and best use.

15 MR. MILLSAP: Understood, Your Honor. No  
16 further questions for the witness.

17 THE COURT: I have a question that  
18 hopefully might present some kind of  
19 cross-examination, not preventing cross-examination.

20 I don't have a report, and these numbers  
21 you're talking about, is that gross revenue? Is  
22 that a triple net? Is that a modified net?

23 Tell me how the costs of leasing the  
24 property are reflected in your calculation.

25 MR. SIMS: Yes, Your Honor. The number

1 is listed as a gross rent that on the Multiple  
2 Listing Service someone would pay per month.

3 Now, behind that, that doesn't take out  
4 the overhead from the owner. That is only -- that  
5 is why I use the MLS.

6 THE COURT: What the agent and broker's  
7 commission to acquire all that?

8 MR. SIMS: All that is --- again, that is  
9 the rent that is listed that someone would come and  
10 pay the homeowner for the property. That is what I  
11 was asked to do on that.

12 THE COURT: But the homeowner identifies  
13 a lessee through some mechanism that costs money.

14 MR. SIMS: Right. If I was to go ahead  
15 and step it, in answering to your question, you have  
16 taxes, you have overhead, you have percentage of  
17 vacancy that you have. Not everything is rented 100  
18 percent, but I can only go on what the market rent  
19 is asked for at this specific time.

20 THE COURT: Thank you, sir.

21 MR. MILLSAP: Nothing further. Thank  
22 you, Your Honor.

23 THE COURT: Mr. Robertson.

24 MR. ROBERTSON: Thank you, Your Honor.

25 Your Honor, we only have -- we have a

1 copy for the witness of this document. It is filed  
2 with the Court. It was attached to Mr. Resnick's  
3 prehearing statement as Exhibit 1, and then there  
4 was an errata.

5 THE COURT: Go ahead and proceed, and the  
6 clerk will find it as you're talking.

7 MR. ROBERTSON: Very good, Your Honor.  
8 Thank you.

9 THE CLERK: Exhibit 5 marked for  
10 identification.

11 (Exhibit 5 marked for  
12 identification)

13 MR. ROBERTSON: Thank you. May I  
14 approach the witness, Your Honor?

15 THE COURT: You may.

16 CROSS-EXAMINATION

17 BY MR. ROBERTSON:

18 Q. Mr. Sims, I'm handing you what is Exhibit  
19 5, which was filed with the court as Exhibit 1 to  
20 the prehearing statement.

21 My question for you is, did you prepare  
22 this document or did someone else prepare it?

23 A. No, sir. I did not prepare this  
24 document.

25 Q. Okay. So this is not part of your



1 report?

2 A. No, sir.

3 Q. Okay. Do you know who prepared this  
4 document?

5 A. No, sir.

6 Q. Okay. This document was amended, I  
7 believe, by an errata filed on October 10th, which  
8 changed the date at the top from 9/2016 to 9/2018,  
9 so it looks like --

10 A. I have 6/2015 to 9/2018. I'm sorry.

11 Q. Right, but I think what it's changing is  
12 the expenses from Premier's accounting where it says  
13 6/18, correct? I'm asking Mr. Resnick now.

14 MR. RESNICK: Yes.

15 BY MR. ROBERTSON:

16 Q. All right. So there is an errata that  
17 changed the line that says, "Expenses from Premier's  
18 accounting 6/2015 to 6/2018," and that should  
19 actually be 9/2018, just so you'll know.

20 A. Yes, sir.

21 Q. This document adds up apparently some  
22 expenses and then adds in loss of rental income. Do  
23 you see that?

24 A. Reading it, yes, it looks like expense  
25 base, Irvine, Palm Desert, then total, and then it

1 looks like expenses from Premier accounting is the  
2 next area, and then rental income loss.

3 Q. And then on the next, on the backside of  
4 it, the next page, it's got the loss of rent  
5 calculations, and that appears to be based upon your  
6 determination of the fair rental value; is that  
7 correct?

8 A. It appears that way, yes, sir.

9 Q. Okay. Then there is a total on this page  
10 of \$254,431.76, and I know you didn't prepare this  
11 document, so I am not asking you to opine on this  
12 document, but I want to ask you a few questions  
13 similar to what the Judge asked you.

14 For example, if you simply go through and  
15 add up all of the months of possible rent, does that  
16 give you a full picture of what rent can be received  
17 from a property, or do you have to look at other  
18 things such as expenses to the owner?

19 A. To answer your question, to just take the  
20 gross rent and apply it, you're not -- as  
21 appraisers, we have to go in and look at our  
22 overhead. You have vacancy rates, which could be 80  
23 percent or 60 percent or whatever it is by the  
24 market.

25 You also have your overhead, your taxes,

1 and if there is any maintenance done on the  
2 property.

3 Q. Okay. Repairs, tenants break things?

4 A. Absolutely. Depreciation and everything  
5 else that you have.

6 Q. As the Court pointed out, typically, you  
7 have to hire somebody to find the tenant, correct?

8 A. Oh, yeah. You have to hire someone  
9 because unless you've got long-term tenants, you  
10 don't have 100 percent rental.

11 Q. Right. In addition to finding somebody  
12 to find the tenant and paying them a commission,  
13 typically, you hire a management company to manage  
14 the rental for you if you're an absent owner,  
15 correct?

16 A. Yes, especially in the Palm Springs area.

17 Q. Okay. So then the management company  
18 takes a percentage of the rent?

19 A. Everything.

20 Q. Are there some people in the Palm Springs  
21 area -- withdraw that.

22 Are there some people who own vacation  
23 rental homes who don't rent them out?

24 A. Yes. Some enjoy the homes. I can only  
25 tell you because I also live in Big Bear, which is

1 similar to that. Either you're really gung ho  
2 living there, or you kind of go, I don't want to go  
3 there anymore. It's too much of a hassle.

4 The longevity someone lives there, they  
5 get the use of it, or they don't, so it really  
6 depends on the individual.

7 Q. So you wouldn't say that it's  
8 unreasonable for an owner of a vacation home to  
9 decide, you know, I really don't want to rent this  
10 to tenants when I'm not using it. You wouldn't say  
11 that is unreasonable?

12 MR. MILLSAP: Objection, Your Honor. I  
13 believe this goes to a similar analysis of highest  
14 and best use of property. It goes beyond just a  
15 calculus of rental value.

16 THE COURT: I'm going to let it go a  
17 little bit. Overruled.

18 BY MR. ROBERTSON:

19 Q. Do you want me to repeat the question?

20 A. Yes, please.

21 Q. In your mind, is it reasonable for a  
22 person who owns a vacation rental to decide, you  
23 know, I really don't want to rent this out to other  
24 people. I just want to have it for my use alone?

25 A. In my experience, yes. A number of

1 reasons, but yes.

2 Q. If there is a property that might be  
3 going on the market soon, let's say you're an owner  
4 and you're thinking about selling your home sometime  
5 in the near future, you're not sure when, but  
6 sometime in the near future, and because of that you  
7 can't enter into a long-term lease like a six-month  
8 or one-year lease. Do you have the hypothetical in  
9 mind?

10 A. Yes. To answer your question, it depends  
11 upon the property. If I'm going in and buying an  
12 investment property, you want somebody to be renting  
13 it.

14 Q. Sure.

15 A. If I'm taking it and I'm just going to  
16 sell it next week, gee, I don't want Bob living in  
17 the basement. I don't want Bob living in the  
18 basement, so you don't want a tenant there, yes.

19 Q. Right. So if you might be selling a home  
20 in the near future, does that make it harder or  
21 maybe impractical to try to rent the home?

22 A. Again, it depends upon how you're going  
23 to sell it. If you have an investment, then that is  
24 your answer then.

25 It depends upon how you're going to

1 package and sell the property.

2 Q. So what you're saying if you're trying to  
3 sell the property to someone as an investor, who  
4 wants to rent it --

5 A. Then you want it rented.

6 Q. -- then you want it rented. If you want  
7 to sell it to just the average person who doesn't  
8 want to rent, then probably not?

9 A. Probably not.

10 Q. In your experience, is it reasonable to  
11 assume that a single family home rental property  
12 would be rented every single month over a three-year  
13 period?

14 A. Again, it depends upon are we talking  
15 about the Irvine property? There's quite a demand  
16 down there.

17 In California, we just can't -- we don't  
18 have enough rentals out there, we all know, so yes,  
19 it is my experience in that specific Irvine area to  
20 have a property rented, and if you look at the block  
21 here, you have a lot of people, again, with  
22 Proposition 13, own it for years and they just rent  
23 it out, so in that specific area, yes.

24 If you're holding a property you can sell  
25 it in the future, you really want to get it rented

1 out because you're losing money on it.

2 Q. Let's say you decide to rent out the  
3 property, but you might be selling it in the near  
4 future, is there a potential problem that when you  
5 decide you want to sell it and you want to sell it  
6 to someone who is not looking for an investment  
7 property that you might have difficulty getting the  
8 tenant out?

9 A. It depends upon how you structure a  
10 lease. If it's month-to-month, you give them a  
11 month's notice and you say, Okay, pal, you're  
12 packing. I got someone buying the property.

13 Q. Tenants come in all different shapes and  
14 sizes and colors, correct?

15 A. Yes, sir, they do.

16 Q. And you get good ones and you get bad  
17 ones despite your best efforts, correct?

18 A. You get good ones and bad ones, yes, sir.

19 Q. Are you familiar with an article written  
20 by David Smith, June 2018, Investopedia.com  
21 entitled, "Should You Own Real Estate Rental  
22 Property?"

23 A. No, sir, I'm not. I haven't read that  
24 article.

25 Q. Would you disagree with Mr. Smith when he

1 says, "Despite your due diligence in vetting  
2 prospective renters, if you wind up with a tenant  
3 from hell, for example, one who is needy and  
4 demanding, pays late, won't turn off the water,  
5 can't change a light bulb, and whose friends,  
6 followers, children, and pets leave a trail of  
7 destruction behind them" --

8 THE COURT: You're going too fast,  
9 Mr. Robertson. Are you reading from a learned  
10 treatise or what is this? It's an article. I don't  
11 know anything about it. You're just asking him if  
12 he disagrees with it?

13 MR. ROBERTSON: Yes.

14 THE COURT: I'm going to allow it.  
15 You're about to object. Do you want to?

16 MR. MILLSAP: I think you have already  
17 ruled on it, Your Honor.

18 THE COURT: Thank you.

19 MR. ROBERTSON: I apologize.

20 THE COURT: Slow down, though, please.

21 MR. ROBERTSON: I apologize for reading  
22 so fast. I know better than that.

23 BY MR. ROBERTSON:

24 Q. I'm just asking you if you disagree or  
25 agree with Mr. Smith when he says, quote, "Despite



1 your due diligence in vetting prospective renters,  
2 if you wind up with a tenant from hell, for example,  
3 one who is needy and demanding, pays late, won't  
4 turn off the water, can't change a light bulb, and  
5 whose friends, followers, children and pets leave a  
6 trail of destruction behind them, then the  
7 depreciation allowance in the tax code is probably  
8 sorely inadequate."

9 A. I don't agree, but I disagree with it  
10 because now, the smarter consumer, clients that I  
11 deal with, they get a lot of money upfront. Enough  
12 to cover an eviction notice and loss of rent, if you  
13 get a really bad person.

14 Q. Would you agree that in California,  
15 evictions can take many months?

16 A. Yes.

17 Q. What if someone kills all the  
18 landscaping?

19 A. Someone does what, sir?

20 Q. What if someone doesn't water the lawn,  
21 kills all the landscape? Can't that cost a lot of  
22 money to replace?

23 A. Yes, it does.

24 Q. Far more than the average security  
25 deposit, correct?

1           A.   Well, you anticipate with the management  
2   of the home or the business that you're going to be  
3   inspecting this regularly, so you're not going to  
4   have that type of loss.

5           Q.   So in your experience, property  
6   management companies typically go into the backyards  
7   of homes?

8           A.   No. My experience is management  
9   companies do not inspect the property correctly.

10          Q.   Okay.

11          A.   And they don't do it continually.

12          Q.   So it's hard to find a good management  
13   company?

14          A.   Yes, it is.

15          Q.   Another problem of being a landlord,  
16   correct?

17          A.   Yes, sir.

18          Q.   Are you assuming in your analysis that  
19   the person who owns these homes wants to rent them?

20          A.   That wasn't part of the analysis at all.

21          Q.   Did you assume in your analysis that  
22   there would be no remodel costs to bring the  
23   property up to speed and code for renting?

24          A.   No. That was not part of my scope.

25          Q.   Did I understand you correctly that on

1 the Lavender property over in Palm Desert, did I  
2 understand you correctly that even though you think  
3 it's possible to find a continual tenant in the  
4 Irvine property, that it might be more difficult to  
5 find a continual tenant in the Palm Desert property  
6 because typically it rents during the winter season?

7 A. It's seasonal, but I also like to put in  
8 a little statistic to address that.

9 Right now, because of Coachella Valley  
10 Music Festival, what we're seeing is 125,000 people  
11 want hotel rooms, and it varies, and there's only  
12 16,000 hotel rooms in the Palm Springs area, so  
13 you're always going to have some demand down there.  
14 There is not enough hotel rooms down there, so the  
15 demand is changing. It really is changing upward.

16 Q. So if it was an Airbnb situation, you  
17 would have no problem, but I'm talking to you now  
18 about on a continual basis on the Palm Desert  
19 property. Would it be more difficult to find a  
20 long-term tenant who would be there all year-round  
21 at the Palm Desert property?

22 A. It would be difficult.

23 MR. ROBERTSON: No further questions,  
24 Your Honor.

25 THE COURT: Thank you. Redirect, please?

1 MR. MILLSAP: Your Honor, thank you. I  
2 will be very brief. I realize we're short on time.

3 REDIRECT EXAMINATION

4 BY MR. MILLSAP:

5 Q. Mr. Sims, there seems to be a narrative  
6 that renting these properties would inhibit the sale  
7 of them, so I wanted to ask you, on the Lavender  
8 property, that could be rented seasonally, correct?

9 A. That is a seasonal rental, yes.

10 Q. And a seasonal rental is not annual,  
11 correct?

12 A. It's not annual, no.

13 Q. It could be month-to-month?

14 A. Usually, they try to get a six-month  
15 either way.

16 Q. Could it be month-to-month?

17 A. It could be month-to-month, especially  
18 if, like I mentioned, Coachella Valley or different  
19 activities down there.

20 Q. There is also short-term leasing agencies  
21 in Southern California, correct?

22 A. Yes.

23 Q. And those short-term leasing agencies  
24 could offer the property for special purposes or for  
25 a week at a time, et cetera, akin to an Airbnb?

1 A. Yes.

2 Q. So it's not a given that it would be an  
3 annual lease to rent these properties?

4 A. No, it's not.

5 Q. I also want to circle back to something.

6 In certain instances having the  
7 properties leased would actually enhance the value  
8 to an investor purchasing the property; is that  
9 accurate?

10 A. Yes.

11 THE COURT: For residential or  
12 commercial; is that accurate?

13 BY MR. MILLSAP:

14 Q. For residential, if an investor is  
15 purchasing a residential property as an investment  
16 property, it would be attractive that it was leased,  
17 correct?

18 A. Yes.

19 Q. What is the typical management fee --

20 THE COURT: Before you move past that  
21 question, again, there is not a jury. You have done  
22 900 appraisals, I think you said, in about that  
23 area?

24 MR. SIMS: Yes, sir.

25 THE COURT: Do you have a sense of what

1 percentage of home buyers are investment purchasers  
2 and what percentage are user/consumers?

3 MR. SIMS: We have to look, Your Honor,  
4 and I'm going by -- I live in a resort community too  
5 as well as the Palm Desert area is a resort  
6 community.

7 Usually, you have the investors, they're  
8 open to some kind of rent coming in because of the  
9 season, if they don't ski or if they don't golf, so  
10 I would say it's maybe 50-50 down in Palm Desert.

11 THE COURT: Thank you. Go ahead.

12 MR. MILLSAP: Thank you, Your Honor.

13 BY MR. MILLSAP:

14 Q. What is the typical management fee in  
15 Southern California for a residential property?

16 A. That is very flexible. I have seen 10  
17 percent, 20 percent.

18 Q. Ten percent, 20 percent of what, just so  
19 the record is clear?

20 A. For the fees, and that could include some  
21 maintenance that go along with it.

22 Q. So the industry standard would be roughly  
23 10 to 20 percent in management fees?

24 A. You can claim that, but you have to look  
25 at it management company by management company.

### Articles Published by James A. Black

1. "The Interaction of Visualization Fluids and Fingerprints" published in the January/February, 1990, issue of the *Journal of Forensic Identification*.
2. "Malpractice and the Forensic Sciences Consultant" published in the January/February, 1992, issue of the *Journal of Forensic Identification*.
3. "The SONY HCP-C10 Pocket Copier" published in the May/June, 1992, issue of the *Journal of Forensic Identification*.
4. "Application of Digital Image Enhancement Software With the Macintosh Computer to Questioned Document Problems" published in the May, 1992, issue of the *Journal of Forensic Sciences*
5. "Simulated Signatures - Forgery by Imitation" published in the May/June, 1995, issue of the *Journal of Forensic Identification*.

## EXHIBIT B

## Trials in which James Black has testified since 2010

1/8/10	Dante Mauna –V- Santa Monica Auto Plaza LLC..LASC Department A (Santa Monica). Judge Gerald Rosenberg.
3/8/10	Estate of John S. Moore. LASC Department A (Pasadena). Judge Mary Thornton House.
3/23/10:	Orange County Nameplate –V- Counterman. OCSC Dept. C-11. Judge Andrew P. Banks.
1/12/10	Capital One –V- A+ Muffler. OCSC Department C-13. Judge Gregory Munoz.
4/22/10	Ruelas, et al –V- the State of California. San Bernardino County, California, Superior Court Department R-8. Judge David A. Williams.
5/21/10	In re: The Edward and Nancy Belezso Trust. LASC Department C (Van Nuys). Judge James A. Steele.
6/3/10:	Bankruptcy of Preston. Federal Bankruptcy Court 5B, Santa Ana, California. Judge Theodor C. Albert.
7/27/10:	Allan Ketchens –V- Bernice Ketchens. OCSC Department L-24. Judge Robert D. Monarch.
9/21/10:	Trikha –V- Trikha. OCSC Dept. C-4. Judge Michael Brenner.
3/29/11	People –V- Joseph Hawkins LASC Dept 10 (Compton). Judge Gary Hahn (preliminary hearing).
4/1/11	Wanczuk -V- Wanczuk. San Diego Superior Court Department 16. Judge Gregory W. Pollack.
4/13/11	Pacific Mercantile Bank -V- David Yeskin, et al. OCSC Department CX104. Judge Kim G. Dunning.
8/19/11	Musafi -V- Safari. OCSC Dept. L-68. Judge Lon F. Hurwitz.
1/12/12	Waters -V- Kiel, Farmers & Merchants Bank, et al. OCSC Dept. 19. Judge Charles Margines.

## EXHIBIT C



4/25/12	Dissolution of Paulsson. OCSC Department C-65. Judge Mark S. Millard.
7/24/12	Atallah -V- Underwood. IVAMS, Rancho Cucamonga. Judge Kathleen Bryant.
8/24/12	Estate of Joseph Kalous. San Bernardino Superior Court, Department S-16. Judge Michael Welch.
8/27/12	Chinh Nguyen -V- Phieu Phan & Yen Le. OCSD Department C-14. Judge Frank Miller.
9/5/12	United Self Defense Studios -V- Z-Ultimate Self Defense Studios. OCSC Dept. C-20. Judge David R. Chaffee.
9/6/12	Termination of Gonzalez. ADR Arbitration Services. Arbitrator Robert A. Steinberg.
1/28/13	JP Morgan -V- Bogorodski. Riverside Superior Court, Department 2-G. Judge Harold Hopp.
1/29/13	Overland Corners -V- Lisa Chan, et al. LASC Dept. 32. Judge Mary Strobel.
3/6/13	Jeffrey -V- Rojas. OCSC Dept. 21. Judge David T. McEachen.
3/12/13	Comerica Bank -V- Beautiful Creations by Angela. San Bernardino Superior Court, Dept. S-32. Judge Donald R. Alvarez.
3/19, 25/13	People -V- Perez. OCSC Dept. C-30. Judge Richard F. Toohey.
7/29/13	Smart -V- Dahl. OCSC Dept. C-23. Judge Robert J. Moss.
8/21/13:	Ultimate New Home Sales -V- Mark Tasch. OCSC Dept. C-15. Judge Kirk Nakamura.
10/3/13	People -V- Rousseau. San Bernardino County Superior Court, Department S-35. Judge David Cohn.
10/18/13	He -V- Yang. LASC Dept. B (Burbank). Judge Donna Fields Goldstein.
2/3/14	Slauson -V- Bayard. LASC Dept. 14. Judge Terry A. Green.
3/4/14	People -V- Santiestaban. OCSC Dept. C-39. Judge M. Marc Kelly
3/4/14	Dissolution of Nourian. LASC Dept. 43. Judge Robert E. Willett.
7/8/14	Dissolution of Hatch. LASC Dept. 43. Judge Robert E. Willett.

## EXHIBIT C

4/3/2015	Hernandez -V- Mawad, MD. San Bernardino Superior Court, Department S28. Judge Michael A. Sachs.
4/16/2015	Dissolution of Maedo. LASC Dept. S14 (Long Beach). Judge Ana Maria Luna.
4/22/2015	Yem -V- Alvandi. LASC Dept. 17. Judge Richard E. Rico.
8/11/2015	Vi-Cal Metals, Inc. -V- Barillas. OCSC Dept. C-11. Judge Andrew P. Banks.
2/10/2016	Estate of Daniel Huff. LASC Dept. 67. Judge William P. Berry.
3/29/2016	Dissolution of Bukosky. OCSC Dept. L-73. Judge Clay M. Smith.
4/7/2016	Oceanus Trading Co. -V- HSK Consultants. LASC Dept. 35. Judge Joseph R. Kalin.
5/2/2016	Estate of James Hoffman. OCSC Dept. C-24. Judge Randall Sherman.
6/30/2016	Soliamani -V- Green Dental. LASC Dept. 44. Judge Mark Borenstein.
9/8/2016	People -V- Tulsiani. OCSC Dept. 36. Judge Glenda Sanders.
11/9/2016	David Engineering -V- Speciality Financing, Inc. Riverside Dept. 1. Judge Gloria Connor Trask.
12/7/2016	Estate of Paul Wilson. Riverside SC, Dept. 8. Judge Thomas H. Cahraman.
12/15/2016	Dissolution of Wiese. OCSC Dept. L-73. Judge Clay M. Smith.
3/10/2017	Balderama -V- de la Vega. LASC Dept. 62. Judge Michael L. Stern.
3/13/2017	Luchetti -V- Kote. OCSC Dept. C-7. Judge Thomas H. Schulte.
5/16/2017	Crop production Services -V- Captiva Verde Farming. OCSC Dept. CX102. Judge William D. Claster.
6/7/2017	Dissolution of Lintz. OCSC Dept. L-60. Judge Frank Ospino.
6/12/2017	Kenneth James -V- Bayside Insurance. OCSC Dept. CX-101. Judge Glenda Sanders.
6/29/2017	Gonzales -V- Calderon. San Bernardino Superior Court,
7/3/2017	Dept. S-32. Judge Wilfred J. Schneider, Jr.
7/3/2017	People -V- Antionette Hipp. OCSC Dept. C-44. Judge Cheri Pham.
9/25/2017	Estate of Michael Fields. OCSC Dept. CX-102. Judge William D. Claster.

## EXHIBIT C

10/26/2017      Mendez-V- Cash Stop. ADR Arbitration Services, Orange County. Judge Francisco F. Firmat.

## 2018

3/5/2018:      Leon-Robles -V- Keyes Lexis. JAMS, Downtown Los Angeles. Judge Colman A. Swart.

5/18/2018      Vinas -V- Hayes. OCSC Dept. 13. Judge Melissa McCormack.

7/30/2018      State Bar of California -V- KD Hughes-Cione. California State Bar court, Department A, Judge Cynthia Valenzuela.

9/6/2018:      Dissolution of Jagger. OCSC Department 65. Judge Mark Millard.

9/17/2018      Estate of Richard Schultz. LASC Dept. 79. Judge Paul Suzuki.

9/24/2018

## EXHIBIT C

## Cases in which James Black has been deposed since 2010

9/10/10	Trikha -V- Trikha
6/27/11	Waltz -V- Blue Water Mortgage
11/18/11	Waters -V- Kiel
4/23/12:	Dissolution of Paulsson
4/24/12	Golestaneh No -V- Mitra Jafary & Behrouz Safi-Samghabadi
10/15/12	Overland Corners, LLC -V- Lisa Chan
3/28/13	Chan -V- Cooper
4/16/13	Ultimate New Home Sales -V- Tasch
8/28/13	Yuan He -V- Wei Wen Yang
2/5/14	Ragland -V- US Bank
5/29/14	Dissolution of Fazeli
2/25/15	Majlessi -V- Vindel
7/27/2015	Vi-Cal Metals -V- Barillas & Cortez
7/30/2015	Dental Management Consultants -V- Ambarchyan Dental Corporation
8/6/2015	Burkhardt -V- Robinson
10/3/2016	Nguyen -V- Tran
12/19/2016	Lee -V- Gong & Zhu
8/10/2017	Middleton -V- Dasher, MD
9/5/2017	Estate of Fields
5/8/2018	Vinas -V- Hayes

## EXHIBIT D

EXHIBIT “10”

EXHIBIT “10”

EXHIBIT “10”

**JAMES A. BLACK**  
EXAMINER OF QUESTIONED DOCUMENTS  
PMB 152, 24331 MUIRLANDS BOULEVARD, SUITE 4  
LAKE FOREST, CALIFORNIA 92630  
(949) 380-1733  
TELECOPIER: (949) 380-0187

October 4, 2018

Amy Frasier Wilson  
10 Via Sonrisa  
Mission Viejo, California 92692

Re: Jordan Dana Frasier Family Trust

Dear Ms. Wilson:

I am an examiner of questioned documents and handwriting identification expert. A copy of my resume is attached hereto, labeled **EXHIBIT A**. In this matter, my fee for testimony at trial, deposition or arbitration is \$500.00 per hour with a two hour minimum. My fee for all other activities is \$300.00 per hour plus costs. As of this writing, I have received \$800.00. A list of the articles I have written which have been published is attached hereto labeled **EXHIBIT B**. A list of the cases in which I have testified since 2008 is attached hereto, labeled **EXHIBIT C**. A list of the cases in which I have testified at deposition since 2008 is attached hereto, labeled **EXHIBIT D**.

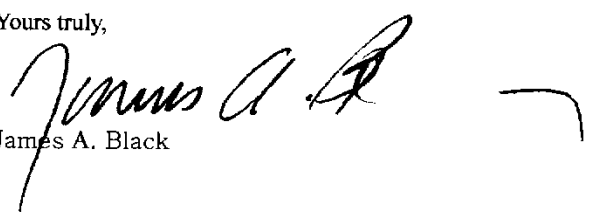
On October 4, 2018, I examined an image of check number 461, dated November 25, 2016, and drawn on Bank of America Account number 094611907. This document bears the purported signature of Dinny Frasier. Hereinafter the signature on the check is referred to as the Check Signature and a reproduction is attached hereto, labeled as **EXHIBIT E**.

Seven exemplars of the signature of the signature of Dinny Frasier were supplied consisting of images of checks. Hereinafter the Dinny Frasier signatures on these exemplars are referred to as the Exemplars.

I then directed my attention to the Check Signature. This examination revealed that the signature is hesitant and slowly executed. In my opinion, this slowness and hesitancy is a manifestation of a simulation. A simulation is the reproduction of the signature of another produced with the intention that it pass as genuine when, in fact, it is not. Some examples are tracing, freehand drawing and photocopier manipulation. It is my opinion that the Check signature is a simulation.

Thank you for the opportunity to assist in the resolution of this matter. Until our next contact, I remain

Yours truly,

  
James A. Black

DINNY G FRASIER  
31521 PASEO CAMPEON  
SAN JUAN CAPISTRANO CA 92675-1828

461

11-35/1210 CA  
82618

11/25/16

Date

Pay To The  
Order Of

Vogt, Resnick, Sherak

\$10,000.00

Ten thousand & xx/

Dollars



Photo  
Safe  
Deposit®  
Details on back

Bank of America



ACH/R/T 121000358

For

Retainer

Dinny Frasier

⑆121000358⑆ 000694611907⑈0461

Member FDIC

EXHIBIT E

EXHIBIT “11”

EXHIBIT “11”

EXHIBIT “11”



**Adv Tiered Interest Chkg - 1907: Account Activity**

Balance Summary:\$29,089.76 (available as of today 11/13/2014)

View:today 11/13/2014

**All Transactions**

Date	Description	Status	\$Amount
10/27/2014	CHASE Bill Payment	C	-449.01
10/27/2014	CHASE Bill Payment	C	-551.02
10/14/2014	chase Bill Payment	C	-340.00
10/14/2014	chase Bill Payment	C	-660.00
10/02/2014	CHASE Bill Payment	C	-50.00
10/02/2014	CHASE Bill Payment	C	-951.00
09/25/2014	CHASE Bill Payment	C	-50.00
09/25/2014	CHASE Bill Payment	C	-950.01
09/18/2014	CHASE Bill Payment	C	-50.00
09/18/2014	CHASE Bill Payment	C	-951.00
09/15/2014	CHASE Bill Payment	C	-1,578.99
08/26/2014	CHASE Bill Payment	C	-300.01
08/19/2014	CHASE Bill Payment	C	-801.00
08/06/2014	CHASE Bill Payment	C	-220.00
07/31/2014	CHASE Bill Payment	C	-2,100.00

EXHIBIT “12”

EXHIBIT “12”

EXHIBIT “12”

**Dinny G. Frasier**

P.O. Box 54324

Irvine, Ca. 92619

December 8, 2014

First Citizens Bank

To Whom It May Concern:

Please transfer \$28,000 from my account to my son, Bradley's, and daughter-in-law, Patricia's account, number

Dinny G. Frasier

A handwritten signature in cursive script that reads "Dinny G. Frasier". The signature is written in dark ink and is positioned below the printed name.

**Dinny G. Frasier**

P.O. Box 54324

Irvine, Ca. 92619

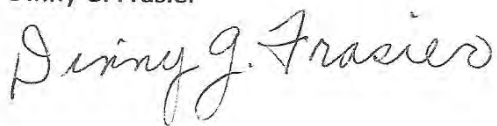
January 5, 2015

First Citizens Bank

To Whom It May Concern:

Please transfer \$14,000 from my account to my granddaughter Danielle Frasier's account,  
number ( ) ..

Dinny G. Frasier

A handwritten signature in cursive script that reads "Dinny G. Frasier". The signature is written in dark ink and is positioned below the printed name.

Security enhanced document. See back for details.

HARLAND CLARKE 1-800-894-1859 0M002719 (PD 05/01/13)

Name (Print) \_\_\_\_\_

Account No. \* \_\_\_\_\_

DATE \_\_\_\_\_

306089

68-183/514

PAY TO THE ORDER OF \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ DOLLARS

 **First Citizens Bank**

FOR \_\_\_\_\_

MP

94

Security enhanced document. See back for details.

HARLAND CLARKE 1-800-894-1859 0M002719 (PD 05/01/13)

Name (Print) \_\_\_\_\_

Account No. \* \_\_\_\_\_

DATE \_\_\_\_\_

306090

68-183/514

PAY TO THE ORDER OF \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ DOLLARS

 **First Citizens Bank**

FOR \_\_\_\_\_

MP

94

Security enhanced document. See back for details.

HARLAND CLARKE 1-800-894-1859 0M002719 (PD 05/01/13)

Name (Print) \_\_\_\_\_

Account No. \* \_\_\_\_\_

DATE \_\_\_\_\_

306091

68-183/514

PAY TO THE ORDER OF \_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ DOLLARS

 **First Citizens Bank**

FOR \_\_\_\_\_

MP

94

EXHIBIT “14”

EXHIBIT “14”

EXHIBIT “14”

## Department of Consumer Affairs Professional Fiduciaries Bureau

### PROFESSIONAL FIDUCIARIES BUREAU

Licensee Name:	MULRAIN JANIE LIN
License Type:	PROFESSIONAL FIDUCIARY
License Number:	768
License Status:	ACTIVE <a href="#">Definition</a>
Expiration Date:	April 30, 2017
Issue Date:	April 02, 2014
Address:	1 LEAGUE #61282
City:	IRVINE
State:	CA
Zip:	92602-7059
County:	ORANGE

#### Related Licenses/Registrations/Permits

No records returned

#### Disciplinary Actions and Citations

Public Record Action(s)

### Fiduciary Information

LICENSE TYPE: PF  
LICENSE NUMBER: 768  
TOTAL CLIENT ASSETS: \$1,065,276  
DATE CLIENT ASSETS REPORTED: 02/29/2016

No bankruptcy records returned

No removal records returned

**This information is updated Monday through Friday - Last updated: FEB-09-2017**

#### **Disclaimer**

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Back

EXHIBIT “15”

EXHIBIT “15”

EXHIBIT “15”



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.

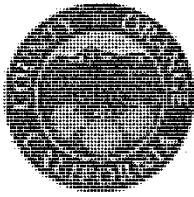
24 D. Page 5, Lines 12-20:

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.

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.

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

EXHIBIT “16”

EXHIBIT “16”

EXHIBIT “16”

**From:** Wendlyn Ehrman <wendystars@comcast.net>  
**Sent:** Tuesday, January 3, 2017 3:58 PM  
**To:** WILLIAM H Wilson  
**Subject:** Dinny

Hi Amy and Bill, Yes, Dinny called me Sun. morning. She was not happy about the phone problem but it has been fixed (I guess) because I could call her later that day. I gave her yours, Nori's and Jamie's phone numbers (which she asked for) and she said she was going to call you (which is why I did not) but when I spoke to her later on Sun. she had not. Jamie also called me Sun. morning. She couldn't tell me much and I didn't want to know. I love Dinny very much and our relationship operates on a "how was your day" kind of level. It seems to be supportive and loving for Dinny and is for me as well. I do not ask and we don't get into any legal or family dynamics, which I do not want to get into at all anyway. I did tell her that you have been very sad about not seeing her and that you and Nori love her and want to help her. Even that perhaps was not my place to say. I have no control and do not want to be in the middle of any of it.

I do want to stay in touch with you and will certainly let you know if I am made aware of any change with Dinny's situation. Forgive me for not calling but your Mother said she was going to call. Let's hope the new year is a bit better. All I truly want is for your Mom to have some peace and happiness and be able to put all this stuff behind her.

Love to you both,  
Wendy....xo

EXHIBIT “17”

EXHIBIT “17”

EXHIBIT “17”

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



**Ethos Fiduciary Services**  
P.O. Box 61282  
Irvine, CA 92602

# INVOICE

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

**Invoice 10059**

<b>Date</b>	Oct 25, 2017
<b>Terms</b>	
<b>Service Thru</b>	Sep 30, 2017

**In Reference To: Agent Under DPOA - P (Labor)**

<b>Date</b>	<b>By</b>	<b>Services</b>	<b>Hours</b>	<b>Rates</b>	<b>Amount</b>
12/08/2016	JM	<b>Phone Call:</b> Left detailed message for BofA banker Afshin Mortazavi	0.10	\$ 150.00/hr	\$ 15.00
12/12/2016	JM	<b>Phone Call:</b> Received calls from Liz at Attorney Resnick office, spoke with Rosemary at Attorney Resnick office	0.20	\$ 150.00/hr	\$ 30.00
12/13/2016	JM	<b>Correspondence:</b> Reviewed email from ttee Nicole, respond same.	0.10	\$ 150.00/hr	\$ 15.00
12/14/2016	JM	<b>Phone Call:</b> Spoke with Nicole Shrive at Premier Trust.	0.40	\$ 150.00/hr	\$ 60.00
12/14/2016	JM	<b>Phone Call:</b> Spoke with Bijan at Opus bank.	0.10	\$ 150.00/hr	\$ 15.00
12/14/2016	JM	<b>Phone Call:</b> Spoke with Truelink, ordered card for Client	0.10	\$ 150.00/hr	\$ 15.00
12/16/2016	JM	<b>Correspondence:</b> Emailed signed service agreement to Ttee Nicole at Premier Bank, cc'd Attorney Resnick (no charge)	0.10	\$ 0.00/hr	\$ 0.00
12/19/2016	JM	<b>Meeting:</b> Visit Client at SJC home. Facilitated conference call with Attorney Resnick, obtained consent and signature on bank document. Checked Client's post office box for mail (include travel time).	2.50	\$ 150.00/hr	\$ 375.00
12/19/2016	JM	<b>Phone Call:</b> Spoke with Client	0.10	\$ 150.00/hr	\$ 15.00
12/19/2016	JM	<b>Correspondence:</b> Emailed signed Account Agreement to Opus Bank, save to file	0.10	\$ 150.00/hr	\$ 15.00

**Ethos Fiduciary Services**  
P.O. Box 61282  
Irvine, CA 92602

# INVOICE

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

## Invoice 10076

<b>Date</b>	Oct 25, 2017
<b>Terms</b>	
<b>Service Thru</b>	Sep 30, 2017

### In Reference To: Agent under AHCD (Labor)

Date	By	Services	Hours	Rates	Amount
12/09/2016	JM	<b>Phone Call:</b> Received call from Attorney Resnick and Attorney Sherak (no charge)	0.20	\$ 0.00/hr	\$ 0.00
12/09/2016	JM	<b>Correspondence:</b> Reviewed correspondence from Attorney Resnick, confirmed client meeting (no charge)	0.10	\$ 0.00/hr	\$ 0.00
12/10/2016	JM	<b>Phone Call:</b> Reviewed email from Attorney Resnick, left message (no charge)	0.10	\$ 0.00/hr	\$ 0.00
12/10/2016	JM	<b>Phone Call:</b> Received return call from Attorney Resnick (no charge)	0.30	\$ 0.00/hr	\$ 0.00
12/10/2016	JM	<b>Meeting:</b> Meet with Client, Attorney Resnick, and others (include travel time)	2.50	\$ 150.00/hr	\$ 375.00
12/12/2016	JM	<b>Phone Call:</b> Received call from Bruce Schwartz.	0.10	\$ 150.00/hr	\$ 15.00
12/12/2016	JM	<b>Phone Call:</b> Received call from Attorney Resnick.	0.10	\$ 150.00/hr	\$ 15.00
12/12/2016	JM	<b>Phone Call:</b> Spoke with care agency supervisor Jonathan of Family Home Care	0.60	\$ 150.00/hr	\$ 90.00
12/12/2016	JM	<b>Phone Call:</b> Spoke with Client.	0.10	\$ 150.00/hr	\$ 15.00
12/12/2016	JM	<b>Phone Call:</b> Received calls from Rosemary.	0.10	\$ 150.00/hr	\$ 15.00
12/13/2016	JM	<b>Phone Call:</b> Received call from Bruce Schwartz	0.10	\$ 150.00/hr	\$ 15.00
12/13/2016	JM	<b>Phone Call:</b> Left message for Attorney Resnick. Well check call, spoke Client and caregiver Astride.	0.40	\$ 150.00/hr	\$ 60.00
12/13/2016	JM	<b>Correspondence:</b> Reviewed voice mail from Ttee Nicole at Premier Trust, reviewed emails from Attorney Resnick and Nori, respond same	0.40	\$ 150.00/hr	\$ 60.00
12/13/2016	JM	<b>Correspondence:</b> Reviewed email forwarded by Attorney Resnick.	0.10	\$ 150.00/hr	\$ 15.00

03/27/2018	JM	<b>Meeting:</b> Client Birthday lunch w/Wendy, care agency supervisor Jonathan, Atty Kim/Resnick (no charge, include travel time)	4.00	\$ 150.00/hr	\$ 600.00
03/27/2018	JM	<b>Correspondence:</b> Correspondences with Nori Frasier	0.20	\$ 150.00/hr	\$ 30.00
03/29/2018	JM	<b>Correspondence:</b> Emailed care agency supervisors	0.10	\$ 150.00/hr	\$ 15.00
03/30/2018	JM	<b>Correspondence:</b> Reviewed email from RN CM LeeAnne, emailed care agency supervisor Jonathan	0.10	\$ 150.00/hr	\$ 15.00
03/30/2018	JM	<b>Correspondence:</b> Reviewed email from care agency supervisor Jonathan	0.10	\$ 150.00/hr	\$ 15.00
04/04/2018	JM	<b>Correspondence:</b> Reviewed messages from Elaine Wong, respond same, emailed care agency supervisor Jonathan	0.20	\$ 150.00/hr	\$ 30.00
04/05/2018	JM	<b>Correspondence:</b> Reviewed email from RN CM Janis, respond same, printed docs to review	0.10	\$ 150.00/hr	\$ 15.00
04/05/2018	JM	<b>Correspondence:</b> Reviewed email from care agency supervisor, respond same w/info	0.10	\$ 150.00/hr	\$ 15.00
04/05/2018	JM	<b>Correspondence:</b> Reviewed email from RN CM Janis, respond same cc'd Dr. Haga	0.10	\$ 150.00/hr	\$ 15.00
04/06/2018	JM	<b>Correspondence:</b> Reviewed, responded and multiple emails from Wendy Ehrman, Nori Frasier, RN CM Janis, Atty Resnick, call with ADA contractor Barry Lowe (after hours premium rate)	1.80	\$ 150.00/hr	\$ 270.00
04/08/2018	JM	<b>Correspondence:</b> Reviewed email reply from RN CM LeeAnne	0.10	\$ 150.00/hr	\$ 15.00
04/09/2018	JM	<b>Phone Call:</b> Call with care agency supervisor Jonathan	0.20	\$ 150.00/hr	\$ 30.00
04/09/2018	JM	<b>Phone Call:</b> Call with RN CM supervisor Lee-Anne	0.50	\$ 150.00/hr	\$ 75.00
04/10/2018	JM	<b>Correspondence:</b> Replied email to Nori	0.10	\$ 150.00/hr	\$ 15.00
04/10/2018	JM	<b>Phone Call:</b> email and call with care agency supervisor Jonathan	0.80	\$ 150.00/hr	\$ 120.00
04/11/2018	JM	<b>Phone Call:</b> well check call with Client, also speak w/CG Ariselli	0.80	\$ 150.00/hr	\$ 120.00
04/12/2018	JM	<b>Correspondence:</b> Respond to email from Nori	0.10	\$ 150.00/hr	\$ 15.00
04/13/2018	JM	<b>Correspondence:</b> Emailed care agency supervisor Jonathan	0.10	\$ 150.00/hr	\$ 15.00
04/13/2018	JM	<b>Meeting:</b> Make purchase on behalf of client at Costco, meet and direct work for residence by handyman Ryan, meeting with client, attend Dr Haga RN CM Janis followup appt (include travel)	4.90	\$ 150.00/hr	\$ 735.00
04/13/2018	JM	<b>Phone Call:</b> Call with Nori Frasier, followed-up with email	0.50	\$ 150.00/hr	\$ 75.00
04/20/2018	JM	<b>Correspondence:</b> Reviewed status email from Elizabeth, respond same	0.10	\$ 150.00/hr	\$ 15.00
04/20/2018	JM	<b>Draft:</b> Reviewed correspondence from Elizabeth Logue, saved to file, draft info matrix	1.30	\$ 150.00/hr	\$ 195.00
04/20/2018	JM	<b>Correspondence:</b> Reviewed email from Nori Frasier, respond same	0.10	\$ 150.00/hr	\$ 15.00

03/27/2018	JM	<b>Mileage:</b> Mileage to lunch w/Client	\$ 12.53
05/10/2018	JM	<b>Mileage:</b> Mileage re mtg at care agency office	\$ 4.10
06/03/2018	JM	<b>Mileage:</b> mileage re client residence	\$ 14.80
06/04/2018	JM	<b>Printing/Copying:</b> Print new patient forms	\$ 1.50
06/08/2018	JM	<b>Mileage:</b> Mileage re mtg at client residence	\$ 14.90
06/13/2018	JM	<b>Printing/Copying:</b> Printed Sea Crest HH forms	\$ 0.45
07/01/2018	JM	<b>Mileage:</b> Mileage client visit at residence	\$ 14.80
07/09/2018	JM	<b>Mileage:</b> Mileage re UCI appointment	\$ 14.47
07/11/2018	JM	<b>Printing/Copying:</b> Print UCI directional info	\$ 0.15
07/12/2018	JM	<b>Mileage:</b> Mileage re UCI HAPS appt	\$ 14.47
07/20/2018	NB	<b>Mileage:</b> R/T Mileage re supervised visit for Nori	\$ 14.80
07/24/2018	JM	<b>Printing/Copying:</b> Print Dr. Willam Chang patient info sheet	\$ 1.50
08/10/2018	JM	<b>Mileage:</b> Mileage re Pageant of the Masters (no charge)	\$ 0.00
08/11/2018	JM	<b>Mileage:</b> Mileage re meeting with Client at residence	\$ 14.80

---

<b>Total Hours</b>	221.80 hrs
<b>Total Services</b>	\$ 34,303.00
<b>Total Expenses</b>	\$ 159.57
<b>Total Invoice Amount</b>	\$ 34,462.57
<b>Previous Balance</b>	\$ 25,974.34
<b>Balance (Amount Due)</b>	\$ 60,436.91

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EXHIBIT “18”

EXHIBIT “18”

EXHIBIT “18”



Amy Wilson <digitalmermaid8@gmail.com>

---

## Mom and Janie

1 message

---

**Nori Frasier** <nori\_frasier@hotmail.com>

Thu, Jul 26, 2018 at 5:52 PM

To: "digitalmermaid8@gmail.com" <digitalmermaid8@gmail.com>, Nori Frasier <nori\_frasier@hotmail.com>, "bfrasiermd@gmail.com" <bfrasiermd@gmail.com>

I will be contacting a lawyer in 10 days and I am taking Janie to court. She has NOT been acting in the best interest of mom.

I will talk to Barry first but Janie uses Manipulation in the information she gets. BE CAREFUL what you tell her if you talk to her as it will NOT come out the same way you said it.

Rick's mother passed away 2 weeks ago from dementia and his father passed away 2 weeks later as he stopped dialysis.

Once I am back from Pittsburgh I will contacting a lawyer to start court proceeding on Janie. she is NOT acting in the best interest of mom.

Kindly, Nori

10/5/2018, 2:24 PM

7 AA 1540

EXHIBIT “19”

EXHIBIT “19”

EXHIBIT “19”

**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.: PR

**DECLARATION OF KAREN BURK**

I, Karen Burk, hereby declare as follows:

1. I am a resident of California.
2. I have personal knowledge of the facts set forth below,
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. I worked with Dinny from March 3, 2018 to July 8, 2018.
4. My scheduled hours with Dinny were on Saturday and Sundays. I covered the day shift from 7AM to 7PM.
5. Dinny is the sweetest person that you will ever meet. I really loved working with Dinny, she has such a beautiful smile that lights up every room she enters.

**DECLARATION OF KAREN BURK**



1           6. When I started in March 2018, I was told by my agency, A Family Home Care, Inc.  
2 that Dinny's children were not allowed to enter the house. But the rule was relaxed in the  
3 coming weeks to allow for visits from Dinny's children.  
4

5           7. On March 25, 2018, I first met Dinny's son Brad when he came to take Dinny out for  
6 lunch to celebrate her upcoming 89<sup>th</sup> birthday. I was present for the lunch outing and Dinny .  
7 Dinny was very happy to see her grandson and his girlfriend.  
8

9           8. The next child I met was Dinny's daughter, Nori when she came to take Dinny out for  
10 lunch and we walked the mall together. Dinny was very happy and enjoyed her lunch. Nori  
11 insisted that she would pay for my lunch and desert, even after I told her that was not necessary.  
12 Nori told me it was a early Mother's Day gift. But Nori requested from the agency's office that  
13 she should be reimbursed for buying my food, and I was told to never to let the children buy my  
14 food anymore.  
15

16           9. On May 10, 2018, I was present at a meeting with Janie Mulrain, Dinny's Power of  
17 Attorney, Jonathan Irish, VP, A Family Home Care, Raquel Castillo, Angelica, Araceli Sally  
18 Dalton, to discuss concerns about taking care of Dinny. This was the first time I met Janie  
19 Mulrain. After the other caregivers left, Janie told me that Nori and Dinny had told Janie that  
20 Bill pushed Dinny down the stairs when she fell at her home. I know that Bill did not push  
21 Dinny since Dinny told me that she fell over her nightgown. Janie Mulrain told me that this is  
22 complicated case.  
23

24           10. On May 13, 2018, I met Amy and Bill for the first time when they came to see Dinny  
25 with their two dogs. Amy and Bill brought lunch for Dinny and everyone had a great time.  
26 Dinny was very happy to see Amy and Bill. Dinny was very sad to see them go home. I did not  
27 understand why Janie had spoken so badly about Amy and Bill. Both Amy and Bill seemed like  
28

**DECLARATION OF KAREN BURK**

1 nice people, and they were very happy to see Dinny again. Amy is especially protective of her  
2 Mother, very emotional and concerned for Dinny's well being. On every visit, Dinny would give  
3 Amy and Bill many kisses and hugs. I saw this with Nori and her family too.  
4

5 11. Amy and Bill continued to come to the house for visits with Dinny. I was told by  
6 Jonathan to watch my back and watch what I say when around Amy, Bill and Nori. Amy and  
7 Bill were always portrayed in a very negative way by Janie Mulrain and Jonathan Irish.  
8

9 12. Amy and Bill would come to see Dinny on the weekends, mainly Sunday afternoons.  
10 During one of the initial visits, Dinny and Amy were having a conversation in the living room,  
11 and Dinny told Amy several times that Amy was her Power of Attorney. Amy told Dinny, "no  
12 Mom you gave your Power of Attorney to Janie Mulrain". Dinny would make comments at  
13 other times when Amy and Bill were not present that Amy was Dinny's Power of Attorney. I  
14 think that this is due to Dinny having problems with dementia and short term memory, so she  
15 could be remembering something that happened a couple of years ago.  
16

17 13. On July 1, 2018 Janie Mulrain came to Dinny's house in the morning to go over some  
18 paperwork with Dinny. Then Janie told Dinny that Nori had written a letter to Janie claiming that  
19 Dinny had been choked around the neck by Sarah, one of the caregivers. Dinny said that never  
20 happened, and Dinny became visibly angry when Janie mentioned Nori. Janie also told Dinny  
21 that Nori claimed that I had bruised Dinny's arms. Janie said that she knew that was not true  
22 since she was present when Dinny had her blood work. But I was not working when Dinny had  
23 the blood work completed. Because Janie told Dinny in the morning, Dinny was angry at Nori  
24 when Nori and her family came to see Dinny later in the day. But I never heard either of the  
25 allegation of choking and/or bruising directly from Nori so I do not know which was the true  
26 story. Janie then told Dinny that Janie needed to write out a check to pay the nurse and the  
27  
28

**DECLARATION OF KAREN BURK**

1 doctor bills. Janie told Dinny that every time the kids call the nurse or doctor, Dinny gets  
2 charged. Dinny did not understand why she had to pay the nurse when she called her. Janie told  
3 her that if the kids ask questions about her medication or anything going on with her, Dinny  
4 would be charged. Janie was trying to get Dinny to sign a piece of paper for paying the nurse,  
5 taking over 30 minutes, because Dinny did not want to sign it. Finally, Janie told her, "Dinny,  
6 you don't have to sign it, I can sign it because I have Power of Attorney over you. I was being  
7 nice to come over here to let you know". Dinny finally signed the piece of paper, but was not  
8 happy after being forced by Janie to sign the paper. Only one piece of paperwork was signed on  
9 July 1, 2018. Dinny was in a bad mood the rest of the day.  
10  
11

12 14. I was re-assigned to another client on July 9, 2018 so I am no longer working with  
13 Dinny. Dinny had told me many times that I was her favorite caregiver, and I know she probably  
14 tells that to all of the other caregivers, but I felt that I was special to her. Dinny told me that she  
15 wanted to go on a trip with Amy, Bill, the dogs and me. I told her that would be fun someday.  
16

17 I declare under penalty of perjury under the laws of the States of Nevada and California  
18 that the foregoing is true and correct.

19 Executed at Fountain Valley, CA this 5th<sup>th</sup> Day of October, 2018  
20

21 

22 Karen Burk  
23  
24  
25  
26  
27  
28

**DECLARATION OF KAREN BURK**

EXHIBIT “20”

EXHIBIT “20”

EXHIBIT “20”

1 c. On Page 2 of "A4" is Attorney Rich Williamson's reaction to a purported typed  
2 letter by Dinny addressed to Brooks Travis regarding "hire a new trust  
3 attorney...looking for a California Trust management company..." to which  
4 Attorney Williamson exclaimed "Wow! That is sketchy. Can the care givers tell  
5 us where it come from? It seems clear that came from Nori, but can the caregiver  
6 confirm that for us?"

7 27. Furthermore, Premier and its counsel fully participated in the discussion that lead to the  
8 restrictions put in place. And the purchase of video door bell was at the direction of Ms. Shrive.  
9 See Attachment "A5" referencing a call that was scheduled for December 27, 2016 where Premier  
10 and its counsels were briefed by VRS regarding an earlier meeting with Dinny relaying her wishes  
11 and directive of no contact with her children as well as subsequent discussions in formulating a  
12 plan regarding Dinny's situation. See Attachment "A5i" for a screen shot of my communication  
13 with Ms. Shrive while at Costco confirming her approval to make the purchase.

14 28. There are more relevant examples that are too many to list for fear of overwhelming this  
15 Court with information. All of the aforementioned actions have only increased as well as worsened  
16 this year when Dinny agreed to interaction with her children again. Efforts of intimidation, false  
17 allegation against members of Dinny's care team, and threats of negative social media campaigns,  
18 and lawsuits have continued. In fact, as recent as September 16, 2018, 911 and local sheriff  
19 department had to respond to Dinny's residence where Amy was verbally abusive in Dinny's  
20 presence and physically assaulted her care giver. See Attached Attachment "A6". And on August  
21 13, 2018, Nori stated that Bill and Amy informed her that a care giver has strangled Dinny. But  
22 yet Nori nor Bill and Amy did not notify anyone or made reports to proper agent and authorities.

23 29. Lastly, Robertson's Objection cites that I "refused to take steps to assist Dinny in placing  
24 a marker on her deceased husband's grave (despite this Court ordering same to occur last year)."  
25 I have no knowledge of such Order and no one had communicated to me about this task.  
26 Attachment "A7" Court Order dated May 12, 2017 and Attachment "A8" court transcript of the  
27 May 9, 2017 clearly shows that "Counsel Roberson shall attempt to secure a marker for the father's  
28 grave..." If it was the Court's intention to empower Robertson/Premier to direct somebody to

**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

**SUPPLEMENT TO STATEMENT OF BARNET RESNICK REGARDING RPC 1.14**

I, BARNET RESNICK, declare as follows:

1. I am an attorney duly licensed to practice law before all courts in the State of California.
2. I was admitted *pro hac vice* in the State of Nevada in this proceeding.
3. I am the attorney of record for Dinny Frasier ("Mrs. Frasier"), individually, who is a party in the above-captioned matter.
4. I have personal knowledge of the matters set forth herein and if called and sworn to testify, I could and would competently do so.
5. Pursuant to my statement filed September 18, 2018, page 2, line 19-20, I am supplementing my statement with Dr. Sandra Klein's written report regarding her extensive capacity assessment of Mrs. Frasier. Attached hereto as **Exhibit 1** is the Declaration of Dr. Sandra Klein and her written report ("Report").
6. Dr. Klein concludes in her Report that Mrs. Frasier possesses testamentary capacity.

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

Executed this 4<sup>th</sup> day of October, 2018, at SANTA FE, New Mexico.

  
BARNET RESNICK

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify I am an employee of Wallace & Millsap LLC, 510 W. Plumb Lane, Suite A, Reno, NV 89509, and that on the 9<sup>th</sup> day of October, 2018, I served the foregoing document via the Second Judicial District Court's electronic filing system upon Premier Trust through its Counsel of Record – G. David Robertson, Esq. I further certify I deposited a true copy of the foregoing with the U.S Postal Service in Reno, Nevada, postage prepaid, addressed to:

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

Amy Frasier Wilson  
10 Via Sonrisa  
Mission Viejo, California 92692

Bradley L. Frasier, MD  
3609 Vista Way  
Oceanside, CA 92056

**Affirmation**

The undersigned does hereby affirm this document does not contain the social security number or legally private information of any party.

DATED this 9<sup>th</sup> day of October, 2018

By: /s/ Megan Wallace.  
An Employee of Wallace & Millsap

**INDEX OF EXHIBITS**

<b>EXHIBIT #</b>	<b>DESCRIPTION</b>	<b>PAGES</b>
<b>1</b>	Declaration of Sandra Klein, Ph.D.	13



FILED  
Electronically  
PR16-00128  
2018-10-09 03:31:11 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6919160 : pmsewell

EXHIBIT 1

EXHIBIT 1

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

In the Matter of the

Case No: PR16-00128

**JORDAN DANA FRASIER FAMILY TRUST**

Dept. No.: 15 [PR]

**DECLARATION OF SANDRA KLEIN, Ph.D.**

I, SANDRA P. KLEIN, Ph.D., hereby declare as follows:

1. I am a resident of California.

2. I have personal knowledge of the facts set forth below, and if called as a witness, could and would testify competently to the following facts.

3. I am a licensed clinical psychologist in the State of California, license #PSY 13918.

4. A true and correct copy of my Curriculum Vitae is attached hereto as **EXHIBIT A**.

5. I obtained my doctorate degree from the California School of Professional Psychology in San Diego, California in 1992.

6. I am currently employed by the University of California, Irvine as an Assistant Clinical Professor in the Department of Family Medicine, Division of Geriatric Medicine and Gerontology.

7. A true and correct copy of my report from my August 30, 2018 evaluation with Dinny Frasier is attached hereto as **EXHIBIT B**. Said report was redacted to protect the portions of the letters that reveal Ms. Frasier's private and confidential information.

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

Executed in Irvine, California, this 4<sup>th</sup> day of October, 2018.

By: 

SANDRA P. KLEIN, Ph.D.

Declaration of Sandra Klein, Ph.D.

# EXHIBIT A

# EXHIBIT A

# Sandra P. Klein, Ph.D.

---

Education                      1987 - 1992      California School of Professional Psychology  
Clinical Psychology                      San Diego, California  
PH.D.

1985 - 1987                      California State University  
Experimental Psychology                      Long Beach, California  
M.A.

1976 - 1980                      University of Delaware  
Psychology & Economics                      Newark, Delaware  
B.A.

Licenses                      July 29, 1994      Licensed Clinical Psychologist  
License # PSY 13918      State of California

8/94 - Present      Dove Psychological Associates      Newport Beach, CA

## Professional Experience

Licensed Clinical Psychologist, Private Practice

- This position involves conducting Psychological/Neuropsychological Assessment, and providing Psychotherapy to Adults, Couples, Adolescents and Families. Testing includes administration, interpretation, report writing, and explanation of test findings to clients and their families, fellow clinical psychologists, educational psychologists, geriatricians, neurologists, and psychiatrists. Neuropsychological Assessments include Medical/Legal evaluations and Capacity evaluations.

10/2014 – Present      University of California Irvine(UCI) Orange, CA  
Department of Family Medicine  
Program in Geriatric Medicine & Gerontology  
Health Assessment Program for Seniors (HAPS)

Clinical Psychologist/Consulting Neuropsychologist

- This position involves conducting Brief Neuropsychological Evaluations and reviewing the findings of these assessments with the patient and their family at a Family Conference two weeks later. This is performed as part of the HAPS Consultation Clinic at UCIMC and works with a geriatric population assessing dementia, depression, and cognitive functioning as part of the HAPS team which includes a Geriatrician, Neuropsychologist, Pharmacist, Occupational Therapist and Dietician. Teaching Medical Residents and Fellows, as well as Pharmacy students is also a part of the position. Lecturing Psychiatric residents intermittently.
- As a contributor to the GWEP Grant, I help educate primary care medical staff about cognitive function within the geriatric population differentiating dementia, depression, acquired brain injury and other diagnostic issues.

## Curriculum Vitae - Sandra P. Klein, Ph.D.

- Another position included in my part time contract with UCI is working on the Elder Abuse Forensic Center team. This position involves going out in the field to do Brief Neuropsychological Evaluations on a geriatric or dependent adult population and assess cognitive function, write reports and complete Capacity Declarations if needed. This team works with Adult Protective Service, District Attorney's Office in Orange County, Orange County Law Enforcement, Council on Aging and other OC community agencies.

9/00 – 12/12      Coastline Community College      Costa Mesa, CA

Acquired Brain Injury Program

Professional Expert/Consulting Neuropsychologist

- This position involves supervising and coordinating neuropsychological interns, conducting student assessments, consulting with staff on individual student cases including direct intervention in crisis situations; reviewing applicant files to verify disabilities, coordinating empirical research on program outcomes. (1/06-12/12)

Counselor

- This position involves conducting groups using a 'Future Planning' workbook and working with students individually to help them transition out of a two-year cognitive retraining program into further educational or career plans. (4/01-3/10)

6/09 – 12/10      Alliant International University/CSPP      Irvine, CA

Forensic Program

Professor-Teaching Graduate students Assessment.

- This position involves teaching Psy.D. graduate students Psychological Assessment I, Neuropsychological Assessment, & Projective Tests.

9/00 – 4/01      Coastline Community College      Costa Mesa, CA

Acquired Brain Injury Program

Psychosocial Instructor

- This position involves teaching acquired brain injured students psychosocial skills in a group setting using didactic lecture and interactive participation.

8/94 – 3/97      San Pedro Peninsula Hospital      San Pedro, CA

Lakewood Regional Medical Center      Lakewood, CA

Licensed Clinical Psychologist, Rehabilitation Unit

- This position involved conducting psychological and neuropsychological tests; including administration, interpretation, report writing, and explanation of findings to inpatient and outpatient clients, their families, and other rehabilitation staff. This is as an associate to the main neuropsychologist.

**Curriculum Vitae - Sandra P. Klein, Ph.D.**

3/94 - 7/94      Michael S. Daniel, Ph.D.      Huntington Beach, CA

Registered Psychological Assistant

This position involved conducting psychological and neuropsychological tests; including administration, interpretation, report writing, and explanation of findings to inpatient and outpatient clients, their families, and other rehabilitation staff.

12/90 - 7/94      Douglas E. Harrington, Ph.D.      Newport Beach, CA

Registered Psychological Assistant

- This position involved conducting Psychological and Neuropsychological Tests; including administration, interpretation, report writing, and explanation of findings to inpatient and outpatient clients, fellow psychologists, educational psychologists, and psychiatrists. It also involved conducting psychotherapy with adults, couples, adolescents, and families.

2/94 - 6/94      Coastline Community College      Costa Mesa, CA

Traumatic Head Injury Program

Instructor for Interact Class

- This position involved teaching a psychoeducational social skills class, including assessing and evaluating students, as well as providing information to their families and other staff regarding their psychosocial strengths and weaknesses.

3/89 - 6/90      Coastline Community College      Costa Mesa, CA

Traumatic Head Injury Program

Counselor/Neuroeducational Associate

- This Internship position involved conducting neuropsychological and neuroeducational testing using the Luria-Nebraska Neuropsychological Battery and the Cognitive Assessment System. Counseling students regarding their progress in the program was also part of this internship. Testing included administration, interpretation, report writing, and explanation of findings to staff, students, and their families. I also acted as a substitute instructor and lecturer at orientation.

9/90 - 7/91      West County Counseling Center      Huntington Beach, CA

Psychological Intern

- This Internship position involved providing psychotherapy for adults, adolescents, children, and families. It also involved doing Psychological Testing including administration, interpretation, report writing, and explanation of findings to staff, fellow interns, clients and their families.

## Curriculum Vitae - Sandra P. Klein, Ph.D.

	9/86 - 6/87	California State University Community Psychology Clinic	Long Beach, CA
		Graduate Assistant for Practicum Course	
		■ This position involved working closely with staff, other students, and clients; providing counseling, supervision, and treatment planning.	
	4/85 - 5/88	Newport Harbor Hospital An Adolescent Acute & Residential Treatment Facility	Newport Beach, CA
		Psychiatric Assistant/Shift Leader	
		■ This position involved providing supervision and management of floor staff and patients; including individual, group, and family therapy, treatment planning and frequent crisis intervention.	
	8/82 - 4/85	Greatwest Health Services, Inc. An Outpatient Alcoholism Treatment Facility	Orange, CA
		Biofeedback Counselor	
		This position involved providing individual counseling, didactic lectures, and psychotherapy as a co-leader of a couples group with an adult population.	
Research Experience	9/79 - 6/80	University of Delaware Research Assistant for Florence L. Geis, Ph.D.	Newark, DE
		■ This position involved working on a project dealing with sex-role stereotyping.	
	6/86 - 12/87	California State University Research Assistant for Kenneth F. Green, Ph.D.	Long Beach, CA
		■ This position involved working on antihistamines and the analgesia systems, and developing a tolerance to morphine analgesia from a brief exposure to a sweet solution.	
	6/90 - 6/92	California School of Professional Psychology Coastline Community College	San Diego, CA Costa Mesa, Ca.
		Dissertation Mark Sherman, Ph.D. Chairman of Committee	
		■ This research involved working on social skills training with adults with acquired brain injuries.	
Publications		Klein, S.P. & Green, K.F. (1988). Tolerance to Morphine Analgesia from Brief Exposure to a Palatable Solution. <u>Brain Research Bulletin</u> , Vol. 21, pp. 963-965.	
		Chao, L., Klein, S.P. & Duran, R. (2011). Effectiveness of Cognitive Rehabilitation: An Evaluation of Coastline Community College Acquired Brain Injury Program (CCCABI). <u>Archives of Clinical Neuropsychology</u> . Vol. 26, 6 pp. 469.	

## Curriculum Vitae - Sandra P. Klein, Ph.D.

Professional Memberships	American Psychological Association (1993-2018)
	National Academy of Neuropsychology (1995-2018)
References	Philip Oncley, Ph.D., Clinical Psychologist 5212 Katella Ave. #104 Los Alamitos, CA 90720 (562) 430-7986 Email: <a href="mailto:drphiloncley@gmail.com">drphiloncley@gmail.com</a>
	Bonnie Olsen, Ph.D., Clinical Psychologist Professor of Clinical Family Medicine Vice Chair of Academic Affairs Department of Family Medicine Keck School of Medicine of USC <b>University of Southern California</b> 1000 South Fremont, Unit 22 Bldg A-6, Room 6314 Alhambra, CA 91803 Office: <a href="tel:626.457.4066">626.457.4066</a> Mobile: <a href="tel:949.230.7169">949.230.7169</a> Email: <a href="mailto:Bonnie.Olsen@med.usc.edu">Bonnie.Olsen@med.usc.edu</a>
	Huong-Anh Long, M.D., Psychiatrist San Pedro Peninsula Hospital Rehabilitation Department 1300 West Seventh St. San Pedro, Ca. 90732 (310) 514-5377
	Lois Wilkerson, Interim Dean of Special Programs Coastline Community College Acquired Brain Injury Program (ABI) 1515 Monrovia Avenue Newport Beach, CA 92663 (714) 546-7600 ext 17201 Email: <a href="mailto:lwilkerson@coastline.edu">lwilkerson@coastline.edu</a>

### CURRENT CONTACT INFORMATION

**Sandra P. Klein, Ph.D.**  
**901 Dove Street Suite 150**  
**Newport Beach, CA 92660**  
**(562) 400-8603**  
**[spkleinphd@gmail.com](mailto:spkleinphd@gmail.com)**



## EXHIBIT B

## EXHIBIT B

Frasier, Dinny

MRN: 1325392  
Description: 89 year old female**Progress Notes** Encounter Date: 8/30/2018Klein, Sandra  
Geriatric Medicine

Date of Consultation: 08/30/2018

**Relevant History:**

Mrs. Dinny Frasier is an 89-year-old right-handed woman who came to HAPS Consultation Clinic because she has been cognitively and physically declining over the past couple of years with [REDACTED] and a fall on July 13, 2016. She has been evaluated here on July 12, 2018 and this is a follow-up evaluation to address her cognitive ability in relation to her legal situation. Information has been provided to the HAPS Social Worker by Ms. LeeAnn Godfrey, B.S. RN, a Professional/Private Care Manager who has been involved in the case for the past 1 ½ years. Mrs. Frasier was brought in by Ms. Martha Kinyua her Caregiver. Ms. Janie Mulrain-Professional Fiduciary Manager, requested a follow-up evaluation on Mrs. Frasier to focus on her legal issues.

Interview with Mrs. Frasier reveals she is a retired school teacher and received a college degree from Chicago Teacher's College. She reports her husband, Jordan Dana Frasier died 5-years ago and explains, "I was a kid when I got married, we met in high school in Chicago. I was married to Jordan for a lot of years. He was an Engineer, a very brilliant man who made devices." They have 3 adult children; Amy Nori, and Bradley. Mrs. Frasier was a teacher and taught Math and Science. When asked about her Cognitive Ability, Mrs. Frasier denies any problems with Attention/Concentration, Language-receptive or expressive, or Visuospatial Processing. She acknowledges problems with Memory and Executive Functioning-problem solving and decision making. She comments, "I never used to have problems but now I do, the reason I forget everything is because I fell down 30 wooden stairs 2 years ago and it took my memory away." She acknowledges problems with her Mood, explaining "I have problems with all of the above", after the examiner asks if she is more easily sad, frustrated, angry or anxious. When asked directly about her adult children and the legal situation, she states "I'm so disappointed and frustrated with my children who decided to get lawyers to get my money. I've been very generous with them all of their lives, when they were young and as older adults." This is in direct contrast to her comment in the initial evaluation when she reported being close to all her children. She reports she has a wonderful team of professionals helping her maintain her independence. Mrs Frasier explains she has 3 dogs, Abbey, Mandy and Lily that she loves very much.

Interview with Ms. Janie Mulrain reveals she has been involved in Mrs. Frasier's case since December 2016. Ms. Mulrain provides the following accurate history of Mrs. Dinny Frasier's personal circumstances. Dinny has been married to her husband, Jordan 'Joe' Frasier for 65 years before he passed away in October 22, 2014. They have 3 adult children; Amy Wilson-64 who lives in Mission Viejo, Nori Cady-62 who lives in San Jose, and Bradley-60 who lives in San Diego and is a Urologist. She taught in Irvine Unified School District at the Middle School level for 12-15 years. Dinny fell, broke her left hip on July 13, 2016 and suffered a concussion. She has been estranged from her children due to disagreements over financial issues between the Trust Fund set up by her husband, and the children's interests in how the family assets should be handled. Mrs. Frasier no longer drives and has 24/7 Caregivers who help with her ADL's (Activities of Daily Living) and IADL's (Instrumental Activities of Daily Living).

**Medical Record Review**

Medical Records pertaining to her legal matters reveal that Dr. Michael Haga, M.D. has been seeing Mrs. Frasier in her home since April 2017. He reports the ongoing litigation is a strain on all families. He states, "When she brings up her children, she often brings up money, and how 'kids should never do that to their mother'. It is always in the context of money. She often brings up Brad and how she and her husband loaned him some money to build his practice and he never paid it back." Dr. Haga goes on to discuss he believes Mrs. Frasier is conflicted about seeing her adult children because she cannot say no to them. He reports she is tired after the visits.

Ms. Susan Bedrosian, LCSW has been providing psychotherapy with Mrs. Frasier since September 2017. She reports Dinny has depressed mood, hopelessness, and helplessness with no suicidal ideation. She has expressed anger at her adult children paired with sadness; initially she did not want to see her children, but later was agreeable to resume visits. Ms. Bedrosian has provided supervised visits with her daughter, Nori to ensure no conversation related to finances, the family trust, health care or visitation plans take place. The visits are warm and end with embraces and expressions of love. Nori is respectful of the visitation guidelines and Dinny wants her and her husband to come visit again.

Please see medical records from Dr. Steven Tam with the HAPS Consultation Clinic where a thorough current evaluation of her medical and physical health is reviewed.

**Assessment Procedures:** Neuropsychological Assessment Battery (NAB) Screening Module, Geriatric Depression Scale-Long Form and Clinical Interview.

**Behavior Observations:** The patient is alert, oriented to person and generally oriented to place, can concentrate on the task at hand briefly but is easily distracted. Speech is articulate but word finding issues are noted. She is brought into the examination room in a wheelchair, is well groomed and casually dressed. She can use a 2-wheeled walker at home. Mood and affect are anxious. Instructions need to be repeated often and speed of processing information is very slow. When asked the date, she states she can't remember very well and gives an incorrect month and year. She continues to have a good sense of humor. The patient put forth good effort on all tasks and performance is considered a valid assessment of her current cognitive function.

**Test Results:**

The patient is oriented to person and place but not to date, time or day of the week. She states it is December 2001, a Wednesday instead of Thursday, and generally states she is in an office. Performance on the Geriatric Depression Scale (Long form) continues to indicate a mild level of depressive symptomology now (GDS = 12.5).

Performance on the Neuropsychological Assessment Battery (NAB) Screening Module indicates a Severe level of Impairment for her age and education (NAB Total Screening Index = 3<sup>rd</sup> %ile). Receptive and expressive language is grossly intact, and more than adequate for testing. Auditory Comprehension is impaired when instructions are too complex or confusing, especially if they cannot be repeated; with repetition she is able to perform most 2 to 3 step commands. Confrontation naming of more complex pictures is in the Moderately Impaired range of functioning (NAB Screening Naming Subtest = <1<sup>st</sup> %ile). She can identify the name when given a phonemic cue.

Attention/Concentration is normal for basic levels of attention; namely, Focused attention, but impaired for Sustained attention and higher levels of attention; namely Alternating and Divided. She can concentrate when remembering multiple digits forward up to a 6-digit sequence and backward up to a 3-digit sequence but struggles with more complex 4-digit sequences. On a task where she is required to sequentially put a line through the letter 'A' within a row of numbers and letters, she performs in the Moderately Impaired range due to very slow speed of information processing and making errors of omission and commission. On a more complex task where she is expected to cross out the A's while adding the numbers in the row, she performs in the Severely Impaired range indicating she is not capable of performing a divided attention task.

Basic visuospatial processing is Moderately Impaired. The ability to construct designs from abstract plastic shapes is Impaired as is the ability to discriminate abstract drawings. It should be noted she is able to perform the easiest items in these subtests but struggles with the more difficult items.

Verbal abstract reasoning ability is grossly intact, and overall judgment is in the Average range of functioning for her age and education (NAB Executive Function Judgment Subtest = 50th %ile). It should be noted that although she can verbalize what to do in a crisis, it doesn't mean she will be able to do it.

Memory is within the Severely Impaired range of functioning. Long term autobiographical memory is grossly intact, while Short-term Memory is in the Moderate to Severely Impaired range. On a brief Visual Immediate Memory task, she performs within the Below Average range for her age and education (NAB Screening Shape Learning Immediate Recognition = 21<sup>st</sup> %ile). She performs within the Mildly Impaired range on the Visual Delayed Memory task (NAB Screening Shape Learning Delayed Recognition = 4<sup>th</sup> %ile). On a brief story telling task, she performs within the Moderately Impaired range of functioning for her age and education on Immediate recall (NAB Screener Memory Immediate Recall = <1<sup>st</sup> %ile), and in the Moderate to Severely Impaired range on Delayed recall after a 10-minute delay (NAB Screener Memory Delayed Recall = <1<sup>st</sup> %ile). Retention is within the Severely Impaired range for her age and education as well (NAB Screener Memory Retention = <1<sup>st</sup> %ile). This suggests that too much verbal information is overwhelming for her even when given a context. It also suggests that she can recognize information especially if present in a visual context than recall the information.

Executive Function is Mildly Impaired for visual planning tasks and Severely Impaired for verbal generation tasks. On a task where the patient must complete visual mazes she performs within the Mildly Impaired range (NAB Screening Mazes = 3<sup>rd</sup> %ile). On a task where she must generate 3-letter words from a list of 6 letters, she performs within the Severely Impaired range for her age and education (NAB Screening Word Generation = <1<sup>st</sup> %ile).

### **Impressions:**

Test results reveal Mrs. Dinny Frasier is experiencing Slow Speed of Information Processing and Short-term Verbal Memory is Moderate to Severely Impaired. Attention is grossly intact at the Focused Attention level, but Impaired for Sustained Attention, and Severely Impaired for Divided Attention. She struggles with Confrontation Naming and Visuospatial Processing at complex levels. Her cognitive strengths include intact Long-term Autobiographical Memory, Language, Abstract Verbal Reasoning and Judgment. Receptive language needs repetition of instructions and overall Judgment means she knows what to do in difficult situations but may not be able to do it. These findings suggest Mrs. Dinny Frasier is experiencing a Moderate Neurocognitive Disorder probable Alzheimer's type (Moderate Dementia probable Alzheimer's type).

Mrs. Frasier's safety is a primary concern now. She is dependent on her Caregivers and Case Manager's to handle her ADLs and IADLs. It is important to utilize her strengths to help her respond more independently both cognitively and physically if possible. Mrs. Frasier can express a choice if she is given time to process the information in a given situation. She is also capable of understanding information in the moment and providing rational reasons for her respective decisions. However, she is not capable of appreciating the situation or consequences of her decisions independently. She is unable to manipulate information and balance the pros and cons of her immediate situations because information becomes overwhelming for her and she needs assistance keeping facts and details correct without forgetting. This makes her vulnerable to undue influence by others when it comes to her financial affairs. Mrs. Dinny Frasier does have Testamentary Capacity but does not have Contractual Capacity.

**Recommendations:**

1. Keep a notebook or use a digital recorder to take down important information so she can compensate for any memory difficulty and consolidate the information which will make it easier to reference and recall.
2. Continue to remain active either with new activities at and Adult Health Day Center or classes at the local Senior Center with a Caregiver such as Balance Classes like Tai Chi. Having lunch with friends and supervised visits with family will increase socialization.
3. Continue Psychotherapy with an experienced Clinical Social Worker/Psychologist who specializes in the geriatric population to help Mrs. Frasier adjust to the changes of her cognitive decline and supervise family visit so undue stress is not placed on her.
4. Consider moving into an Assisted Living Facility to provide a structure and basic needs to make it easier for Mrs. Frasier to be cared for as she continues to adjust to age-related physical and cognitive changes.
5. Repeat testing in 12 months with comparison to this baseline evaluation to monitor any cognitive changes. If there is significant decline or if more specific information is needed repeat testing sooner.

This session took 4 hours including scoring and report writing.

Electronically signed by Klein, Sandra at 10/4/2018 2:06 PM

Oct. 4. 2018 2:20 PM 1325392) DOB: 03/27/1929

EncouNo. 0926: O&P. 62018

Office Visit on 8/30/2018

**1650**  
Barnet Resnick, Esq.  
Admitted *Pro Hac Vice*  
Vogt / Resnick / Sherak, LLP  
4400 MacArthur Boulevard  
Ninth Floor  
P.O. Box 7849  
Newport Beach, CA 92658-7849  
T. 949.851.9001  
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]

**ERRATA TO PRE-HEARING STATEMENT OF MRS. DINNY FRASIER**

PLEASE TAKE NOTICE that the Pre-Hearing Statement of Mrs. Dinny Frasier contains typographical errors and should be corrected as follows:

1. Page 3, line 22, the total loss amount should be \$115,801.66.
2. Page 4, line 8, the total loss amount should be \$254,431.76.
3. Page 6, line 15, the total loss amount should be \$254,431.76.
4. Page 7, lines 21-22, the total loss amount should be \$254,431.76.
5. Exhibit 1, page 1, Rental Income Loss for Irvine should be 9/2016 – 9/2018.

The undersigned affirms this document does not contain the social security number or legally private information of any person.

DATED this 10<sup>th</sup> day of October, 2018.

By: /s/ Barnet Resnick.  
Barnet Resnick, Esq.  
*Pro Hac Vice*  
Lead Counsel for  
Mrs. Dinny Frasier

1 Code No. 4185

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6 SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

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IN AND FOR THE COUNTY OF WASHOE

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THE HONORABLE DAVID HARDY, DISTRICT JUDGE

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12 IN THE MATTER OF

Case No. PR16-00128

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THE JORDAN DANA FRASIER  
FAMILY TRUST

Department No. 15

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EVIDENTIARY HEARING

18

Thursday, October 11th, 2018

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Reno, Nevada

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24 Reported by:

KATE MURRAY, CCR #599

25

Job No.:

501880



1 APPEARANCES:

2

FOR DINNY FRASIER:

3

VOGT, RESNICK, SHERAK, LLP

4

Attorneys at Law

BARNET RESNICK, ESQ.

5

4400 MacArthur Boulevard, Suite 900

Newport Beach, California 92660

6

7

WALLACE & MILLSAP, LLC

Attorneys at Law

8

PATRICK MILLSAP, ESQ.

510 East Plumb Lane, Suite A

9

Reno, Nevada 89509

10

11

12

13

FOR PREMIER TRUST:

14

ROBERTSON, JOHNSON, MILLER & WILLIAMSON

Attorneys at Law

15

G. DAVID ROBERTSON, ESQ.

ALISON GANSERT KERTIS, ESQ.

16

50 West Liberty Street, Suite 600

Reno, Nevada 89501

17

18

19

20

21

22

23

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1 RENO, NEVADA; THURSDAY, OCTOBER 11TH, 2018; 9:03 A.M.

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5 --THE COURT: --I meant it when I said good  
6 morning. I have looked forward to today. I hope  
7 that it's productive.

8 --Like you, I have thought a lot about  
9 today, and I cannot shrug the inevitable conclusion  
10 that there will be many, maybe most, possibly all  
11 who will be aggrieved by what happens through this  
12 process.

13 I am presented with rich disagreements,  
14 perspectives, so I thought how can I be a judge  
15 worthy of the litigants and the lawyers in a case  
16 that is so significant to, first, Ms. Frasier as a  
17 tribute or intent to honor her very life and legacy.

18 How can I balance the competing interests  
19 of three children in such a way that they are each  
20 validated partially in outcome but fully in process?

21 Can I preserve a long held presumption,  
22 which is that good honest people can disagree and  
23 still be good honest people? Now, I'm not  
24 suggesting that everybody who appears in the  
25 courtroom is good and honest or honest.

1           There is truth and there is the absence  
2   of truth, but the presumption is we each see events  
3   through our lens, and our lenses are individual.

4           Acknowledging that there is inevitable  
5   grievance presented today and following today, I  
6   concluded the best I could do was attempt to honor  
7   the office I occupy, to control what I can control.

8   I think about the many times I have been  
9   introduced to this concept of procedural fairness  
10  that is kind of en vogue concept in judicial  
11  training.

12           It's the idea that there is a prepared,  
13  attentive, and impartial judge, and each person  
14  perceives that the process was fair in that each  
15  person was heard, the judge considered each person's  
16  position, and that somewhat softens the outcome if  
17  there is confidence in the process, and that is my  
18  goal, ladies and gentlemen.

19           To that end, I have devoted substantial  
20  time, commensurate to your efforts, to be prepared  
21  for today's hearing.

22           I won't take the 20 minutes to even  
23  recite each of the documents that I have read with a  
24  summary of what each author seeks, though I have  
25  prepared those statements on the moving papers.

1 I have prepared a matrix of all the  
2 documents filed for purposes of this hearing. It's  
3 three pages in length, and I have returned to it as  
4 I have read each document.

5 Today is the day for you to be heard with  
6 my best efforts to be prepared.

7 The Code of Conduct requires that I am  
8 patient, dignified and courteous to all people who  
9 appear within the courtroom. That will be my goal,  
10 while at the same time, balancing the antithesis,  
11 which is maintaining decorum in the proceedings.

12 The judge, and I, in particular, have a  
13 velvet glove that I sometimes bang on the table, as  
14 I strive to balance those difficult requirements.

15 I have had you all seated behind the bar,  
16 so I can take note of who is here, and then I will  
17 decide how you will be positioned in the courtroom.

18 Just beginning on the right, your right  
19 of the courtroom, my left, if you'll just stand,  
20 make your appearances. Who is with you, Counsel?

21 MR. ROBERTSON: Thank you, Your Honor.  
22 Good morning. David Robertson on behalf of -- I'm  
23 sorry.

24 THE COURT: Ms. Clerk, I obtained a brand  
25 new pad knowing that I would be taking tens and tens

1 of pages of notes, and I left it on my -- do you  
2 have a legal pad? Go ahead, please, sir.

3 MR. ROBERTSON: Good morning, Your Honor.  
4 David Robertson of Robertson, Johnson, Miller &  
5 Williamson, here on behalf of Premier, and with me  
6 is one of our associates, Your Honor.

7 MS. GANSERT: Alison Gansert Kertis.

8 THE COURT: And you are here on behalf  
9 of?

10 MS. GANSERT: I'm here on behalf of  
11 Premier Trust as well.

12 THE COURT: To the both of you, who is  
13 here from Premier?

14 MR. ROBERTSON: Just getting to that,  
15 Your Honor. Ryan Gonda is the current trust  
16 officer. Go ahead and stand, please. With him is  
17 one of his assistants, Janelle Gale.

18 THE COURT: Thank you.

19 MR. ROBERTSON: Behind me, Your Honor, is  
20 Nicole Shrive. She's the former trust officer.

21 THE COURT: She no longer works for  
22 Premier?

23 MR. ROBERTSON: That is correct, Your  
24 Honor. She left in the summer of 2017.

25 THE COURT: All right.

1 MR. ROBERTSON: And with her is Kevin  
2 Berge, CPA. Mr. Berge is the CPA that prepared the  
3 statements of account.

4 THE COURT: Thank you.

5 MR. ROBERTSON: Thank you, Your Honor.

6 THE COURT: On the left, beginning in the  
7 front, Mr. Frasier?

8 DR. FRASIER: Yeah. Bradley Frasier.

9 THE COURT: Good morning.

10 DR. FRASIER: In proper, good morning.

11 THE COURT: Thank you.

12 MR. RESNICK: Barry Resnick for Dinny  
13 Frasier.

14 THE COURT: Good morning, sir.

15 MR. ROSENAUER: Good morning, Your Honor.  
16 Michael Rosenauer on behalf of Janie Mulrain, who is  
17 with me here.

18 THE COURT: Would you identify who  
19 Ms. Mulrain is? Just stand, if you would?

20 MS. MULRAIN: I'm Janie Mulrain.

21 THE COURT: Mulrain?

22 MR. ROSENAUER: M-u-l-r-a-i-n.

23 THE COURT: Who else do I have in the  
24 second row?

25 MR. MILLSAP: Good morning, Your Honor.



1 Patrick Millsap, local counsel for Mrs. Dinny

2 Frasier.

3 MS. KIM: Good morning, Your Honor. Gina

4 Kim, I'm with Mr. Resnick's firm. I'm an associate.

5 MS. CALDERA: Anna Caldera.

6 THE COURT: Just a minute. Let me just

7 say that I spend parts of every day thinking about

8 my voice and how it can be broadcast through this

9 beautiful historic courtroom with zero acoustics.

10 I don't want to yell at people, but I

11 have to amplify my voice, and I regularly tell

12 people, We can't hear you, speak up, speak in the

13 microphone. This is dead space, which is the

14 tradeoff for being in this beautiful historic room.

15 I didn't hear a word you said.

16 MS. CALDERA: Anna Caldera.

17 THE COURT: Would you spell that, please?

18 MS. CALDERA: A-n-n-a, and the last name,

19 C-a-l-d-e-r-a.

20 THE COURT: US Bank?

21 MS. CALDERA: US Bank trust officer.

22 THE COURT: Thank you.

23 MS. WATSON: Jan Watson, US Bank trust

24 officer.

25 MS. WILSON: Amy Frasier-Wilson, pro per.

1 Good morning.

2 THE COURT: Good morning.

3 MR. WILSON: Bill Wilson, Amy's husband.

4 THE COURT: All right. Deputy, I'll have  
5 Mr. Frasier, Bradley Frasier, and Ms. Amy  
6 Frasier-Wilson sit in the jury box on different rows  
7 and several seats away from each other.

8 It's appropriate that they be in the well  
9 and are able to hear and to see.

10 Is anybody surprised by Nori's absence?

11 MR. RESNICK: Your Honor, I understand  
12 that she is on a three-week trip.

13 MR. ROBERTSON: She had previously booked  
14 a cruise, Your Honor, for her birthday, and that is  
15 why she is not here.

16 THE COURT: Okay. All right. I think  
17 it's appropriate that Ms. Gansert Kertis --- did I  
18 get that right?

19 MS. GANSERT: Yes.

20 THE COURT: No disrespect to you as a new  
21 associate. Welcome to the bar and welcome to the  
22 case. I'm going to have you remain seated where you  
23 are and have Mr. Robertson come forward and take one  
24 of the seats here.

25 Mr. Gonda, I'll have you sit next to

1 Ms. Gansert Kertis, please. The two of you can  
2 communicate quietly in writing as the proceedings  
3 go.

4 From time to time, Mr. Robertson will be  
5 able to return to the bar and visit with Ms. Kertis  
6 or Mr. Gonda as the need arises.

7 MR. ROBERTSON: Thank you, Your Honor.

8 THE COURT: Ms. Shrive will remain where  
9 she is. Ms. Gale can sit next to Mr. Gonda, please.  
10 Mr. Berge can remain where he is. In fact, if at  
11 some point, you want to come closer to hear, that's  
12 fine. I just want you behind the bar, and I want to  
13 be able to see you.

14 Mr. Resnick, if you'll be so kind as to  
15 come forward, please?

16 I am going to invite Ms. Kim to remain  
17 behind the bar.

18 Mr. Millsap, I want to better understand  
19 your role here today.

20 In your declaration to me regarding the  
21 1.14, you somewhat limited the scope of your  
22 services as local counsel to an advisory role on  
23 Nevada process; is that correct?

24 MR. MILLSAP: That is accurate, Your  
25 Honor. The law firm of Wallace & Millsap was

1 retained to provide Nevada procedural requirements,  
2 but lead counsel strategically is Mr. Resnick for  
3 substantive issues with Ms. Frasier.

4 THE COURT: Stay behind the bar then.

5 MR. MILLSAP: Thank you, Your Honor.

6 THE COURT: It seems to me that the US  
7 Bank trust officers should remain where they are.

8 Mr. Rosenauer's participation with his  
9 client is discrete as it relates to her fees, and  
10 then generally and more broadly, as a defender of --  
11 as the boots on the ground who can explain and  
12 defend, but I'm not sure that I want her to have a  
13 prominent role, so I'm going to have Ms. Mulrain  
14 remain where she is.

15 Mr. Rosenauer, I have one extra seat. Do  
16 you care to come forward and sit at the table with  
17 Mr. Resnick? I don't want you to feel that you're  
18 looking over each other's notes. I don't want the  
19 proximity to be uncomfortable.

20 MR. ROSENAUER: I'm completely  
21 comfortable next to Mr. Resnick, Your Honor.

22 THE COURT: If you will please come  
23 forward.

24 MR. ROSENAUER: Thank you, Your Honor.

25 THE COURT: I think that's everybody.

1           There appears to be an agreement. I do  
2   want to wait for everyone to get comfortable because  
3   we're going to be here all day.

4           There appears to be an agreement that the  
5   initial objections posed by Ms. Dinny Frasier are  
6   submitted on papers with the exception of the  
7   Lavender and Pinewood properties. That would be an  
8   issue that we will discuss.

9           I'm a little unsettled about the  
10   investigator. I dropped that in the order. It was  
11   late at night, and I still am attracted to the idea,  
12   but I'm just not sure of the scope. I need to  
13   better understand the purpose.

14           I read Dr. Klein's report. Have you seen  
15   that, Mr. Robertson?

16           MR. ROBERTSON: I just saw it first time  
17   last night, Your Honor.

18           THE COURT: Okay. Of course, most of the  
19   information I have comes from out-of-court  
20   declarants, whether it's cousins in Washington or  
21   professionally qualified experts who have provided  
22   evaluations, so I have read all of it, but I'm not  
23   sure in a strict evidentiary category what is  
24   admissible or not because nobody is here to explain  
25   under the crucible of cross-examination.

1 I want to acknowledge that Mr. Bradley  
2 Frasier's complaint seems to be focused on the  
3 treatment of the money provided by his parents to  
4 purchase the medical office that he occupies, and  
5 whether it is a gift or a loan to be repaid or  
6 whether it is a trust asset captured in the estate.  
7 That is kind of the recurring theme.

8 With that comes a series of complaints  
9 about the expense directed at Premier, but besides  
10 the medical practice issue, there may be other  
11 things I can hear from Mr. Bradley Frasier about,  
12 but I know that is the focus.

13 I'm wondering about when and how the  
14 Court resolves the different amendments. I'll refer  
15 to the first one as the Amy amendment, and the  
16 second one as the disinheritance amendment, so I'll  
17 need help there, Counsel.

18 What I thought I would do before any  
19 arguments is just invite people, for five or seven  
20 minutes, to tell me how you think today should go.

21 There is a little suggestion in what you  
22 have submitted, and let's begin there. Just to my  
23 left, Mr. Robertson, just a neutral description of  
24 how we can spend the next seven hours.

25 I would very much like you to use the

1 microphone if you can.

2 MR. ROBERTSON: Very good, Your Honor.

3 THE COURT: I think you can hold it in  
4 your hand. You can speak into it.

5 MR. ROBERTSON: I think it's probably  
6 working. It sounds like it's working. Everyone is  
7 nodding in the gallery.

8 Good morning again, Your Honor. I have  
9 given a lot of thought as well to how today might  
10 proceed most effectively and efficiently.

11 The Court has before it three petitions  
12 filed by Premier. The first of those is a petition  
13 to withdraw as trustee, and as part of that, to  
14 appoint a replacement trustee.

15 No objection has been filed to that  
16 petition by anyone.

17 The second petition is a petition asking  
18 the Court to ratify all of Premier's conduct as the  
19 trustee.

20 No objection has been filed to that  
21 petition; however, there is a stipulation between  
22 Premier and Dinny that Dinny may challenge the  
23 accountings, and if any of the accountings are  
24 improper, then that would -- that could be used to  
25 claim that that portion of Premier's conduct that

1 relates to that accounting issue would not be  
2 ratified unless it was corrected somehow.

3 Other than that, there has been no actual  
4 filing of any objection to the request for  
5 ratification.

6 Just what we have is multiple objections  
7 to the statement of account, and that is really the  
8 crux of the issue today.

9 If possible, it would be helpful if we  
10 could get the statement of account settled. I think  
11 that is a good starting point because it would be a  
12 prerequisite for Premier to resign, Your Honor. I  
13 think it would be a nice clean resignation. Its  
14 statements of accounts are confirmed; its conduct  
15 ratified, and then hand the baton off to whoever is  
16 going to take over next.

17 As to the petition regarding the  
18 accounting, we agree with your recitation of the  
19 concerns.

20 THE COURT: I omitted because it's almost  
21 de minimis, but there is also the \$4,000 question  
22 about whether it was a sanction payable by you or  
23 simply a reimbursement from the trust to  
24 Mr. Frasier's counsel.

25 MR. ROBERTSON: That is correct. There



1 is the homes issue; there is the \$4,000 issue, and  
2 then although Premier doesn't believe the issue is  
3 properly teed up, as you pointed out, Mr. Bradley  
4 Frasier has suggested that the attorneys' fees are  
5 higher than necessary.

6 He hasn't challenged the fees that were  
7 filed. We filed all our statements, Exhibit 9. He  
8 hasn't gone through and challenged the  
9 reasonableness of any particular entry. He has just  
10 said broadly that he believes the litigation should  
11 have been resolved more quickly and that it drug out  
12 unnecessarily.

13 I'll let him speak for himself, but I  
14 believe that is a fair summary of what he is saying,  
15 and if the Court wants to address that, we're  
16 prepared to generally address it.

17 I have almost 5,000 e-mails in my Frasier  
18 Trust e-mail folder. I didn't bring the 5,000  
19 e-mails today. I am not prepared to testify today  
20 about the necessity for all the legal fees.

21 If the Court wants to get into that level  
22 of detail because he has filed a motion for  
23 sanctions, our opposition is not due until the 24th.  
24 We can have a hearing at that time.

25 THE COURT: That was the one that was

1 late filed, right?

2 MR. ROBERTSON: It was just filed --

3 THE COURT: According to my scheduling  
4 order, it came in kind of out of the blue without  
5 being called for.

6 MR. ROBERTSON: Right. The motion for  
7 sanctions is completely out of the blue, that's  
8 correct, and that was filed, I believe, last Friday.

9 It goes into great detail about this  
10 particular issue, so I think we can put on some  
11 evidence generally, if the Court would like.  
12 Mr. Frasier is here, and Nicole Shrive, who was a  
13 primary player in that issue, is here.

14 We can put on some evidence here. The  
15 Court may feel that is sufficient evidence and  
16 resolve the issue today, or the Court may feel like  
17 it wants to take more evidence, in which case,  
18 perhaps another hearing would be necessary.

19 THE COURT: What about the accountant  
20 that you appeared to have yielded to to make the  
21 decision? That person seems important to me.

22 MR. ROBERTSON: There is a tax lawyer.  
23 His name is Brooks Travis. He's the one that I  
24 attached his memorandum.

25 THE COURT: Right.

1 MR. ROBERTSON: And then there are two  
2 accountants, Sal Jacinto, who prepared the 706 form  
3 before he retired, and then his replacement,  
4 Mr. John Gonzalez, who took over after Mr. Jacinto  
5 retired.

6 The tax lawyer and both of those  
7 accountants all gave the same opinion with respect  
8 to the medical building, one-half of the medical  
9 building being an asset of the estate.

10 THE COURT: We'll need to explore that  
11 further, but not right now. I just want this to be  
12 a neutral statement of what we're going to do.

13 MR. ROBERTSON: Fair enough. I think  
14 that's it.

15 THE COURT: What about Ms. Mulrain? What  
16 do you anticipate will happen with Ms. Mulrain's fee  
17 request today?

18 MR. ROBERTSON: Your Honor, if  
19 Ms. Mulrain has not been paid and if her services  
20 have been as she claims, then Premier will gladly  
21 pay her.

22 The first time we received a statement  
23 from Ms. Mulrain that itemized her work was about  
24 three weeks ago, and that was with the petition that  
25 was filed by Mr. Rosenauer.

1 Premier is not opposed to paying  
2 Ms. Mulrain. We are caught a little bit between a  
3 rock and a hard place in the sense that we don't --  
4 we assume that she has not previously received any  
5 compensation. We think it would be nice if someone  
6 can confirm that.

7 THE COURT: Well, there is that \$150,000  
8 that you identify as an unresolved question.

9 MR. ROBERTSON: Premier does not have  
10 access to any of Dinny's personal financials since  
11 Ms. Mulrain took over, so we don't know.

12 We know that Dinny had about \$148,000 in  
13 her personal account at the time Ms. Mulrain became  
14 involved, and we know that she requested another  
15 \$50,000, which was given to her. So we do know that  
16 she has received about \$200,000.

17 We don't know what has happened to that  
18 money. We are not saying that anything improper has  
19 happened. We just don't know.

20 It seems unusual to us that Ms. Mulrain  
21 would work for a couple of years and not request  
22 payment, but if that is the case, if she has never  
23 been paid by Dinny for her work out of Dinny's  
24 personal funds and her work has been appropriate, we  
25 have no reason to believe it's not appropriate other

1 than the complaints that we received from the  
2 children, we see no reason not to pay her.

3 THE COURT: Well, you're being a little  
4 more gentle and diplomatic in person than you have  
5 been in writing.

6 In writing, you have suggested that she  
7 is a suspicious professional who has been accused of  
8 wrongdoing elsewhere.

9 MR. ROBERTSON: We did that in our  
10 initial response. Since then, Mr. Rosenauer  
11 provided a long petition, and the petition shows  
12 that she has kept track of her time by the 10th,  
13 which is appropriate and the petition explains the  
14 lawsuit that was filed against her and provides  
15 insights that we weren't aware of, so I would say  
16 yes, we have softened our position as a result of  
17 Mr. Rosenauer's filing.

18 THE COURT: Okay. Do you agree that  
19 toward the end of the day, we will talk about the  
20 advisability of a court-appointed neutral, and then  
21 if so, the scope of that neutral as well?

22 MR. ROBERTSON: Premier thinks that's an  
23 excellent idea, Your Honor.

24 Then lastly, I think you mentioned the  
25 amendments. I don't know that anyone is really

1 prepared to discuss that today, certainly not  
2 Premier. We have never even read the first  
3 amendment.

4 THE COURT: I don't anticipate resolving  
5 them today, but the purpose --- one of the purposes  
6 of my request to Premier, based upon all of your  
7 experience, prescribe how I should act once you're  
8 gone and we have a new trust company in. I kind of  
9 want to get ahead of the unregulated litigation.

10 MR. ROBERTSON: Your Honor, if I could  
11 have just one comment? This is really me speaking  
12 personally rather than Premier and maybe that is not  
13 appropriate.

14 I'm personally worried that Dinny will  
15 pass away, and then there will be major litigation  
16 over these amendments, and if there is any way that  
17 the parties could come together and agree that  
18 either neither amendment is valid or one of them is  
19 valid, I don't care, but if they could reach an  
20 agreement now while Dinny is alive, I believe that  
21 will go a long way to starting some healing and  
22 helping to reduce the friction within the family.

23 THE COURT: I actually really liked  
24 Klein's report because it wasn't so one-sided that  
25 it lost its -- the neutrality kind of fomented its

1 legitimacy because it wasn't altogether kind about  
2 how Mrs. Frasier is doing, and I have been troubled  
3 by these declarations of, She retains contractual  
4 capacity; she retains testamentary capacity. Those  
5 are very complex legal determinations, and I just  
6 don't know how those amendments will shake out.

7 I agree with you that sometimes the best  
8 example is a bad example, and we have had a really  
9 bad example of how the legal system and judiciary  
10 can work for people, and using that bad experience  
11 might inspire a different choice in the future  
12 between siblings.

13 MR. ROBERTSON: Fair enough.

14 THE COURT: Of course, Mr. Resnick is  
15 going to defend entirely the second amendment, I'm  
16 certain, so I'll hear from him at the appropriate  
17 time. Interesting.

18 MR. ROBERTSON: I thought that one point,  
19 as you said, the report appeared to be pretty  
20 neutral, and the fact that Dinny Frasier thought  
21 that the date was December of 2001 really stuck out  
22 to me as a concern about whether she really  
23 understands what is going on.

24 THE COURT: Thank you.

25 MR. ROBERTSON: Thank you, Your Honor.

1 THE COURT: Mr. Resnick, same questions  
2 to you, please.

3 What does today look like neutrally to  
4 you?

5 MR. RESNICK: What day of the week is it?  
6 What is the date? Sometimes, I don't know.

7 I would like to work backwards and that  
8 is finality. I appreciate the Court's intention to  
9 make this final, to stop this because it's not good.

10 In 45 years of practice, seven years as a  
11 trust officer, this is in the top 10, and it's  
12 untenable and has to be resolved, so thank you.

13 As to Mrs. Mulrain's fees, I reviewed the  
14 fees. Based on my experience, I have no objection  
15 to them.

16 THE COURT: Did you review them with the  
17 same scrutiny that you reviewed the trust  
18 accountings, I mean the same standards and  
19 attention?

20 That is one of Mr. Robertson's tacit  
21 concerns is that he was reviewed a certain way, and  
22 he has not been given an opportunity to review  
23 Ms. Mulrain in the same way.

24 MR. RESNICK: Not as much time obviously,  
25 but certainly, I looked at the entries. After 52



1 years of experience in dealing with this, I didn't  
2 see anything that stuck out.

3 I do represent Dinny. She eventually,  
4 ultimately, is going to pay for it, so as her  
5 advocate, I didn't see anything strange.

6 THE COURT: Are you satisfied that there  
7 is not a double-dipping involved whereby Ms. Mulrain  
8 first paid herself outside of any disclosure to  
9 Premier, and then it was the use of that \$100,000  
10 that allowed her to continue operating without any  
11 payment from Premier at all?

12 MR. RESNICK: I have no doubt whatsoever.

13 THE COURT: That?

14 MR. RESNICK: That she did not  
15 double-dip. We have been in communication three,  
16 four times a week for two years for the period of  
17 time she was appointed. A lot of communication, a  
18 lot of FaceTime phone calls, telephonic. She has  
19 been on the phone with Dinny and me.

20 We have talked about the amount of time  
21 that she spent with Dinny and taking care of  
22 business. I'm comfortable with it. I will stand by  
23 that.

24 There was discussion about a guardian ad  
25 litem. I'm hoping that we can deal with that issue

1 today.

2 THE COURT: Okay.

3 MR. RESNICK: As to whether you have  
4 jurisdiction and whether it's necessary.

5 THE COURT: I have wondered about my  
6 jurisdiction. In fact, you might say I dropped a  
7 reference to that in my charging order.

8 I clearly don't have any jurisdiction  
9 over the person in California as it relates to  
10 conservatorship and probably even statutory agency  
11 authority under a power of attorney, but I do  
12 believe, under Nevada rules, I have the ability to  
13 appoint a guardian ad litem for purposes of  
14 litigation.

15 MR. RESNICK: I will defer to the Court  
16 and Mr. Rosenauer, who is pretty expert in  
17 guardianships, as to what the appropriate vehicle  
18 is. I don't know Nevada law as well as you two.

19 Housekeeping issue. The appraiser, Alan  
20 Sims, we didn't want to spend money to have him  
21 spend the night to have him get here at 9:00  
22 o'clock. He has arrived. He should be here by  
23 10:30, just FYI.

24 THE COURT: Okay.

25 MR. RESNICK: There is a question as to

1 whether Mr. Sims will be paid out of the trust or by  
2 Dinny. At least that is the implication from  
3 Mr. Robertson, and I will make sure that the trust  
4 pays for Mr. Sims rather than Dinny individually.  
5 We need clarification of that.

6 THE COURT: I guess I'm unsure, as I sit  
7 here, what individual resources are available to her  
8 at the moment.

9 MR. RESNICK: She has no money. She has  
10 Social Security.

11 THE COURT: Right.

12 MR. RESNICK: In fact, Your Honor, I  
13 haven't been paid since June of last year.

14 THE COURT: '17.

15 MR. RESNICK: '17.

16 THE COURT: Okay. What else?

17 MR. RESNICK: I'm okay with that for the  
18 time being. Certainly, at some time, I need to get  
19 paid.

20 The other issue would be the objections.

21 I think it's really down to two from us, and that is  
22 the sanction issue, the \$4,000, as to whether it  
23 comes from the trust or it comes from Premier.

24 Then the non-productivity of the two  
25 houses that have been sitting vacant for almost two

1 years.

2 We have the trustee, the suggested  
3 trustee that Dinny has recommended. US Bank is  
4 available here to accept the appointment. They have  
5 reviewed all the documents.

6 I assume we'll be talking about whether  
7 we can conform to RPC 1.14 in our filings, my  
8 declaration as well as Mr. Millsap's.

9 THE COURT: I was pleased when I read the  
10 statements, so I don't know how much time we need  
11 to -- I just wanted to make sure -- anyway.

12 MR. RESNICK: I have Gina Kim, who will  
13 testify. We have had 18 meetings with Mrs. Frasier,  
14 personal meetings in 21 months. That is not  
15 including all the FaceTime and telephonic calls.

16 THE COURT: That is part of the answer,  
17 but the answer is completed when I understand the  
18 extent to which Ms. Frasier can make capacitated  
19 strategic litigation decisions.

20 MR. RESNICK: Well, with Mrs. Frasier, it  
21 takes longer to explain it and we have to repeat it,  
22 but she gets it. She does get it.

23 THE COURT: Well, we'll get there when we  
24 get there. I'm hoping to keep this neutral.

25 I have highlighted in yellow one of the

1 sentences from Klein which seems to suggest that at  
2 the moment, she doesn't, so.

3 MR. RESNICK: I think that is -- I'm  
4 keying on finality. I'm here all day. Let's do it.

5 THE COURT: What is your position about  
6 Mr. Bradley Frasier's loan/gift on one side versus  
7 trust corpus on the other side?

8 Do you have a position on behalf of your  
9 client on that?

10 MR. RESNICK: We spent nine hours in a  
11 settlement conference that I promoted, and we  
12 settled it, and I think there is good argument,  
13 notwithstanding the settlement agreement, that it  
14 was a gift because the houses were gifted to each of  
15 the daughters as well, but on the other hand, it was  
16 documented so poorly and so ambiguously that it  
17 wasn't determined in any way.

18 THE COURT: That is not surprising, given  
19 intrafamily transactions. I do it with my parents.  
20 I have learned to expect the informal nature as the  
21 rule in these types of transactions.

22 MR. RESNICK: Well, my policy is when I  
23 loan to a family member, I'm not expecting to get  
24 the money back.

25 THE COURT: Okay. I'm going to next turn

1 to Mr. Rosenauer, and then I'll turn to Mr. Frasier  
2 and Ms. Wilson.

3 MR. RESNICK: Thanks, Your Honor.

4 THE COURT: I'm going to say something  
5 about the real properties alleged to be  
6 unproductive, not with dispositive words at all  
7 because I'm anxious to hear from you and witnesses,  
8 if you have them, but as I read, I keep thinking  
9 about how unique this specific case is with this  
10 tapestry of facts that just go everywhere.

11 Ms. Frasier, as represented by her  
12 attorney, made a declaration at some point that she  
13 did not want to communicate with Premier, and I am  
14 struggling to understand how Premier could have made  
15 unilateral decisions without the cooperation or  
16 input from a marginally capacitated co-trustee and  
17 then beneficiary.

18 I don't want you to answer that right  
19 now. I just want you to think about it. I was  
20 really initially kind of moved by this communication  
21 problem. That is a choice that Ms. Frasier made,  
22 but there are consequences to that choice.

23 MR. RESNICK: I have been thinking about  
24 it. I'm ready to talk about it.

25 THE COURT: I'm sure you are. Then also,

1 Counsel, this will be my final point on these  
2 properties because I want help with this, better  
3 understanding market values that have been changed  
4 during this two years and somehow compared to what  
5 Mr. Robertson alleges would be potential value  
6 diminution because of tenants and their dogs and so  
7 forth.

8 It's not entirely clear to me at the  
9 outset that Premier erred by not putting those  
10 properties at a productive use, so you have a burden  
11 there that I will have you address.

12 THE COURT: Mr. Rosenauer, neutrally and  
13 quickly?

14 MR. ROSENAUER: Good morning, Your Honor.  
15 I very much took to heart the italics in your August  
16 order about a brief prehearing statement, and I will  
17 assume that it holds true here.

18 I want to thank my colleagues for coming  
19 forward. I think that we made a lot of -- we  
20 shortened up this hearing, at least my portion of  
21 it, with respect to the sums that are being sought  
22 by Ms. Mulrain.

23 I will defer to Mr. Robertson as to his  
24 thoughts on Mr. Resnick's review because I think  
25 that that then gets over his concern with respect to

1 it.

2 We are just the person over there in the  
3 corner, as the Court saw. We have been the boots on  
4 the ground with respect to tasks that have been  
5 requested by Premier.

6 As the Court knows from my submittal, we  
7 divided it up as I thought was as customary as we  
8 can in this jurisdiction with respect to the type of  
9 services, the categories of services and those types  
10 of things.

11 I would submit with respect to the  
12 thought of an investigator, that that investigator  
13 should be prospective and not retrospective. This  
14 has to be -- we need finality. We need my client to  
15 get paid.

16 I think the investigator is, at this  
17 time, if there is one that is appointed is best  
18 served understanding, of course, what has gone on,  
19 but not trying to go back and rehash. That is for  
20 this Court to provide some finality, but to say,  
21 okay, going forward, these are the -- this is what I  
22 see right now in moving forward.

23 THE COURT: Yeah. I'm really unsure  
24 about the scope of this investigator concept because  
25 remember, when I wrote an order late at night, the



1 allegation without evidence at that point suggested  
2 that I could have a rogue POA treating a wealthy  
3 woman as a blank check, and there were no structures  
4 in place.

5 That seems to have softened to today. As  
6 I sit here, of course, we'll get to this in the  
7 afternoon. I don't contemplate a forensic  
8 investigator, so for example, one of the gentlemen  
9 proposed by Premier has law enforcement  
10 investigatory experience, and I'm just not there at  
11 the moment.

12 MR. ROSENAUER: I would tend to agree,  
13 and plus, I think that with respect to  
14 decision-making, if there is continuing litigation  
15 and those kinds of things, that is already in place.

16 Judge Doherty, across the street, and  
17 Judge Walker have very much endorsed the theories of  
18 using assisted decision-making, and that is what a  
19 power of attorney is designed to do.

20 In fact, I would submit that across the  
21 street on the third floor is even loath anymore to  
22 establishing guardianships when there is good  
23 alternate procedures in place.

24 THE COURT: Yeah, but as we know, one of  
25 the risks of the power of attorney, there is not the

1 accountability and transparency.

2 MR. ROSENAUER: Completely agree, Your  
3 Honor.

4 THE COURT: We get that through our  
5 guardian conservancy statutes, and our criminal code  
6 even implicates those who misuse powers of attorney  
7 grounded in lots of experiences.

8 MR. ROSENAUER: I have been there for  
9 many of them, Your Honor, as the Court well knows  
10 because I do spend a lot of time over there.

11 It's not uncommon that the Court,  
12 notwithstanding powers of attorney and those kinds  
13 of things, rely on counsel to get accountings and  
14 those kinds of things, in essence, to certify, yes,  
15 I have looked at these things so that then there is  
16 not an actual filing or anything else, but counsel  
17 has the obligation to make sure that nothing  
18 untoward is happening with respect to powers of  
19 attorney and those kinds of things.

20 Plus, if they are here for a piece of  
21 litigation, they're going to be sitting right next  
22 to counsel, and so the Court is going to be able to  
23 look at that POA and look and see what their basis  
24 for moving forward is and those types of things.

25 THE COURT: To what extent should today

1 include some of these complaints about personal  
2 conduct occurring with Ms. Frasier between  
3 daughters, Ms. Mulrain, caretakers? There are some  
4 fairly serious grievances.

5 MR. ROSENAUER: There are, Your Honor,  
6 but I will herald back to your August order that if  
7 the submissions were not timely, I believe it was  
8 the Court's words, that party will not be heard.

9 At least from me, I take that, as the  
10 Court well knows, very, very seriously, and I know  
11 that the Court enforces those types of things, and  
12 there was enough time that the Court gave lead time  
13 to ensure that everybody had time to react.

14 If those dissatisfactions are contained  
15 within Dr. Frasier and Ms. Amy Frasier-Wilson's  
16 submittals, then I would suggest that they not be  
17 heard, and therefore, they're not really germane to  
18 what happens today.

19 Am I here ready to go with respect to  
20 them? The answer to that is yes, but again, for  
21 finality and what the Court directed, for every  
22 decision, as the Court knows, there's a consequence,  
23 and they chose to be in pro per, so I leave those  
24 chips to fall wherever the Court wants to place  
25 them.

1 I believe that we are ready to go. I  
2 believe that our submittal was -- addressed what the  
3 Court wanted, and I'm here to answer any other  
4 questions, but we're here on that, as you call it,  
5 that little discrete issue.

6 THE COURT: Thank you.

7 MR. ROSENAUER: Thank you, Your Honor.

8 THE COURT: Ms. Frasier, what do you hope  
9 the Court will accomplish today?

10 DR. FRASIER: Your Honor, first and  
11 foremost, we would respectfully request that this  
12 legal action end today. I agree with both sets of  
13 counsel in that respect.

14 You warned in your notice for this  
15 hearing that the cost of this continuing litigation  
16 might exceed any potential benefit. This has  
17 already happened.

18 The attorneys have already become the  
19 beneficiaries of this protracted action, as you  
20 predicted. This can be said for all legal costs  
21 dating back to March 2016 and perhaps early 2015, if  
22 you consider the origin of this dispute.

23 We know the attorneys do this for a  
24 living and get paid for it, but we have been  
25 unwilling hostages in this legal action that

1 Mr. Robertson created in early 2016.

2 It has caused approximately \$650,000 in  
3 combined legal fees to date. I know Nori and Dinny  
4 agree with this request to stop the financial  
5 hemorrhage today.

6 As far as -- we can talk later about the  
7 contents of my statement to the Court, which was  
8 filed in a timely manner. The Judge --  
9 respectfully, you didn't respond to that, and I  
10 realized that I presented it in an erroneous manner.  
11 It should have been submitted as a motion for  
12 sanctions.

13 In your August statement you said that  
14 anybody who wants to talk at the hearing submit  
15 something, which I did, and then I said in that  
16 statement that I had other issues that I wanted to  
17 present at a later time by the October 5th deadline,  
18 so I respectfully request that the Court consider my  
19 motions for sanctions and the other documents that I  
20 presented.

21 THE COURT: If you ignore, for just a  
22 moment, the request for sanctions against Premier  
23 and counsel, help me understand the relationship  
24 between the settlement that was reached and how you  
25 want that other half of the building, traceable to

1 your parents, to be treated?

2 Are you asking for something different  
3 than what was settled?

4 DR. FRASIER: No. The settlement  
5 agreement was for Dinny to gift the properties to  
6 the children, and that was sanctioned by the Court.

7 THE COURT: Right.

8 DR. FRASIER: That hasn't happened. That  
9 was almost two years ago, and that hasn't happened.

10 There is abundant evidence. I have  
11 presented abundant evidence ad infinitum, and each  
12 document, I go over it over again and again and  
13 again because Mr. Robertson states otherwise and has  
14 presented no documentation to support his  
15 contentions, but I have stated that all of the  
16 information, all of the evidence points to the fact  
17 that the money that my parents gave me was either a  
18 loan or a gift.

19 I have submitted documentation from my  
20 accountant, Judy Hamilton, who spoke to my father in  
21 2009.

22 THE COURT: I have seen that.

23 DR. FRASIER: You have seen all of that.

24 THE COURT: I have seen that. I'm just  
25 trying to understand the context for today.

1           You are urging the Court to quickly -- to  
2   oversee the quick completion of the settlement  
3   agreement.

4           DR. FRASIER: Well, two years later  
5   certainly isn't quick.

6           THE COURT: So yes. I just want to make  
7   sure you're not --

8   DR. FRASIER: That is long, in my  
9   estimation. Two years, maybe in the legal field,  
10   that is quick, but in my estimation that is long.  
11   In my field, a patient would have died by  
12   now.

13          THE COURT: Yet you continue to tell me  
14   about the problems which predate the settlement  
15   agreement, so I'm trying to understand why.

16          The purpose then is to just attack  
17   Premier's fee request or cause them to be  
18   sanctioned, but the agreement itself you want  
19   preserved and consummated?

20          DR. FRASIER: That's correct. That's  
21   correct exactly. Again, I cited that Mr. Robertson  
22   had lied to you about the reason for the  
23   prolongation of the case in saying I didn't want to  
24   pay anything for the building.

25          THE COURT: You know, in the national

1 forum, we have learned to accept uncivil words.

2 It's just part of our discourse now, things that we  
3 hear.

4 DR. FRASIER: I apologize.

5 THE COURT: Words we would have never  
6 heard before, and it is my goal until the day I  
7 retire to never allow this forum to denigrate to the  
8 partisan circus that we now live with, and we do not  
9 use the word "lie" casually.

10 I told you my presumption: Most people  
11 view things differently and still adhere to some  
12 purpose, so I'm not restraining your use of that  
13 language, but I'm telling you please be cautious  
14 because those can be words with unintended  
15 consequences.

16 DR. FRASIER: I apologize. Spoke  
17 untruths.

18 THE COURT: If Mr. Robertson  
19 intentionally lied, I am bound by a code of conduct  
20 to report him to the bar and put his license in  
21 jeopardy. That is the significance of the word that  
22 you use.

23 DR. FRASIER: I totally understand that,  
24 and the evidence that I presented supports that.

25 With all due respect to Mr. Robertson, I



1 mean, if he had just honestly stated the reason, and  
2 there really is no reason, Your Honor, that I can  
3 see that this has dragged out for almost three years  
4 now.

5 THE COURT: So you support finality. You  
6 support the completion of the settlement agreement.

7 DR. FRASIER: Yes.

8 THE COURT: As part of finality, you want  
9 me to make decisions about Premier's responsibility  
10 for the duration and cost of this litigation?

11 DR. FRASIER: And Mr. Robertson's and  
12 Mr. Williamson's.

13 THE COURT: Okay.

14 DR. FRASIER: Because they were directly  
15 involved. Premier was a passenger.

16 THE COURT: Got it. Okay. Thank you,  
17 sir.

18 DR. FRASIER: I have other.

19 THE COURT: Oh, yes.

20 DR. FRASIER: Again, I mention that  
21 Jordan Frasier lived and died in California. His  
22 beneficiary, Dinny Frasier, lives in California.  
23 All of the contingent beneficiaries live in  
24 California. All of the property is in California.

25 We appreciate your taking an interest in

1 our case and all the hours that you have spent in  
2 reading all of the information, and I apologize for  
3 all of the family dirty laundry that you had to read  
4 recently, but we would respectfully request that the  
5 jurisdiction of this matter be transferred to  
6 California.

7 I know this isn't the place. I know  
8 Mr. Resnick has to request that in California, but I  
9 just wanted to lay the foundation for that. I think  
10 that would go a long way toward healing, and Dinny  
11 could attend the --- hopefully, we won't have any  
12 more -- we're hoping for finality today.

13 I would also like to state that Brooks  
14 Travis is not a tax attorney. He is a trust  
15 attorney. He erroneously -- again, I hope that word  
16 is okay.

17 He made a mistake when he filled out the  
18 Form 706 based on the IRS.gov instructions for the  
19 Form 706. There is a lot of things that he didn't  
20 do that were erroneous, primarily claiming too much  
21 equity for the trust.

22 As you know, I told Mr. Travis in January  
23 of 2015, a month after Dinny and I had the agreement  
24 and I told Amy and Bill Wilson, and I told Nori that  
25 we need to honor my father's intentions, and we need

1 to solve this now, or it's going to cost tens of  
2 thousands of dollars in legal fees.

3 Well, I was wrong. It's hundreds of  
4 thousands of dollars in legal fees.

5 All the data, all the evidence that I  
6 presented support that, that there was no financial  
7 or business agreement between my parents and me, and  
8 that was upheld at the settlement agreement.

9 Judge King, very smart man. He  
10 recognized that, and he came up with all those --  
11 all of the settlement agreement with the help of the  
12 attorneys.

13 I guess the main evidence of that is  
14 Jordan Frasier did not declare the building on his  
15 tax returns as an asset or liability for six years,  
16 and I got an opinion letter from my accountant, Judy  
17 Hamilton, last night. I sent it to everybody, and I  
18 apologize.

19 In that, she stated that the tax code  
20 says if you own something, you have to claim income  
21 for that in that tax year.

22 THE COURT: Mr. Frasier, how can I  
23 provide finality today when I set forth a very  
24 specific scheduling order that required everything  
25 to be presented, circulated, and before me in

1 advance of today, and you are getting opinion  
2 letters last night?

3 DR. FRASIER: I apologize. I'll retract  
4 that. I apologize.

5 THE COURT: I don't want you to  
6 apologize. It's not as if you have done anything.  
7 See through my lens.

8 I can't respond to that because I can  
9 promise you that if Mr. Robertson is given  
10 authority, he will go get an opinion letter that  
11 contradicts your opinion letter, and there we go  
12 again.

13 DR. FRASIER: I understand. In reality,  
14 it was for Mr. Robertson's benefit because he was  
15 the one that said that even Judy Hamilton said that  
16 we couldn't resolve this case in March, late March  
17 2016, that there would be too much of an issue with  
18 amending the Form 706, which is not true because we  
19 could have amended it without any tax consequences  
20 to the trust and without penalty, so that was not  
21 true.

22 THE COURT: Mr. Frasier, do you have an  
23 opinion about the two amendments and how the Court  
24 can fairly and efficiently resolve competing  
25 amendments so that, upon your mother's demise, this

1 litigation doesn't continue in perpetuity? What is  
2 your opinion about these two amendments?

3 DR. FRASIER: If you're referring to the  
4 amendment that disinherited Nori and me and gave the  
5 survivors' trust to Amy and Bill Wilson?

6 THE COURT: That's the first one.

7 DR. FRASIER: Yeah. I'll speak to that.  
8 There is a lot of documentation that my father  
9 wanted his and my mother's estate to be split  
10 equally between the three beneficiaries, and that  
11 has been a constant that he has stated throughout  
12 his life.

13 He told the story of when he split his --

14 THE COURT: So you disagree with the  
15 first amendment. I don't want you to try it right  
16 now.

17 DR. FRASIER: Okay. Gotcha.

18 THE COURT: You would challenge the first  
19 amendment?

20 DR. FRASIER: I absolutely am, and if we  
21 don't solve this today, there will be future  
22 litigation regarding that.

23 THE COURT: Okay. The second amendment  
24 was a little more interesting because it occurred  
25 with Mr. Resnick's presence, and it seems to just be

1 a repudiation of all of the children in lieu of  
2 charities. You would challenge that one or not?

3 DR. FRASIER: I am in favor of doing what  
4 my mother wants to do, what Dinny wants to do.

5 If she wants to give her trust to a  
6 charity because she feels her children are greedy  
7 and fighting over her money, that is her  
8 prerogative.

9 Does she have testamentary ability to do  
10 that, sometimes. Sometimes yes; sometimes no.

11 THE COURT: You are reintegrated into her  
12 life a little bit now? You have some social  
13 interactions?

14 DR. FRASIER: Yes. We had a nice day  
15 watching football last Sunday, and we kept it light  
16 and laughed a lot and took some pictures.

17 I gave her a photo thing that we can send  
18 pictures over the Internet, and we had a great time,  
19 so we have reconciled.

20 Again, I must say that my mother and I  
21 have always had a good relationship, and the  
22 shameful phone messages that you admonished me for  
23 last time, those were in response to months and  
24 months of frustration of silence created by the  
25 Wilsons in isolating my mother, and again, I don't

1 know a nice way to say that, but they used undue  
2 influence.

3 THE COURT: I understand.

4 DR. FRASIER: I have always had a good  
5 relationship with my mother, and the shameful phone  
6 messages were a result of months and months of  
7 frustration, and again, telling them that if you  
8 don't resolve it now, it's going to cost us tens of  
9 thousands of dollars in legal fees.

10 THE COURT: Anything else, sir, before I  
11 hear from your sister?

12 DR. FRASIER: Yeah. I think sending an  
13 investigator to interview my mother is -- I agree  
14 that there is no value to that.

15 They're not trained in evaluating people  
16 with Alzheimer's dementia. My mom has taken  
17 medications since around 2010 or 2011, and it's well  
18 documented in the medical literature and the lay  
19 literature that Alzheimer's dementia is progressive  
20 over time.

21 THE COURT: Are you confident in  
22 Ms. Mulrain's continuing service?

23 DR. FRASIER: No, Your Honor. None of us  
24 like Ms. Mulrain. She has -- just an example.  
25 Nori's children came to visit Dinny from out of

1 town, and Ms. Mulrain sent Dinny to the senior  
2 center to go do her thing that she does every week  
3 instead of cancelling that and spending time with  
4 her grandchildren. I can't -- I'm flabbergasted by  
5 that.

6 I think her fees are exorbitant. I mean,  
7 I think she makes more than I do just writing checks  
8 and such, so yes.

9 THE COURT: So if Ms. Mulrain's  
10 continuing service is to be evaluated or monitored  
11 or altered, then I probably will need to have some  
12 other neutral out there to talk to the three  
13 children and talk to her and construct that.

14 If we just affect her services, then  
15 what? That question has to be answered.

16 DR. FRASIER: Well, Your Honor, Dinny  
17 Frasier is my mother, first and foremost. Nori  
18 feels the same way that I do. We don't like  
19 Ms. Mulrain.

20 I have asked Mr. Resnick to find another  
21 fiduciary, anybody -- anybody except Ms. Mulrain.

22 THE COURT: Great. That helps me. Thank  
23 you. Thank you. Come forward, please. Briefly and  
24 neutrally.

25 MS. WILSON: Good morning.



1 THE COURT: What do you hope to  
2 accomplish today, please?

3 MS. WILSON: I wanted to bring out some  
4 of the truths.

5 THE COURT: I don't want the truths right  
6 now. You will be given the opportunity. What do  
7 you want to do today?

8 MS. WILSON: I would like to have an  
9 inspector to see the situation, to look upon my  
10 mother to see her state of affairs.

11 I believe my mother does not know what is  
12 going on at all. I have shown her pictures of Janie  
13 Mulrain, and she doesn't know --

14 THE COURT: Remember, I'm going to be  
15 patient and dignified and courteous, but I am also  
16 going to preserve the decorum of this proceeding.

17 MS. WILSON: Okay.

18 THE COURT: I have read what you have  
19 submitted, and I am not inviting you right now to  
20 emphasize that. There will come a time. I just  
21 want to -- what is the objective you have for  
22 today's proceeding?

23 MS. WILSON: I would like to see her  
24 removed. I believe her fees are exorbitant. She  
25 has caused problems in my family. She's -- I have

1 gotten --

2 THE COURT: So removing Mulrain is  
3 something.

4 MS. WILSON: Yes. I don't believe she  
5 should be paid. She charged my mother \$600 plus  
6 \$12.95 to take her out on her birthday.

7 Can I get my water?

8 THE COURT: Mr. Robertson?

9 MS. WILSON: Thank you.

10 THE COURT: So her services and her fees,  
11 okay. What else?

12 MS. WILSON: I would like to know what  
13 happened to the \$212,000 that she --

14 THE COURT: So you have questions about  
15 her fees and her continuing services. Got it. What  
16 else?

17 MS. WILSON: I want to say something.  
18 She hired a person to sit and be there, an  
19 intermediary, a guy, a chaperone, so to speak, and  
20 the chaperone -- we had a very bad incident. The  
21 caregiver tried to block me.

22 THE COURT: I read that. What would you  
23 like me to do today?

24 MS. WILSON: I would like you to know the  
25 part about me assaulting her is a lie. It's a very

1     blatant lie.

2                     Number one, my mother gets upset because  
3     Janie has told her that all of her children are  
4     evil.   Ellen Anderson said that Janie told her --

5                     THE COURT:   Ma'am, if you keep it up, I'm  
6     going to have you take a seat --

7                     MS. WILSON:   Please --

8                     THE COURT:   If you will listen to me,  
9     please?

10                    MS. WILSON:   Yes, sir.

11                    THE COURT:   There are two parts to your  
12     participation today.   The second part is where you  
13     get to tell me all these things, but that is not the  
14     first part.   The first part is neutrally and quickly  
15     telling me what you hope to accomplish.

16                    Mr. Robertson did it perfectly.   He has a  
17     list of three things.   He didn't argue them.   He  
18     just told me, these are the three things.

19                    What I have so far is that you don't want  
20     Ms. Mulrain's continuing services, and you want to  
21     challenge her fee request.

22                    MS. WILSON:   Yes.

23                    THE COURT:   What else?

24                    MS. WILSON:   I would like to have the  
25     court investigator come and interview my mother

1 without any influence from Janie Mulrain or Barnett  
2 Resnick. My mother --

3 THE COURT: Don't tell me the facts yet.  
4 So an investigator, I got it. What else?

5 MS. WILSON: I would like her replaced  
6 with a court-appointed --

7 THE COURT: We have already done that  
8 one.

9 MS. WILSON: Okay, okay. God, I'm  
10 nervous. I feel so much hate on this side, you  
11 know. It's really hard.

12 THE COURT: Can I summarize?

13 MS. WILSON: Yes, please.

14 THE COURT: Today, you want me to  
15 evaluate Ms. Mulrain's continuing involvement, and  
16 you want me to evaluate the fee request.

17 MS. WILSON: Yes.

18 THE COURT: What else?

19 MS. WILSON: I would like the inspector  
20 to please investigate whether Mr. Resnick actually  
21 does, in fact, have an agreement in place with my  
22 mother that is legitimate. I have taken the  
23 handwriting --

24 THE COURT: I read your handwriting  
25 expert's report. That was a \$10,000 retainer fee,

1 correct?

2 MS. WILSON: No.

3 THE COURT: You're wondering about who  
4 paid the fee?

5 MS. WILSON: No. He charges \$800 for it.

6 THE COURT: Ma'am, what I read is that  
7 you challenged the signature on a check payable to  
8 Mr. Resnick for a legal retainer.

9 MS. WILSON: Well, I want to impeach the  
10 veracity of any other documents signed at that time  
11 on that date as to whether they're my mother's true  
12 and verifiable signature.

13 THE COURT: For what purpose? Let me ask  
14 the question. That will help me make what decision  
15 today?

16 MS. WILSON: I don't believe my mother --  
17 it was my mother that actually entered into an  
18 agreement with Mr. Resnick.

19 I feel like -- I wanted to show this is a  
20 conspiracy to defraud my mother and to take her  
21 money. I don't -- they got together with Bruce  
22 Schwartz and Mr. Resnick and my sister, and they  
23 just -- I mean, my mother had all her documents  
24 signed.

25 I'm not doing this for the money. You

1 can ask my husband. This has caused a horrible  
2 relationship with my mother.

3 THE COURT: So you also want to  
4 examine --

5 MS. WILSON: Whether --

6 THE COURT: If I can just finish? I'm a  
7 slow talker because I think before I speak.

8 MS. WILSON: I'm a nervous wreck.

9 THE COURT: So when I stop, it's just to  
10 breathe, not to stop.

11 MS. WILSON: Okay.

12 THE COURT: You want me to examine the  
13 underpinnings of the relationship between  
14 Mr. Resnick and your mother?

15 MS. WILSON: Yes.

16 THE COURT: And conclude that the  
17 relationship was fraudulently created.

18 MS. WILSON: I would like to know. I  
19 have concerns whether it was fraudulent because the  
20 check was --

21 THE COURT: I don't want the facts right  
22 now. I have already read the facts, remember? I am  
23 just trying to find out what the neutral short scope  
24 is. What else?

25 MS. WILSON: I wanted -- I can't breathe.

1 Hold on. Okay. I wanted my mother taken out of the  
2 prison that they have put her in. I would like to  
3 have a -- I have an agreement with the caregiving  
4 company, which they have completely reneged.

5 THE COURT: I understand that you  
6 complained that they're not giving information to  
7 you that you are entitled to.

8 MS. WILSON: Exactly.

9 THE COURT: So you're asking that your  
10 mother's future location --

11 MS. WILSON: Her caregivers be changed.

12 THE COURT: Caregivers, okay.

13 MS. WILSON: Yes. They owe her money.  
14 They have overcharged her. They have taken  
15 advantage and they breached the contract that they  
16 signed with her.

17 THE COURT: I am familiar with your  
18 allegation. It's the daily rate of \$407.

19 MS. WILSON: That is not what they charge  
20 her.

21 THE COURT: I'm just revealing to you  
22 that I am familiar with what you wrote. What is  
23 next?

24 MS. WILSON: I would like mother's team  
25 to be changed, all these people, and put in -- I

1 have been slammed because I have looked at her  
2 medical. I have found out that she has been  
3 mis-medicated, that she has had --

4 THE COURT: That goes to the caregiver  
5 request. What other request do you have?

6 MS. WILSON: I'm really nervous. It was  
7 all in my head and now it's gone.

8 THE COURT: What is your position about  
9 the first amendment in which you participated in an  
10 amendment by which your mother disinherited your  
11 brother and sister and gave everything to you, and  
12 the second amendment under Mr. Resnick's direction  
13 in which you and your brother and sister are  
14 disinherited in favor of charities.

15 What is your position about all of that?

16 MS. WILSON: I will tell you. Okay. My  
17 mother interviewed attorneys --

18 THE COURT: I don't want to know the  
19 facts. I just want to know --

20 MS. WILSON: My mother -- my position, I  
21 didn't have any input. I wasn't there.

22 THE COURT: Ma'am, ma'am --

23 MS. WILSON: My position is I want to do  
24 what my mother wanted.

25 THE COURT: Are you going to seek that



1 the first amendment be the controlling amendment, or  
2 are you going to concede that the second amendment  
3 is the controlling amendment? That is all I want to  
4 know.

5 MS. WILSON: I hired an attorney last  
6 time to bring a global settlement to take the first,  
7 the A Trust and divide it into three parts, and  
8 disburse, but I would get the -- we would all get  
9 the cash rather than --

10 THE COURT: I'm not getting an answer,  
11 ma'am.

12 MS. WILSON: I don't understand, sir.

13 THE COURT: That's okay. What else do  
14 you have? I asked the question because I'm trying  
15 to figure out what additional litigation energy and  
16 expense will be attached to these amendments, and  
17 I'm just going to assume from what you're telling me  
18 is that there is stuff you want to say and you're  
19 not happy, which is fine.

20 MS. WILSON: I want it divided so it can  
21 be done. I am really -- this is not good for my  
22 health, going through this, and having all these  
23 attacks on me and lies.

24 THE COURT: Do you have any other issues  
25 that you want to have addressed today?

1 MS. WILSON: I want to make it into a  
2 global settlement, the first amendment, where it  
3 gets divided three ways, gets disbursed through cash  
4 payments, no more trust, no more whatever and  
5 everybody says goodbye to each other or we renew our  
6 relationship. I don't know.

7 I hired an attorney to do that. He  
8 brought it to Mr. Resnick. Mr. Resnick scared the  
9 you know what out of him.

10 THE COURT: Please don't say it.

11 MS. WILSON: Okay. You know what he  
12 scared him out of, and he went running and he  
13 decided he didn't want to do it.

14 THE COURT: You keep telling me your  
15 story, and I don't want your story right now. I  
16 want it later.

17 MS. WILSON: Okay.

18 THE COURT: So the trust is an unresolved  
19 issue for you?

20 MS. WILSON: It is an unresolved issue  
21 for me.

22 THE COURT: Do you have any other  
23 unresolved issues?

24 MS. WILSON: But my mother had reasons  
25 for doing it that way, and that was her thing.

1 THE COURT: Ma'am, will you have a seat,  
2 please?

3 MS. WILSON: Okay. I'm really sorry.

4 THE COURT: That is okay, but it turned  
5 into something, despite my efforts, that it  
6 shouldn't have.

7 Does anybody else need to be heard on the  
8 scope before we turn to the productiveness or  
9 unproductiveness of the Lavender and Pinewood  
10 properties?

11 That will be the first isolated issue  
12 that will be presented to me.

13 Do either of you have a preference as to  
14 who will go first? I would ask you to dispense with  
15 any opening statements. You can argue it at the  
16 end, but if you have witnesses or evidence, let's  
17 get it on.

18 MR. ROBERTSON: Your Honor, what we had  
19 planned is to, and this may not be necessary, put  
20 Mr. Berge on and have him establish that he prepared  
21 these statements of account and that they're  
22 appropriate, that they meet the standards of NRS  
23 165.135 and allow the Court or other counsel to ask  
24 the accountant any questions that they so desire.

25 THE COURT: So I wanted to take these out

1 of order because I have some thoughts about what I  
2 have read, and I have an idea of the accountings. I  
3 don't just want a CPA at the moment.

4 I really want to just dive into Lavender  
5 and Pinewood.

6 MR. ROBERTSON: In that case, we're  
7 prepared to put on Nicole Shrive, who was the trust  
8 officer, who initially made the decisions about not  
9 renting, and then we also have Mr. Gonda. He took  
10 over for Ms. Shrive, and they would both testify on  
11 this issue.

12 THE COURT: Perfect. Ms. Shrive, please  
13 follow the deputy's instructions.

14 By the way, ladies and gentlemen, we will  
15 break about every hour and a half because we have a  
16 reporter who writes every word that is spoken. It's  
17 fair to her and to me that we all break.

18 (Whereupon Ms. Shrive was sworn)

19 MR. ROBERTSON: Your Honor, I have a very  
20 brief two-page bench memorandum. Now may not be the  
21 time. Maybe you don't want to see it at all, but it  
22 simply addresses whether a trust company or a  
23 trustee has the legal right to hold property without  
24 renting it out.

25 It may be productive if that is the

1 request from the beneficiary. I do have a two-page  
2 set of authorities on that.

3 THE COURT: Has Mr. Resnick seen it? It  
4 was not included in the prehearing statement.

5 MR. ROBERTSON: No, it was not. I just  
6 have it here.

7 THE COURT: Well, I am not going to read  
8 it right now. Mr. Resnick, do you have a copy? I  
9 am not going to ask him to read it and listen at the  
10 same time.

11 It will be part of my analysis when I  
12 research and make a decision.

13 MR. ROBERTSON: Thank you, Your Honor.  
14 If we could have that filed in?

15 THE COURT: It will be marked and  
16 admitted, Ms. Clerk.

17 THE CLERK: Thank you.

18 NICOLE SHRIVE  
19 after having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MR. ROBERTSON:

22 Q. Good morning, Ms. Shrive. How are you?

23 A. Good. Thank you.

24 Q. Could you state your name and spell the  
25 last for the record, please?

1           A.   Nicole Shrive. My last name is  
2   S-h-r-i-v-e.

3           Q.   Ms. Shrive, can you just briefly describe  
4   for the Court your background leading up to the  
5   point in time when you became a trust officer for  
6   Premier?

7           A.   Okay. I grew up here in Reno. I  
8   graduated from UNR with a bachelor's in political  
9   science. I moved to Redlands in Southern California  
10   where I got my MBA. I worked for a private  
11   professional fiduciary ---

12          Q.   I'm sorry to interrupt you.

13          A.   I'm a little nervous.

14          Q.   And you're speaking quickly. That's  
15   fine, but it's tough on the court reporter.

16          A.   Sorry about that.

17          Q.   Just slow it down a little bit. I know  
18   you're nervous. Go ahead.

19          A.   Moved back here and was a trust officer  
20   for Whittier for a short period of time and then  
21   Premier, and now I am at Dunham Trust.

22          Q.   So you're still a trust officer then?

23          A.   Yes, I am.

24          Q.   As a trust officer for Premier, can you  
25   just generally describe your job duties with respect

1 to the Frasier Trust?

2 A. It's all encompassing, everything from  
3 bill-pay to overseeing investments to managing  
4 Dinny's expectations.

5 Q. Okay. Did there come a time that you had  
6 discussions with Dinny Frasier about the Lavender  
7 home over in Palm Desert as well as the home in  
8 Irvine that she was living in?

9 A. Yes.

10 Q. Why is it that she moved out of that  
11 home; if you know?

12 A. The Irvine house?

13 Q. Yes.

14 A. She fell down the stairs and broke her  
15 hip, and it was thought that it would be better for  
16 her to be in a single story home.

17 Q. Okay. Did the trust -- was there a  
18 request to the trust to fund the purchase of another  
19 home, a single story home?

20 A. Yes.

21 Q. The home that was purchased, where was it  
22 located?

23 A. San Juan Capistrano.

24 Q. After the home in San Juan Capistrano was  
25 purchased, did that leave the Irvine home empty?

1 A. Yes.

2 Q. Now, this other home, the Lavender home,  
3 can you describe that home for the Court? What was  
4 that home used for?

5 A. It was a vacation home that my  
6 understanding is Joe and Dinny would go up there in  
7 the winter, and then Dinny would periodically go out  
8 there.

9 THE COURT: Excuse me. I'm going to  
10 authorize Ms. Gansert Kertis to change seats if she  
11 wants. I thought there might be someone else  
12 sharing counsel table. If she wishes to sit there,  
13 she is more than welcome to.

14 MR. ROBERTSON: Thank you, Your Honor.

15 MS. GANSERT: Thank you, Your Honor.

16 BY MR. ROBERTSON:

17 Q. So I think we were talking about the  
18 Lavender home. Do you know what the Lavender home  
19 was used for when Dinny's husband, Joe, was still  
20 alive?

21 A. My understanding was it was their  
22 vacation home.

23 Q. After he passed away, do you know whether  
24 Dinny continued to occasionally go visit the  
25 Lavender home in the desert?



1 A. She did a few times, yes.

2 Q. Was that a place -- some people refer to  
3 a winter home, summer home. Was that a place that  
4 they could go to or Dinny could go to where it would  
5 be warmer in the winter if she wanted to get away to  
6 a warmer climate?

7 A. Yes. It's in Palm Desert, so.

8 Q. Did you personally talk to Dinny about  
9 the possibility of either selling or renting the  
10 home over in Palm Desert, the Lavender home?

11 A. I spoke to her about selling it, but she  
12 wasn't for that. That was my understanding. She  
13 didn't want to sell it.

14 Q. In fact, did you convey that information  
15 to the trust committee that Dinny had not made a  
16 decision to sell that home?

17 A. I believe I did. I'm pretty sure I did.

18 Q. Did you consider renting out the Pinewood  
19 home -- I'm sorry, the Lavender home?

20 THE COURT: By way of proffer, would you  
21 take one minute and describe the trust committee for  
22 me, please?

23 I saw a reference in the written paper,  
24 and I just heard it now. I am not familiar with the  
25 internal workings of Premier.

1 MR. ROBERTSON: I'll try, Your Honor.

2 THE COURT: Just proffer it.

3 MR. ROBERTSON: The trust committee is --

4 I believe it's six or seven trust officers and the

5 number can change, as I understand it, but it's a

6 committee of trust officers that significant

7 decisions by people such as Ms. Shrive, on trust

8 issues, she submits those to the trust committee and

9 a majority of the trust committee must approve that

10 request before she can proceed.

11 THE COURT: Is the sale or renting of

12 trust property always tendered to a trust committee,

13 or is that a discretionary decision based on the

14 circumstances of each trust?

15 MR. ROBERTSON: I would have to defer to

16 Ms. Shrive on that question.

17 MS. SHRIVE: I guess it depends on the

18 situation. Premier operates where they have a

19 subcommittee, if you will, of administrators that

20 they discuss issues with, and then they have the

21 trust committee, which is the end-all be-all, if you

22 will.

23 If there is really no huge debate on

24 making a discretionary decision like that and they

25 don't -- the admin team doesn't feel like it needs

1 to go to the committee, then they won't take it  
2 there, but most decisions go straight to committee.

3 THE COURT: Thank you.

4 BY MR. ROBERTSON:

5 Q. So did you consider the potential to rent  
6 out the Lavender property?

7 A. I did in the very beginning, but Dinny  
8 was -- it was my understanding she was opposed to  
9 that because she wanted the option to use the  
10 property whenever she wanted to.

11 Q. Did she understand that you were keeping  
12 the utilities on at the property for that purpose?

13 A. Yes.

14 Q. Did you have a discussion with her about  
15 continuing to keep the utilities on so she could go  
16 visit?

17 A. We did because for a while in the  
18 beginning, bill-pay was difficult to take over from  
19 Dinny. She didn't want to let it go, and so she was  
20 well aware that the utilities were on in that  
21 property.

22 Q. So would it be fair to say, in summary,  
23 that during the time that you were the trust officer  
24 on the Frasier Trust from the very beginning, which  
25 was in 2015, correct, through the summer of '17,

1 when you took a job with Dunham, during that time,  
2 you did not sell or rent out the Lavender property  
3 in Palm Desert based upon what you understood from  
4 Dinny?

5 A. That is correct.

6 Q. Do you know if monthly statements were  
7 sent to Dinny every month by Premier showing all of  
8 the income and expenses processed by Premier each  
9 and every month?

10 A. Yes.

11 MR. ROBERTSON: May I approach, Your  
12 Honor?

13 THE COURT: Yes.

14 BY MR. ROBERTSON:

15 Q. Would you take a look at the binder I  
16 have just placed in front of you and see if that  
17 includes the monthly statements sent to Dinny from  
18 January 2016 at least through the time that you left  
19 in the summer of 2017?

20 A. Yes. It does include those statements.

21 MR. ROBERTSON: Okay. Your Honor, I  
22 would like to mark this, if I could, please?

23 THE COURT: Yes.

24 THE CLERK: Exhibit 1 marked for  
25 identification.

1 (Exhibit 1 marked for  
2 identification)

3 THE COURT: Counsel, I rarely and  
4 probably never interact in a jury trial in the way  
5 that I interact during bench trial.

6 The Evidence Code allows me to jump into  
7 the process, and I do so in a bench trial for  
8 efficiency purposes.

9 I just want to understand the argument  
10 that we're going to, real quick, and that is that  
11 Ms. Dinny Frasier knew through monthly information  
12 that the properties were vacant and not put to use,  
13 and given the capacity that she had, both  
14 testamentary and contractual as evidenced by -- is  
15 his name Schwartz? I'm very embarrassed. I'm  
16 forgetting the --

17 MR. RESNICK: That was Spar.

18 THE COURT: Spar, and with regular  
19 representations from her attorney about her  
20 involvement that she should have when she was  
21 trustee and she should have after she was trustee  
22 inquired about the use of the property and directed  
23 its deployment. Is that where you're going?

24 MR. ROBERTSON: Pretty close.

25 THE COURT: Okay. Because I'm not going

1 to analyze each of those exhibit pages, should you  
2 seek their admission.

3 MR. ROBERTSON: Of course not. I'm not  
4 moving admission at this point because she left, and  
5 I need to put Mr. Gonda on the stand to confirm the  
6 other monthly statements, and then I will move  
7 admission.

8 Your Honor, if I may address?

9 THE COURT: Please.

10 MR. ROBERTSON: May I just address what  
11 you said for a second?

12 THE COURT: Well, not too far. Then  
13 Mr. Resnick would have a chance and then we jump  
14 into argument.

15 MR. ROBERTSON: Fair enough.

16 THE COURT: I just wanted to understand  
17 the purpose because I saw a big binder, and I  
18 thought, Oh, I'm not going to read all that during  
19 trial, maybe after trial, not today.

20 BY MR. ROBERTSON:

21 Q. Ms. Shrive, you understand from Dinny  
22 that she wanted to continue to keep the Lavender  
23 house available to her, correct?

24 A. Yes.

25 Q. You sent her a statement every month that

1 showed that Premier was paying the utilities on the  
2 Lavender house, correct?

3 A. Yes.

4 Q. And you sent her a statement every month  
5 showing that there was no rent being received on the  
6 Lavender house, correct?

7 A. Yes.

8 Q. Did Dinny ever once complain to you or  
9 say to you anything about, We should be renting or  
10 selling the Lavender house?

11 A. No.

12 Q. Did you believe that retaining the  
13 Lavender house was a reasonable investment for the  
14 trust, aside from the fact that Dinny wanted to keep  
15 it to visit, but did you feel it was a reasonable  
16 investment for the trust besides that?

17 A. Yes.

18 Q. Did you periodically check to see if the  
19 value of the Lavender house was continuing to go up  
20 and that it was a good investment for trust?

21 A. Periodically.

22 Q. What did you find when you periodically  
23 checked into whether the value was increasing on the  
24 Lavender house?

25 A. The real estate market in Southern

1 California was booming or is booming, just like it  
2 is everywhere else, and so it was a viable  
3 investment, and the portfolio was diversified so we  
4 didn't see an issue with it.

5 Q. Anything else that you would like to add  
6 with respect to the Lavender property and your  
7 understandings, your discussions with Dinny and your  
8 management of that property?

9 A. No.

10 Q. Now, let's turn to the Pinewood property.

11 The Pinewood property became open once  
12 Dinny moved into the San Juan Capistrano house; is  
13 that right?

14 A. Yes.

15 Q. Did there come a time after Dinny moved  
16 into the San Juan Capistrano house -- well, let's  
17 back up for a second.

18 Do you know whether Dinny was involved in  
19 choosing the San Juan Capistrano house?

20 A. Yes.

21 Q. How do you know that?

22 A. I had a telephone conversation with her  
23 about it.

24 Q. Okay. That is something you had to go to  
25 the trust committee to get the \$1.4 million



1 authorized to buy the house, correct?

2 A. Absolutely.

3 Q. Did the trust committee authorize it?

4 A. Yes, they did.

5 Q. Did you arrange to purchase the home?

6 A. Yes.

7 Q. Dinny expressed to you personally that  
8 she wanted to buy this home?

9 A. Yes, she did.

10 Q. Did there come a time after she moved  
11 into the home that she expressed displeasure with  
12 the home?

13 A. She did. In my opinion, I think it was  
14 because she wasn't used to the neighborhood and had  
15 spent so many years in Irvine that it was a change,  
16 and after taking a fall like that and having big  
17 changes, I could understand why she was unhappy or  
18 seemingly unhappy.

19 Q. Did there come a time that Dinny  
20 indicated to you that she would like to move back to  
21 the Irvine area because she was more comfortable  
22 there?

23 A. Yes.

24 Q. Approximately, how long after she moved  
25 into the San Juan Capistrano house -- how long was

1 she in that house before she decided she wanted to  
2 move back to Irvine?

3 A. A few months. I don't recall exactly how  
4 long but a few months.

5 Q. All right. In response to Dinny's  
6 request to move back to Irvine, what did you do?

7 A. I went to the trust committee to seek  
8 their opinion about what we should do to try to find  
9 a solution for her.

10 Q. At that point, were you looking at  
11 possibly buying another home back in Irvine that  
12 would be a single story home for Dinny?

13 A. That was the request, but having so many  
14 pieces of real property, it didn't really make sense  
15 to run out three or four months down the road after  
16 we just bought the San Juan house.

17 THE COURT: Would you speak into the  
18 microphone a little bit more, please?

19 MS. SHRIVE: Sorry about that.

20 THE COURT: That's okay.

21 MS. SHRIVE: It didn't make sense to run  
22 out three or four months after we bought San Juan  
23 Capistrano to then go buy another home in Irvine  
24 that perhaps Dinny wouldn't be satisfied with after  
25 being there for a little while.

1 BY MR. ROBERTSON:

2 Q. Okay. Was there someone assisting you  
3 with respect to -- you and Dinny with respect to a  
4 new single story home in Irvine?

5 A. Yes. Janie, her power of attorney, was  
6 helping us with that.

7 Q. Janie Mulrain?

8 A. Janie Mulrain.

9 Q. Did you have discussions with Ms. Mulrain  
10 about showing Dinny new homes that were single story  
11 in Irvine?

12 A. Yes.

13 Q. Did you have discussions with Ms. Mulrain  
14 about actually purchasing such a home?

15 A. Yes.

16 Q. Did Ms. Mulrain ask you to make a request  
17 to the trust committee to purchase that additional  
18 home?

19 A. Yes.

20 Q. What was the response of the trust  
21 committee?

22 A. The trust committee was a little leery on  
23 just running out and buying another property and  
24 thought maybe Dinny would be happier to maybe try  
25 out renting with a lease option to buy in the area

1 to make sure she was really wanting the home that  
2 she was going to spend basically the rest of her  
3 life in.

4 Q. Okay. So would it be fair to say that  
5 the trust committee was concerned that it had just  
6 incurred all these closing costs, just gone through  
7 purchasing this home in San Juan Capistrano, and  
8 now, months later, being asked to purchase another  
9 home, and the trust committee felt like that is  
10 okay, but we would like to make sure she is going to  
11 like this home in advance; would that be fair?

12 A. Yes, that's fair.

13 Q. So the trust committee -- the trust  
14 committee didn't deny the purchase of the home.  
15 They just recommended that she do a lease option  
16 where she would live in it for a few months and then  
17 pull the trigger on the sale; is that fair?

18 A. That is.

19 Q. Okay. So let's talk first about whether  
20 retaining the Irvine home, the Pinewood home, was a  
21 good investment.

22 Did you believe that retaining the home  
23 itself as opposed to selling it, not talking about  
24 renting now, but just retaining the home itself, did  
25 you feel like that was a good investment for the

1 trust?

2 A. For a period of time. I didn't think it  
3 was wise to let it sit vacant or be unused and not  
4 sold and then reinvested into the portfolio.

5 Q. So you didn't think it would be  
6 appropriate if it was to sit vacant for a long time,  
7 but for a short time, you thought that was okay?

8 A. Right.

9 Q. Going back a second to the value of the  
10 home itself. Did you believe that the value of that  
11 home was continuing to go up?

12 A. Yes.

13 Q. Now, when you were talking about  
14 purchasing a new home for Dinny in Irvine, was there  
15 a discussion both with -- well, that would be a  
16 compound question.

17 Let's start just with Janie Mulrain. Was  
18 there a discussion with Janie Mulrain about the idea  
19 that you would sell the Pinewood house once Dinny  
20 chose the new Irvine house?

21 A. Yes. It was sort of happening  
22 simultaneously, if you will.

23 Q. Okay. Were there tax advantages to  
24 selling the Pinewood home at or around the same time  
25 as buying the new home?

1 A. The new home in Irvine?

2 Q. Yes. The new home in Irvine.

3 A. I mean, there are ways to handle that  
4 transaction. We could have done a 1031 exchange.  
5 There was the possibility that -- yeah, I mean, we  
6 could purchase with the contingency to sell Pinewood  
7 and roll those funds into a new home.

8 Q. All right. So just to be clear. If you  
9 timed it right, if Dinny chose a new home and she  
10 moved in to give it a test run, so to speak, for a  
11 few months, if you then listed the Pinewood property  
12 at the same time as Dinny was doing the test run,  
13 and if it looked like things were going to go okay,  
14 to buy the new house in Irvine, you could have sold  
15 the Pinewood house, done a 1031 exchange of those  
16 funds into the new Irvine house, and avoided the  
17 capital gains taxes; is that correct?

18 A. Well, yeah. It wouldn't have been a 1031  
19 exchange at that point, but yes. Essentially, we  
20 would have been selling Pinewood and then rolling  
21 the funds into a new home. We wouldn't be swapping  
22 homes.

23 Q. You wouldn't be swapping homes, that's  
24 right. You would be selling Pinewood, and then  
25 rolling the funds into the new Irvine home?

1 A. Right.

2 Q. So did you understand -- this was in  
3 about March of 2017; is that right?

4 A. Yeah. Right about there.

5 Q. Okay. Did you understand from  
6 discussions with Janie that was she was out showing  
7 properties in the Irvine area to Dinny?

8 A. Yes.

9 Q. Were you waiting for Dinny to make a  
10 decision about a new home in Irvine?

11 A. We were, and we were also getting -- she  
12 was kind of wavering on letting Pinewood go, so we  
13 were delicately dancing around that too.

14 Q. Okay. Did she occasionally go to visit  
15 Pinewood as well?

16 A. She did. She would get upset every time  
17 she would go there, so we tried to not -- we just  
18 didn't want her upset.

19 Q. Okay. So she was wavering on whether to  
20 sell Pinewood or not; is that fair?

21 A. She knew she wanted to sell it, but she  
22 just kind of -- she takes her own time.

23 Q. During this period where you're waiting  
24 for Dinny to make a decision on the new home, and  
25 she is wavering as to whether she wants to sell

1 Pinewood, would it have been practical during that  
2 time to enter into a lease of the property?

3 A. No. I don't think so. I mean, how long  
4 could you get a tenant in there and then have to  
5 turn around and kick them out? It didn't make  
6 sense, to me anyway.

7 Q. So you wouldn't have been able to give  
8 the tenant a finite term like six months? You would  
9 have had to tell the tenant it's month-to-month and  
10 you might be asked to move out at any time?

11 A. Yes. We were that close. We just kept  
12 going back and forth with Dinny. We knew she wanted  
13 to sell it, but she just takes her own time.

14 Q. At the point in time when you left  
15 Premier, which was just a few months later in the  
16 summer of 2017, did you turn over this file to a new  
17 trust officer, Ryan Gonda?

18 A. I didn't turn it over to Ryan. My  
19 understanding is that my book went to Richard Ward  
20 for the interim, and then when Ryan was hired, my  
21 book went to Ryan.

22 Q. Okay. We'll let Ryan testify for himself  
23 or Mr. Gonda testify for himself, but at the point  
24 in time when you left, and then I believe it was  
25 Mr. Ward?



1 A. Richard Ward.

2 Q. Richard Ward and then Ryan. At that  
3 point in time when you left Premier and someone else  
4 took over, was the status the same?

5 Dinny was still trying to make up her  
6 mind, and you were still waiting for a decision to  
7 purchase the Irvine home?

8 A. That is what I recollect, yes.

9 Q. At that point in time, you deemed it  
10 impractical to rent?

11 A. Yes.

12 MR. ROBERTSON: I don't think I have any  
13 further questions of this witness, Your Honor.

14 THE COURT: Thank you.

15 Cross-examination?

16 CROSS-EXAMINATION

17 BY MR. RESNICK:

18 Q. Hi, Ms. Shrive.

19 A. Hi.

20 Q. We have talked before?

21 A. Yes.

22 Q. In a different venue?

23 A. Yes.

24 Q. What causes you to believe that

25 Mrs. Frasier visited the Lavender home a few times?

1           A.   Well, she went out there at least once  
2   with Bill and Amy, and she went out there with  
3   Janie, and then I believe there was an attempt to go  
4   out there again, but I don't think it ever happened.

5           Q.   How do you know she went out there with  
6   Bill and Amy?

7           A.   I was told by Dinny and Bill and Amy that  
8   they went out to the Lavender house because there  
9   was something wrong with the alarm, and they needed  
10   to fix it.

11          Q.   How long did they stay there?

12          A.   I don't know. A few days, I'm assuming.

13          Q.   That is an assumption?

14          A.   That is an assumption.

15          Q.   The second time she went there?

16          A.   I believe she went out there with Janie,  
17   but she stayed in a hotel for the first night  
18   because the house needed to be cleaned and readied  
19   for her, and then I believe she was out there for a  
20   week, five days maybe.

21          Q.   When was she out there a week?

22          A.   With Janie. I don't think Janie was  
23   there the whole time, but Dinny was out there with  
24   her caregiver the whole time, if memory serves.

25          Q.   For one week?

1 A. Five days, seven days. Basically, a  
2 week.

3 Q. When was that?

4 A. When did she fall? In the fall of 2016;  
5 is that correct?

6 Q. I believe so, yes.

7 A. So I would say January, February,  
8 somewhere in early Q1 or Q2 of 2017. I don't know  
9 the exact dates.

10 Q. You had stated that Dinny didn't want to  
11 sell the Lavender house. You said it was your  
12 understanding?

13 A. That is correct.

14 Q. What causes you to understand that?

15 A. Dinny and I had a conversation, and she  
16 expressed to me that she didn't want to sell that  
17 home, and she wanted the opportunity to be able to  
18 go out there whenever she wanted.

19 Q. When did you have that conversation?

20 A. Early on. 2015, again in 2016, and then  
21 after her fall, there were so many other issues that  
22 I don't know if I asked her or not.

23 Q. Do you have any notes to that effect?

24 A. I would have to go back to my e-mails and  
25 things from Premier, which I don't have access to.

1 Q. I do, so we'll go through them.

2 A. Okay.

3 MR. RESNICK: May I Your Honor?

4 THE COURT: Yes.

5 BY MR. RESNICK:

6 Q. I refer you to the e-mail from you to

7 Janie dated April 10, 2017. Can you read that

8 paragraph?

9 A. The top one?

10 Q. Uh-huh.

11 A. "Janie, thank you for being"

12 THE COURT: Hold on. For what purpose

13 are you going to use this document?

14 She'll either read it to herself and

15 refresh her recollection, or you will cause it to be

16 admitted. If so, lay a foundation and seek its

17 admission.

18 I'm not going to read it until it's in

19 evidence, if ever, and I just don't want her to read

20 it into evidence.

21 MR. RESNICK: Well, I want her to refresh

22 her recollection, and then I'll be admitting it into

23 evidence.

24 THE COURT: So at the moment, you're

25 using it to impeach her testimony with a prior

1 inconsistent statement?

2 MR. RESNICK: Correct.

3 THE COURT: All right. Read it to  
4 yourself, please, ma'am.

5 MS. SHRIVE: This e-mail is in reference  
6 to the Opus accounts.

7 BY MR. RESNICK:

8 Q. Pardon me?

9 A. This e-mail in reference to the Opus Bank  
10 accounts, unless you're referencing something --

11 Q. Yes. It would be the first two lines?

12 MR. ROBERTSON: Of which page?

13 BY MR. RESNICK:

14 Q. April 10, 2017.

15 A. Where I'm thanking Janie?

16 Q. Yes.

17 A. I thank Janie for being there for Dinny.

18 I'm not sure what else to say about this.

19 Q. And then can you look at March 9, 2017,  
20 first paragraph and the third?

21 A. Okay.

22 Q. Is this an e-mail from you to Janie  
23 wherein you state that three of which would be  
24 sitting vacant and not producing any income?

25 A. It is an e-mail from me to Janie, but

1 I -- okay. I see what you're saying here.

2 Q. The third to last line, first paragraph?

3 A. Uh-huh, yes.

4 Q. That is your e-mail?

5 A. Yes.

6 Q. Then the last paragraph, second sentence,  
7 "I will be sending you a letter of authorization for  
8 me to put the Irvine house on the market under a  
9 separate e-mail."

10 A. Yes.

11 Q. What happened after March 9? Did you  
12 send that letter of authorization?

13 A. I sent a letter to Janie and Dinny to  
14 authorize me to hire people to ready the Irvine  
15 property for sale, and then we were getting ready to  
16 sell, and Dinny started to waver a little bit, so I  
17 guess that letter never was sent to authorize the  
18 sale of the Irvine property.

19 Q. Can you be more specific as to, "She  
20 wavered"? Did you meet with her? Did you speak to  
21 her on the phone?

22 A. I spoke to her over the phone.

23 Q. When was that, after March 9?

24 A. I don't know the exact date, but it was  
25 after this. She wanted to go see the house after

1 the stuff was -- all the rest of her personal  
2 property was moved out. That is my recollection.

3 Q. Now, you state that you sent monthly  
4 statements. Were those brokerage statements or were  
5 they accounting statements?

6 A. They were Premier Trust statements.

7 Q. Showing receipts and disbursements?

8 A. Uh-huh, yes.

9 Q. You made a statement when you were being  
10 questioned by Mr. Robertson that you didn't want the  
11 properties to sit vacant?

12 A. Well, not for a long time, but I had a  
13 co-trustee that I was dealing with as well, so it  
14 was a decision that had to be made by all of us.

15 Q. Okay. So you expressed that to your  
16 beneficiary, Mrs. Frasier?

17 A. Yes.

18 Q. What did she say?

19 A. She seemingly understood that the houses  
20 were vacant. She was well aware of that, and they  
21 were non-income-producing.

22 Q. And you expressed to her that they were  
23 non-income-producing. What was your recommendation,  
24 to sell or rent?

25 A. To sell.

1 Q. What did she say?

2 A. She said, Yes, let's do this, but it took  
3 her many, at least two years to really get the  
4 momentum going to approve the actual sale. It was a  
5 long process with her.

6 Q. Can you be more specific as to what you  
7 mean, "Momentum"?

8 A. Well, Premier was ready to pull the  
9 trigger on the sale of the home, but then when we  
10 would get real close, we would -- Dinny would want  
11 to go see it real quick or would kind of waver on  
12 whether or not she wanted to sell it.

13 She took her time, and decisions were  
14 made on her time.

15 Q. So when you had these communications with  
16 her by telephone, was anyone else present during  
17 those calls?

18 A. Sometimes, Janie was present. My  
19 assistant was in the room, whether she was doing  
20 something else because we shared an office, it was  
21 another story, so I can't testify as to how much she  
22 overheard or listened.

23 Q. Between your appointment as trustee,  
24 Premier's appointment in 2015 to the time you left,  
25 there wasn't sufficient momentum to sell or rent the



1 houses?

2 A. Yes. Our co-trustee would kind of go  
3 back and forth on her decision whether or not to  
4 sell the homes.

5 Q. You had mentioned that there were tax  
6 advantages. What training do you have in tax law?

7 A. I have no training. I'm not a tax  
8 lawyer. My tax background goes as far as my CTFA  
9 and my experience as a trust officer.

10 Q. You had mentioned also that there is  
11 possible tax advantages with a 1031 exchange?

12 A. I misspoke with that. I apologize.

13 Q. As to Pinewood, you had testified that  
14 Mrs. Frasier occasionally visited Pinewood?

15 A. She did, at least twice after her fall,  
16 and that is when we were really getting ready to  
17 sell it.

18 We had some downtime with her recovery,  
19 and so I didn't want to upset her by just going out  
20 and selling all these properties without her input  
21 as co-trustee.

22 Q. Did you have anything in writing from  
23 Mrs. Frasier saying, Don't sell or rent?

24 A. I don't recall.

25 Q. When she told you that regarding

1 Pinewood, was anyone else present?

2 A. I think Janie was there a couple of  
3 times. I don't recall.

4 MR. RESNICK: I have nothing further,  
5 Your Honor.

6 THE COURT: Thank you. Mr. Robertson,  
7 redirect?

8 MR. ROBERTSON: Thank you, Your Honor,  
9 briefly.

10 REDIRECT EXAMINATION

11 BY MR. ROBERTSON:

12 Q. Ms. Shrive, how long did Dinny live in  
13 the Pinewood house before she moved to San Juan  
14 Capistrano, if you know?

15 A. I believe she lived there for at least  
16 30-plus years. She lived -- well, after Premier was  
17 appointed, she was there all the way up until the  
18 fall of 2016 when she fell down the stairs.

19 Q. So would it be fair to say she had a lot  
20 of memories? Did she tell you she had a lot of  
21 memories in that home?

22 A. Yes. She is very sentimental.

23 Q. Is it fair to say -- was it your  
24 impression that she was attached to the home and it  
25 was hard for her to let it go?

1 A. Yes, very much so.

2 Q. We talked about these monthly statements  
3 before with respect to the Lavender property.

4 Now, let's talk about the monthly  
5 statements on Pinewood. Did you send a monthly  
6 statement every month to Dinny Frasier showing that  
7 utilities were still on at Pinewood and there were  
8 still expenses at Pinewood?

9 A. Yes.

10 Q. Did that monthly statement each month  
11 also show the income of the trust?

12 A. Yes, a portion of it.

13 Q. Did the monthly statements show that  
14 there was no income coming in from renting the  
15 Pinewood home?

16 A. I'm sorry. Would you repeat that?

17 Q. Did the monthly statements show any  
18 income coming in from renting the Pinewood home?

19 A. No.

20 Q. Is it your testimony that Dinny, in your  
21 mind, she clearly understood the Pinewood home was  
22 not being rented?

23 A. Yes.

24 Q. Have you ever, or did you ever -- the  
25 entire time of approximately two years that you

1 administered this trust, did you ever receive  
2 anything in writing from either Dinny Frasier, Barry  
3 Resnick, or Janie Mulrain saying, We want you to  
4 rent the Pinewood house?

5 A. No, no.

6 MR. ROBERTSON: No further questions,  
7 Your Honor.

8 THE COURT: Recross?

9 MR. RESNICK: Your Honor, I failed to ask  
10 that the e-mails be admitted into evidence.

11 MR. ROBERTSON: I would object on two  
12 grounds, Your Honor. First, I don't think that they  
13 actually impeached her as to anything.

14 THE COURT: I'm going to sustain the  
15 objection based upon NRS 48.045. I think they're  
16 not necessary. They should be marked, though.  
17 They'll be marked next in order.

18 THE CLERK: Exhibit 2 marked for  
19 identification.

20 (Exhibit 2 marked for  
21 identification)

22 THE COURT: Any recross questions,  
23 Mr. Resnick?

24 MR. RESNICK: No, Your Honor.

25 THE COURT: I want to be clear. Was

1 Premier Trust's decision to keep those homes vacant  
2 influenced mostly because there was a slow-moving  
3 co-trustee, who ultimately became a beneficiary, or  
4 was it because these were viable investments part of  
5 a diversified portfolio.

6 MS. SHRIVE: I would say both. I mean,  
7 as trustees, we don't time markets to sell off real  
8 property or tangible personal property, but I didn't  
9 see any harm to the total portfolio by letting Dinny  
10 take her time with making a decision on selling  
11 these homes.

12 THE COURT: Counsel, the Evidence Code  
13 allows you to ask questions on my questions, or make  
14 a contemporaneous objection to my question.  
15 Do either of you wish to be heard?

16 MR. ROBERTSON: No, Your Honor.

17 MR. RESNICK: No, Your Honor.

18 THE COURT: Thank you. You're free to  
19 step down.

20 MS. SHRIVE: Thank you.

21 THE COURT: If this witness is hereby  
22 subpoenaed, what are your intentions for her  
23 continuing involvement? May she be released and  
24 leave?

25 MR. ROBERTSON: I'm afraid not, Your

1 Honor. I think she needs to stay.

2 THE COURT: So then the question becomes  
3 the Rule of Exclusion. I really didn't give you a  
4 chance to invoke it.

5 I don't know if, by my own initiative, it  
6 is something you want to visit, but I don't know who  
7 is going to be called next as a witness.

8 MR. ROBERTSON: We would not invoke the  
9 Rule, Your Honor. We don't think it's necessary in  
10 this case.

11 THE COURT: Okay. Anything from you,  
12 Mr. Resnick, before I ask Premier to call its next  
13 witness?

14 Let's all stand, ladies and gentlemen,  
15 and just stretch for a minute.

16 Mr. Resnick, anything from you before we  
17 get to our next witness?

18 MR. RESNICK: Your Honor, may I have my  
19 local counsel sit next to me as it relates to some  
20 of these issues?

21 THE COURT: Yes. Mr. Rosenauer will need  
22 to yield his seat, though.

23 Your next witness.

24 MR. ROBERTSON: Premier would call Ryan  
25 Gonda.

1 THE COURT: Please follow the deputy's  
2 instructions.

3 RYAN GONDA

4 after having been duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. ROBERTSON:

7 Q. Mr. Gonda, could you please state your  
8 full name and spell your last for the record?

9 A. Ryan Gonda, G-o-n-d-a.

10 Q. Mr. Gonda, could you briefly tell the  
11 Court a little bit about your background and  
12 experience up to the time that you became a trust  
13 officer at Premier?

14 A. Sure. I grew up in Reno, graduated with  
15 an undergraduate degree from UNR, graduated from law  
16 school in Mississippi, and then worked in the  
17 nonprofit sector for a time, and then was hired by  
18 Premier.

19 Q. Okay. When were you hired by Premier?

20 A. In August of 2017.

21 Q. Approximately, how long after Ms. Shrive  
22 left were you hired?

23 A. I believe it was one month.

24 Q. So there was a one-month period in  
25 between Ms. Shrive leaving and you starting,

1 correct?

2 A. Correct.

3 Q. When you started at Premier Trust, what  
4 was your title?

5 A. Trust officer.

6 Q. Is that still your title today?

7 A. Yes.

8 Q. Can you describe for the Court generally  
9 with respect to the Frasier Trust what duties you  
10 have as a trust officer?

11 A. We maintain the payment of bills, filing  
12 of tax returns, making sure the assets are in  
13 custody, monitoring investments, things of that  
14 nature.

15 Q. Okay. As part of your duties as a trust  
16 officer, do you ensure that a monthly statement is  
17 sent to Dinny Frasier each month of the trust  
18 activities?

19 A. Yes.

20 Q. In front of you is Exhibit 1. Could you  
21 just take a look at Exhibit 1? Do you have a copy?  
22 Is the Court interested in seeing one?

23 THE COURT: Not if it is what you  
24 described it to be.

25



1 BY MR. ROBERTSON:

2 Q. Could you take a look -- I think  
3 Ms. Shrive has already looked at the statements from  
4 January of 2016 through approximately July of 2017?

5 Could you just glance through -- first  
6 off, did you assemble this binder? Did you arrange  
7 to print up all these statements and put it in the  
8 binder.

9 A. Yes, with the help of my assistant.

10 Q. Okay. Can you confirm for the Court that  
11 from the period when you started, August 2017  
12 through the end of June 2018, which is the period  
13 that is at issue in the statement of accounts, can  
14 you confirm that these are the monthly statements  
15 sent to Dinny Frasier each month during that period?

16 A. Yes. I can confirm that.

17 Q. Okay. Do the monthly statements show the  
18 expenses that the trust incurred each month?

19 A. Yes.

20 Q. Do they also show the income received by  
21 the trust each month?

22 A. Yes.

23 Q. Now, with respect to these two properties  
24 we're talking about, the property in Palm Desert on  
25 Lavender and the property in Irvine on Pinewood,

1 what was your understanding when you took over as  
2 the trust officer in August of 2017 with -- what was  
3 your understanding of the status of those  
4 properties?

5 A. As to the Lavender property, my  
6 understanding was that Dinny used that as a vacation  
7 home, and she would visit there from time to time.

8 As to the Pinewood or Irvine home, my  
9 understanding was that it was sitting vacant, but  
10 that there was a decision of our trust committee to  
11 require her, meaning Dinny, to go out and find  
12 another home that she could rent before we purchased  
13 a new home for her, or even sold the home.

14 Q. Okay. So let's go to Lavender for a  
15 minute. You said that you understood that Dinny  
16 used it as a vacation home, and she occasionally  
17 visited from time to time?

18 A. Correct.

19 Q. Where did you get that information?

20 A. In reading through our files, old  
21 e-mails, that type of thing.

22 Q. Did you find any e-mails that referenced  
23 that Dinny did not want to sell the Palm Desert  
24 house?

25 A. I found one e-mail that referred to a

1 visit that she made, I believe, with Amy and Bill  
2 Wilson, and Bill had mentioned in that e-mail that  
3 she was unsure what she wanted to do with the  
4 Lavender home.

5 Q. So she was unsure whether she wanted to  
6 sell it or not?

7 A. Correct. That is what I read.

8 Q. Okay. The status of the Lavender home  
9 when you came onboard, as you understood it, is that  
10 it was unclear whether Dinny wanted to sell it or  
11 not?

12 A. Correct.

13 Q. I can't recall from a timing perspective,  
14 but at that point in time when you came onboard, was  
15 that after communications had been severed between  
16 Dinny and Premier?

17 A. I believe so. I have never spoken to  
18 Dinny.

19 Q. Okay. You couldn't just pick up the  
20 phone and call Dinny, and say, Hey, do you want to  
21 sell or rent the Lavender home; is that correct?

22 A. No. Most of the communications were done  
23 through Janie Mulrain.

24 Q. Through Janie?

25 A. Janie Mulrain.

## **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

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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. 7**

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1 **CODE: 3975**  
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 Petitioner, 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. PR16-00128
14 JORDAN DANA FRASIER FAMILY TRUST	Dept. No. 15 [PR]

15 **PREMIER TRUST'S PREHEARING STATEMENT**

16 Petitioner, Premier Trust, Inc. ("Premier"), by and through its counsel, Robertson,  
17 Johnson, Miller & Williamson, hereby files its brief Hearing Statement pursuant to the Court's  
18 Order entered September 16, 2018. This Statement is supported by the attached brief, all papers  
19 and pleadings on file herein, and any oral argument that this Court may choose to hear.

20 **I. PREMIER AND DINNY'S COUNSEL**

21 **A. Resolved Issues**

22 Counsel for Premier and Dinny met and conferred telephonically on October 2, 2018 as  
23 to what issues remain outstanding for the October 11, 2018 hearing. As a result, it is anticipated  
24 that the issues relating to Dinny's Objection to Accounting (filed September 15, 2018) will be  
25 limited in scope and not require substantial time at the hearing. Specifically, Dinny's counsel  
26 expressed to Premier that they are willing to submit their Objection to Accounting to the Court  
27 on the papers, and will not offer any additional evidence or pursue any additional objections on  
28 any of these accounting issues – with the sole exception being a single issue as to asset  
productivity for two houses as outlined in Section I(B) below.

1 In response, Premier stands by its assertion that it has fully complied with NRS 165.135  
2 and has provided Dinny's counsel with documents above and beyond the statutory  
3 requirements.<sup>1</sup> Premier complied with NRS 165.135 in its original accountings filed on  
4 September 3, 2018. Premier filed accountings for both the Tax-Exempt Trust and the Survivor's  
5 Trust. In these accountings, Premier provided a statement, a financial report (prepared by a  
6 CPA), and summaries of the requirements in NRS 165.135(1). Not only did Premier provide  
7 summaries of the information set forth in NRS 165.135(1) as required by NRS 165.135(4),  
8 Premier also provided detailed schedules of investment transactions and payments made, which  
9 included the purposes of such transactions and payments. Even though not required by  
10 NRS 165.135, Premier has also supplied Dinny's counsel with an extensive amount of additional  
11 financial information to supplement its original accountings. Premier filed its Production of  
12 Documents on September 24, 2018, which included comprehensive financial information as to  
13 the transactions and payments to and from Dinny's various accounts. Premier thereafter also  
14 filed a Supplemental Response to Objection to Accounting, which included an updated  
15 accounting of both Trusts. See Supplemental Response to Objection to Accounting, Exs. 1 & 2.  
16 Upon a thorough scrutiny of every document Premier has provided Dinny's counsel, there is no  
17 doubt that Premier has wholly complied with NRS 165.135.

18 **B. Remaining Objections by Dinny's Counsel**

19 Dinny's counsel advised Premier that they plan to continue to object to the non-sale and  
20 non-rental of two of Dinny's properties – the Lavender Circle property and the Pinewood  
21 property. Dinny's counsel stated that they have more evidence to present to support an argument  
22 that Premier did not cause these properties to be productive. See Objection to Accounting at  
23 § 17-18. At the meet and confer, Dinny's counsel indicated that they plan to present evidence as  
24 to these two issues on October 11, 2018.

25 In an attempt to resolve this issue before the hearing, Premier again elucidated that the  
26 subject properties were not sold for very specific reasons. Dinny was forced to move into her

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27  
28 <sup>1</sup> NRS 165.135(4)(a) states that an accounting may consist of "a statement indicating the accounting period and a financial report, which must consist of a compilation or financial statement of the trust prepared by a certified public accountant and include *summaries* of the information required by subsection 1." (Emphasis added.)

1 single-story home in San Juan Capistrano as a result of her hip injury. By moving to San Juan  
2 Capistrano, she left behind a home in Irvine, California where she had a more robust social life.  
3 Since moving to San Juan Capistrano, Dinny has complained about the new home because it is  
4 far away from her old home in Irvine.

5 Premier's contact with Dinny was cut-off in early 2017. At that time, Premier understood  
6 that Dinny was looking for a new home in Irvine. Currently, Premier believes that Janie Mulrain  
7 ("Ms. Mulrain") is helping Dinny locate a new home, but does not yet know if Dinny has  
8 selected one. However, Premier was quite clear that if Dinny wanted to purchase a new home,  
9 she must first be willing to rent for six months. Premier is concerned with Dinny's decision  
10 making processes. As such, Premier is worried that if Dinny does not first rent a potential new  
11 home, she will purchase a home and immediately become dissatisfied (as was the case with the  
12 San Juan Capistrano home).

13 As stated in the Supplemental Response to Objection to Accounting, Premier is open to  
14 selling the Lavender Circle and Pinewood homes, and will do so if that is Dinny's desire.  
15 However, Premier has only recently learned of Dinny's apparent desire to sell them. Premier  
16 was under the impression that Dinny liked to visit Lavender Circle and Pinewood. Therefore,  
17 Premier has kept the utilities on these properties for Dinny's visits. Because of Premier's  
18 understanding that Dinny liked to visit the properties, it did not rent out the homes so that Dinny  
19 could visit when she wanted. Further, Premier did not sell the homes because such information  
20 was never conveyed to it to do so; Premier kept the properties for Dinny's use and enjoyment.

## 21 **II. PREMIER AND MS. MULRAIN**

### 22 **A. Premier Trust and Ms. Mulrain Did Not Resolve Any Issues**

23 Counsel for Premier and Ms. Mulrain met and conferred telephonically on October 3, 2018.  
24 According to Mr. Rosenauer, Ms. Mulrain stands by her objections as outlined in her Petition for  
25 Professional's Fees and Advanced Costs, Response to Premier's Concerns, which was filed on  
26 September 17, 2018. Counsel were not able to reach any agreement as to resolution of the issues  
27 regarding payment to Ms. Mulrain. Premier believes payment to Ms. Mulrain should be  
28 considered after the investigation report is received. If the report uncovers any information

1 indicating that Ms. Murain should be paid less than she is requesting, then this information will  
2 be available to the Court before making its decision on how much to pay Ms. Mulrain. Not  
3 surprisingly, Counsel for Ms. Mulrain indicated that she does not want the Court to receive the  
4 investigator report before deciding on her fees. Premier's counsel pointed out that this course of  
5 action might ultimately result in Ms. Mulrain being required to attend two (2) hearings in Reno,  
6 but counsel for Ms. Mulrain indicated she understands, but that is how she wishes to proceed.

### 7 **III. RECOMMENDATION TO THE COURT AS TO HOW TO PROCEED**

#### 8 **A. Premier's Most Recent Concerns**

9 Premier's belief that an investigator must be sent to examine Dinny as soon as possible  
10 has been heightened in the past few weeks. In addition to Amy Frasier-Wilson's concerns about  
11 Ms. Mulrain and the caregivers as outlined to the Court in her Objection and Statement filed  
12 September 24, 2018, Premier's counsel has also recently received an email from Dinny's other  
13 daughter, Nori Frasier, expressing similar concerns to those stated by Amy. See Exhibit "1."  
14 Given that both of Dinny's daughters have now expressed their belief that Mr. Resnick and Ms.  
15 Mulrain are taking financial advantage of Dinny, Premier believes it may be premature to decide  
16 whether Ms. Mulrain should be paid over \$170,000 in fiduciary fees. Premier therefore seeks the  
17 Court's guidance on this issue. If the Court agrees the investigator report should be received  
18 before making a decision on Ms. Mulrain's fees, then Premier agrees to continue the hearing on  
19 its petitions until after the report is received. In that case, the hearing set for October 11, 2018  
20 could be simplified to just making decisions on the investigator issue.

#### 21 **B. Procedure for the October 11, 2018 Hearing**

22 At the meet and confer, Dinny's counsel and Premier agreed that it makes sense for the  
23 Court to receive its report on Dinny's circumstances before the final evidentiary hearing to avoid  
24 the potential for a second hearing. Counsel therefore discussed the efficacy of limiting the  
25 October 11, 2018 hearing to: (1) counsel argument as to which investigator the Court should  
26 select; (2) the Court's selection of an investigator; and (3) the Court defining the scope of the  
27 investigation. The other issues which remain outstanding, such as the house productivity issue  
28 and Janie Mulrain's fees, can be best addressed once the investigation is complete and reported

1 upon to the Court. Therefore, in the interests of costs and efficiency, Premier requests the Court  
2 continue the evidentiary hearing to a date after the investigator report has been submitted. If this  
3 is acceptable to the Court, then Attorneys Robertson and Millsap agreed that they will appear on  
4 October 11, 2018, to argue the investigator proposal issue, and Mr. Resnick can appear  
5 telephonically. Counsel for parties wish to save the Trusts money and would like to only incur  
6 travel and witness costs one time. All counsel at that meet and confer agreed this arrangement  
7 would be the most cost and time efficient.

8 **IV. BRADLEY FRASIER'S "RESPONSE TO PREMIER'S RECOMMENDATIONS"**

9 Finally, Bradley Frasier filed a document entitled "Response to Premier's  
10 Recommendations" on October 5, 2018 ("Response"). This Court's Order did not provide for  
11 any party to file such a response, and for that reason it should be stricken.

12 Even if considered, however, Bradley Frasier's Response clearly shows why this dispute  
13 has been lengthy and costly. If the Court cares about this issue, then Premier will put on  
14 evidence at the evidentiary hearing as to why it could not treat the medical building payment as a  
15 loan – even though Bradley, Dinny, Premier and its counsel all tried to do so.

16 Premier agrees with Bradley Frasier that its trust officer and counsel spent a great deal of  
17 time with the Trust's estate and tax lawyer (H. Brooks Travis), its accountants (Sal Giacinto and  
18 John Gonzalez) and Bradley's accountant (Judy Hamilton) trying to resolve this dispute. They  
19 were highly motivated so that Dinny, the Trust, and its counsel would no longer be subjected to  
20 continued threats from Bradley. The bottom line, however, is that the Trust's tax lawyer and its  
21 accountant, Mr. Gonzalez, concluded that the medical building payment could not be treated as a  
22 loan. Attached hereto as Exhibit "2" are relevant pages of the IRS 706 Form filed with the IRS  
23 showing the medical building as an asset of the Trust, not as a loan receivable to the Trust.

24 More importantly, attached hereto as Exhibit "3" is an email from Bradley Frasier to the  
25 Trust's estate and tax lawyer (Mr. Travis) *acknowledging that Premier and its counsel deferred*  
26 *to Mr. Travis on this issue* as Mr. Travis practices in the area of estate taxation. Mr. Travis then  
27 prepared an email and Memorandum in response, attached as Exhibit "4" hereto, explaining in  
28 detail why the payment could not be treated as a loan. These documents, along with hundreds of



1 others, show that neither Premier nor its counsel sought to prolong this litigation. Rather,  
2 Premier and its counsel tried dearly to treat the payment as a loan to satisfy Bradley's demands –  
3 but the tax lawyer and Trust's accountants insisted that simply could not be legally done.

4 Premier believes this issue is beyond the scope of the upcoming hearing. Premier will be  
5 prepared, however, to put on the testimony of its trust officer Nicole Shrive on this issue should  
6 the Court so desire. If after hearing same the Court believes this issue requires any further  
7 examination, then Premier respectfully requests that the Court schedule a separate hearing for  
8 that purpose so that Premier can call other witnesses (such as the tax lawyer and accountant) and  
9 present the Court extensive documents showing how Premier and its counsel bent over  
10 backwards trying to resolve this issue with Bradley Frasier – and ultimately did settle the issue  
11 on terms which treated the payment as an asset of the Trust, not a loan.

12 With respect to that settlement, the Court may be wondering why it has not been fully  
13 consummated to date. As the Court may recall, the settlement requires Dinny to amend the  
14 Survivor's Trust to equalize the payments among the children before their respective properties  
15 can be transferred. To Premier's knowledge, Dinny has not yet so amended the Survivor's Trust  
16 such that the property transfers can occur. Premier stands ready, willing and able to distribute  
17 the properties once it has received confirmation that all parties agree the Survivor's Trust has  
18 been appropriately amended and thus the property distributions should proceed.

19 **Affirmation**

20 Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding  
21 document does not contain the social security number of any person.

22 Dated this 5th day of October, 2018.

23 ROBERTSON, JOHNSON,  
24 MILLER & WILLIAMSON

25 By: /s/ G. David Robertson  
26 G. David Robertson, Esq.  
27 Richard D. Williamson, Esq.  
Jonathan J. Tew, Esq.  
*Attorneys for Premier Trust, Inc.*

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I hereby certify that I am an employee of Robertson, Johnson, Miller & Williamson, 50 West Liberty Street, Suite 600, Reno, Nevada 89501, and that on the 5th day of October, 2018, I electronically filed the foregoing **PREHEARING STATEMENT** with the Clerk of the Court by using the electronic filing system which will send a notice of electronic filing to the following:

Barnet Resnick, Esq. *[pro hac vice]*  
F. Wallace McClure, Esq.  
Patrick R. Millsap, Esq.  
c/o Wallace & Millsap, LLC  
510 W. Plumb Lane, Suite A  
Reno, NV 89509  
*Attorneys for Dinny Frasier*

Michael A. Rosenauer, Esq.  
510 West Plumb Lane, Suite A  
Reno, NV 89509  
*Attorney for Janie L. Mulrain Attorney-in-Fact  
for Mrs. Dinny Frasier*

I further certify that on the 5th day of October, 2018, I caused to be served by U.S. Mail a true and correct copy of the foregoing document, addressed to the following:

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

Amy Frasier Wilson  
10 Via Sonrisa  
Mission Viejo, CA 92692

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

*/s/ Teresa Stovak*  
\_\_\_\_\_  
An Employee of Robertson, Johnson, Miller & Williamson

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**EXHIBITS**

<b><u>Exhibit</u></b>	<b><u>Description</u></b>	<b><u>Number of Pages</u></b>
1.	Email from Nori Frasier	3
2.	706 Tax Returns	2
3.	Email from Bradley Frasier	1
4.	Email and Memorandum from H. Brooks Travis	3

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”

## David Robertson

---

**From:** Nori <nori.frasier@gmail.com>  
**Sent:** Monday, October 01, 2018 11:59 PM  
**To:** David Robertson  
**Subject:** Fwd: Sarah Mahabad statements

What Sarah said is a lie, a big lie. I want it proved. See my handwriting.

Please help me!

Thx Nori

Sent from my iPhone

Begin forwarded message:

**From:** Nori Frasier <nori\_frasier@hotmail.com>  
**Date:** October 1, 2018 at 11:53:08 PM PDT  
**To:** "fhclakeforest@sprynet.com" <fhclakeforest@sprynet.com>, J <administrator@sprynet.com>, Barry Resnick <bresnick@VRSLaw.net>, Rick Cady <rick@cady.net>, Nori <nori.frasier@gmail.com>  
**Subject:** Sarah Mahabad statements

This is a lie!! My mother trust me 100%. I have never taken pictures of the caregiver book or written notes in the journal! Prove this to me I want to see the writing!! And I do not write what time the care givers come or go, they have a job and I assume they know their job!

I have taken a picture of calendar long back with my mother's permission so I knew when was a good time to see her.

I want to sue Sarah for false accusations as she had refused to give my mother pain medication because I suggested my mother get rid of the pain.

Sarah must not be lived by her mother as I have witnessed her disrespecting my mother and talking to her like a 2 year old. But have said nothing. I will not linger take this as I have been escorted and always just sat next to my mother. Sarah wants my mother as her mother.

I will report to the nursing board and give a bad record because this needs to stop. I have not gotten in the way, Sarah has display no respect for my mother.

Barry you need to do something about this lie, or prove proof as there is none.

My mother tells me things and I was her voice, her family needs to be her voice as none of you care about her except to take her money!!

Nori

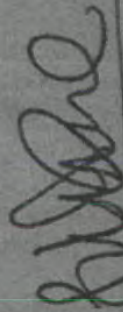


11 I was worried about the stress that it caused her.

12 10. I have met Dinny's other daughter, Nori Frasier, several times in the past. Although Nori  
13 has never physically assaulted me, she presents other difficulties as I try to do my job of taking  
14 care of Dinny. Nori often tells Dinny to fire her care staff agency because "they are not doing  
15 their job properly" and that the agency is keeping Dinny from seeing her children. When Nori  
16 visits, I have to watch everything she does, as she cannot be trusted. For example, I caught her  
17 taking pictures of caregiver notes in the journal, which documents caregiver notes of everything  
18 that goes on during their shifts with Dinny and which is confidential. Nori has even written  
19 notes in the journal about what time a caregiver arrived for her shift, even though the journal is  
20 strictly for caregivers to write in. I have also caught Nori surreptitiously taking pictures of  
21 Dinny's calendar on her iPad, which contains her entire schedule, such as appointments with her  
22 attorney, doctors, and other confidential information.

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 in San Juan Capistrano, California, this 16<sup>th</sup> day of September, 2018.

26 By:   
SARAH MAGANA

Sent from my iPhone

**CODE: 3975**

Barnet Resnick, Esq.  
Admitted *Pro Hac Vice*  
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]

**PRE-HEARING STATEMENT OF MRS. DINNY FRASIER**

Pursuant to this Court's Order Vacating and Re-Setting Hearing dated August 16, 2018 (the "Order"), wherein this Court ordered all Parties are authorized to file hearing statements by October 5, 2018, in which they identify resolved issues, new fact allegations, and issues of law regarding matters of substance, Dinny G. Frasier ("Mrs. Frasier"), by and through her lead counsel of record, Barnet Resnick of Vogt, Resnick & Sherak, LLP, and local counsel Patrick Millsap, of Wallace & Millsap LLC, hereby submits this Pre-Hearing Statement of Dinny Frasier with respect to the evidentiary hearing scheduled for October 11, 2018 (the "Hearing").

**I. RELEVANT PROCEDURAL HISTORY**

1. Premier filed its Petition for Settlement of Account (the "Accountings") of the Tax Exempt Trust and the Survivor's Trust created under the Frasier Family Trust on August 6, 2018 (collectively, the "Trusts").



- 1           2. Mrs. Frasier filed her Objection to Accountings (“Mrs. Frasier’s Objections”)  
2           on August 15, 2018, in which she made preliminary objections regarding  
3           the numerous deficiencies of the Accountings.  
4           3. This Court issued its Order Vacating and Re-Setting Hearing on August 16,  
5           2018 (the “Order”).  
6           4. Premier filed its Supplemental Response to Mrs. Frasier’s Objections on or  
7           about September 17, 2018 (“Supplemental Response”), in which it  
8           addressed Mrs. Frasier’s Objections and provided certain documents and  
9           information to supplement the Accountings.  
10          5. Premier’s Petition for Settlement of Account, Supplemental Response, and  
11          Mrs. Frasier’s Objections are set for hearing in this Court on October 11,  
12          2018.

13 **II. RESOLVED ISSUES**

14 Premier’s Resignation

15           Mrs. Frasier stipulated not to object to Premier’s request to withdraw as  
16 trustee. *See* Stipulation and Order filed August 7, 2018, 2:11-12.

17 Premier’s Petition to Ratify and Confirm Actions

18           Mrs. Frasier has stipulated not to object to ratification of Premier’s known  
19 actions, but reserved the right to object to the Accountings, including, but not limited  
20 to, expenditures made by Premier as part of its administration, and to any  
21 expenditures and attorneys’ fees and fiduciary’s fees (whether or not included in the  
22 accountings) that have been paid or accrued which Mrs. Frasier believes should be,  
23 or should have been, paid by the Party(ies) subject to proof and as the Court  
24 determines. *See* Stipulation and Order filed August 7, 2018, 2:11-16.

25 Premier’s Petition for Settlement of Accountings

26           Mrs. Frasier and her counsel recognize this Court’s wisdom regarding a cost-  
27 benefit analysis of pursuing further objections to the Accountings as stated in footnote  
28 1 of the Order. Having taken the Court’s suggestions to heart, Mrs. Frasier has

1 decided not to pursue any further objections to the Accountings, with the exception  
2 of two issues mentioned below. Although Mrs. Frasier maintains her position that  
3 Premier's Accountings are inadequate in numerous respects and fail as a proper and  
4 complete court accounting, she will defer to this Court's rulings on her preliminary  
5 objections to the Accountings as stated in Mrs. Frasier's Objections, with the  
6 exception of the following objections listed below, which are still at issue.

7 **III. NEW FACT ALLEGATIONS**

8 **Newly Received Information Regarding Losses to Trusts**

9 Mrs. Frasier engaged a licensed appraiser based in southern California, Alan  
10 Sims, to appraise the rental income of the trust real properties located at 3 Pinewood  
11 #2, Irvine, California 92604 (the "Pinewood Property") for the period covering  
12 September 2016 through and including September 2018, and at 78985 Lavender  
13 Circle, Palm Desert, California 92211 ("Lavender Property") for the period covering  
14 June 2015 through and including September 2018.

15 **Pinewood Property**

16 The loss in rental income to the Trusts on the Pinewood Property as a result of  
17 Premier's failure to make the property productive since September 2016 through and  
18 including September 2018 totals \$82,550. The unnecessary carrying costs incurred  
19 as a result of Premier's refusal to either sell or rent out the Pinewood Property totals  
20 \$33,251.66. The total loss incurred by the Trusts as a result of Premier's inaction in  
21 not renting out (and having to pay maintenance and utility expenses) the Pinewood  
22 Property is \$132,251.66. Attached hereto as **Exhibit 1** are total carrying costs for  
23 the Pinewood and Lavender properties and a calculation of rental loss based on the  
24 appraisal provided by Alan Sims. See **Exhibit 2**, Decl. Sims.

25 **Lavender Property**

26 The loss in rental income to the Trusts on the Lavender Property as a result of  
27 Premier's failure to make the property productive since June 2016 through and  
28 including September 2018 totals \$107,900. The unnecessary carrying costs incurred

1 as a result of Premier's refusal to either sell or rent out the Lavender Property totals  
2 \$30,730.10. The total loss incurred by the Trusts as a result of Premier's inaction in  
3 not renting out (and having to pay maintenance and utility expenses) the Lavender  
4 Property is \$138,630.10. See attached **Exhibit 1**.

5 **IV. ISSUES OF LAW**

6 **Underutilization of Trust Properties**

7 Since Premier accepted trusteeship of the Trusts, Premier has caused a loss of  
8 over \$270,000 to the Trusts as a result of its failure to make productive use of trust  
9 properties as it was required to do so pursuant to its fiduciary duties as trustee.  
10 Incumbent in Premier's fiduciary duties to the Trusts is the duty to prudently manage  
11 and preserve the Trusts' assets and value. NRS 164.745(1); See also *In re Estate of*  
12 *Vaughn*, 315 Pa. Super. 354, 360, 461 A.2d 1318, 1321 (1983) ("where the  
13 administration of an estate is delayed for an extended period of time, it is the duty of  
14 the personal representative to invest the estate funds")<sup>[1]</sup>; *Matter of Estate of Kugler*,  
15 117 Wis. 2d 314, 322, 344 N.W.2d 160, 164 (1984) ("an administrator's duty to manage  
16 the estate as a prudent person ordinarily includes a duty to reasonably invest estate  
17 funds not needed to meet current estate claims and administrative expenses");  
18 *Marcus v. De Witt*, 704 F.2d 1227, 1232 (11th Cir. 1983) (an executor "has a fiduciary  
19 duty during the limited period of administration to preserve the assets of the estate,  
20 to make the assets productive, and to invest [the] same prudently where feasible and  
21 consistent with the testator's intentions"); *Gudschinsky v. Hartill*, 815 P.2d 851, 856  
22 (Alaska 1991) ("a personal representative has the duty of prudently investing the  
23 assets of the estate until they are ready for distribution").

24 Still at issue before this Court is Mrs. Frasier's objection to Premier's refusal  
25 to sell or rent out the Pinewood Property. This resulted in unnecessary carrying costs  
26

27  
28 <sup>[1]</sup> *In re Estate of Vaughn* and any following cases and statutes from outside jurisdictions are not cited as mandatory authority, but rather as guidance for this Court to consider on the issues presented herein.

1 paid out of the Survivor's Trust as set forth in Mrs. Frasier's Objections. *See* Mrs.  
2 Frasier's Objections, ¶17.

3 Still at issue before this Court is Mrs. Frasier's objection to Premier's refusal  
4 to sell or rent out the Lavender Property. This resulted in unnecessary carrying costs  
5 paid out of the Tax-Exempt Trust as set forth in Mrs. Frasier's Objections. *See* Mrs.  
6 Frasier's Objections, ¶18.

7 Premier has not articulated a valid legal basis for the failure to make these  
8 properties productive via rental income or liquidation and re-investment. Premier  
9 attributes its failure to list the Properties for rent or sale to Premier's inability to  
10 communicate directly with Mrs. Frasier because she did not wish to have direct  
11 contact with Premier. *See* Premier's Supplemental Response to Objection to  
12 Accounting, 5:8-28. This defense is without merit. Premier had the opportunity to  
13 work with Mrs. Frasier's Counsel to prudently invest trust assets, such as renting  
14 the properties at issue or liquidating the properties and placing the funds into an  
15 alternative investment vehicle benefitting the Trust. Instead, Premier failed to make  
16 productive use of the properties to the financial detriment of the Trust absent legal  
17 justification.

18 Specifically, as far back as February 2017, Mrs. Frasier communicated to  
19 Nicole Shrive, then trust officer at Premier, how much she disliked the San Juan  
20 Capistrano house and wanted to move back to her old neighborhood in Irvine. *See*  
21 **Exhibit 3**, Decl. Mulrain. It appeared that Premier was on board with purchasing a  
22 single-story home in Irvine for Mrs. Frasier, but Mrs. Frasier was later informed that  
23 Premier's Trust Committee denied approval to purchase a new home until the  
24 Pinewood and Lavender properties were sold. Twenty (20) months later, the Trust  
25 still owns the Pinewood Property and the Lavender Property, and Mrs. Frasier is still  
26 living at the San Juan Capistrano house from which she requested exodus.

27 Premier cites an unsupported "reason" (that the properties would depreciate  
28 as a result of tenant occupancy), and introduces hearsay evidence of which it has no

1 direct knowledge (that Mrs. Frasier wants to keep the properties vacant so that she  
2 can visit), as excuses for why it failed to make the properties productive by renting  
3 them out. *See* Supplemental Response to Objection to Accounting 5:13-28. Since  
4 Premier became trustee, Mrs. Frasier has visited the Lavender Property once briefly,  
5 to gather some personal belongings. Because the property was in such disarray, she  
6 spent the night at a hotel. Mrs. Frasier has visited the Pinewood Property once since  
7 she moved out to her current residence in San Juan Capistrano. One visit to each  
8 property in three years is not consistent with Premier's allegation that Mrs. Frasier  
9 wanted to keep the properties for her own usage. Additionally, Premier lacks any  
10 written confirmation of Mrs. Frasier's alleged instruction to retain the properties,  
11 presumably because she did not instruct Premier to retain the properties as Premier  
12 erroneously claims.

13 Mrs. Frasier respectfully requests instructions from this Court regarding how  
14 to proceed with respect to Premier's negligent administration of these non-productive  
15 trust real properties causing over \$270,000.00 in monetary losses to the Trust.

16 Payment of Sanction Out of Survivor's Trust

17 Still at issue before this Court is Mrs. Frasier's objection to Premier's payment  
18 of the court-ordered sanction of \$4,000 out of the Survivor's Trust as set forth in Mrs.  
19 Frasier's Objections. *See* Mrs. Frasier's Objections, ¶16. Premier argues that this  
20 Court did not intend the \$4,000 to be a sanction, but rather a "distribution" from the  
21 trust. However, it does not make sense that this Court would penalize Mrs. Frasier  
22 for the negligence committed by Premier in not timely paying \$50,000 due Bradley  
23 Frasier pursuant to the Settlement Agreement and this Court's Order.

24 Premier's Recommendations Regarding Trust Issues

25 Mrs. Frasier is extremely concerned about Premier's qualifications to properly  
26 make recommendations about how this Court can best effectuate its supervisory role  
27 regarding trust issues and its failure to comply with this Court's Order regarding the  
28 same. Rather than providing solutions in its Recommendation filed with the Court,

1 Premier simply points out problems and is using its “Recommendations” as a vehicle  
2 to make attacks and unsupported allegations against various Parties.

3       Mrs. Frasier has always maintained that Premier is quite inexperienced and  
4 incompetent in the arena of personal trust administration, as evidenced by Premier’s  
5 multiple breaches of its fiduciary duties and negligence in administering the Trusts.  
6 Due to Premier’s negligence resulting in losses to the Trust, it is more crucial that  
7 Premier be removed as soon as possible and replaced with a successor corporate  
8 trustee so that proper administration of the Trusts may resume and damages to the  
9 Trust are mitigated. Mrs. Frasier therefore requests this Court consider the trust  
10 department of US Bank, with offices in Reno, Nevada and in Orange County,  
11 California as a replacement trustee.<sup>1</sup> US Bank has agreed to act as trustee of the  
12 Trusts subject to court approval, and Mrs. Frasier anticipates that a trust officer in  
13 Reno will attend the hearing on October 11, 2018 to be available to answer any  
14 questions the Court may have.

#### 15 **IV. CONCLUSION**

16       In summary, the following issues are before the Court at the hearing on  
17 October 11, 2018.

- 18       1. Mrs. Frasier’s objections regarding the non-productivity of the Pinewood  
19       and Lavender properties, the resulting monetary damages to the Trusts  
20       (loss in rental income and incurring of unnecessary carrying costs  
21       exceeding \$270,000), and request for surcharge against Premier in the  
22       amount of \$270,000, or another amount as the Court deems appropriate,  
23       and Mrs. Frasier’s request for instructions from this Court regarding  
24       how to proceed with respect to Premier’s negligent administration of  
25       these non-productive trust real properties;

---

26  
27 <sup>1</sup> Mrs. Frasier previously supported the appointment of Whittier Trust as successor trustee to replace Premier, and  
28 Premier has stipulated that it would not object to any new Trustee. See Stipulation and Order dated August 7, 2018,  
2:8-10. Since then, Mrs. Frasier has been informed by Whittier Trust that it declines to act as trustee of the Trusts due  
to internal administration issues. As a result, Mrs. Frasier has suggested an alternative corporate trustee, US Bank.



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<u>XXX</u>	Electronic Mailing via Second Judicial District Court CM/ECF System to all those persons listed on the ECF Confirmation Sheet.
<u>XXX</u>	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 paid, following ordinary business practices.

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

Amy Frasier Wilson  
10 Via Sonrisa  
Mission Viejo, CA 92692

G. David Robertson, Esq.  
ROBERTSON, JOHNSON  
MILLER & WILLIAMSON  
50 W. Liberty St., Ste. 600  
Reno, NV 89501

Dated this 5<sup>th</sup> day of October, 2018.

/s/ Christine L. Miller  
Employee of Wallace & Millsap LLC



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**INDEX OF EXHIBITS**

<b>Exhibit No.</b>	<b>Description</b>	<b>Pages</b>
1	Total Expenses for Irvine and Palm Desert Homes	13
2	Declaration of Alan Sims	5
3	Declaration of Janie Mulrain	6

1 CODE: 3975  
2 Amy Frasier-Wilson  
3 10 Via Sonrisa  
4 Mission Viejo, CA 92692  
5 949-825-9563  
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 In the Matter of the

Case No.: PR16-00128

11 JORDAN DANA FRASIER FAMILY TRUST

Dept. No.: 15

12 \_\_\_\_\_ /  
13  
14 **HEARING STATEMENT – AMY FRASIER WILSON**

15 COMES NOW, AMY FRASIER-WILSON, in pro per and interested party to the above  
16 entitled action, hereby files this October 11, 2018 Hearing Statement – Amy Frasier Wilson  
17 (“Hearing Statement”), as follows. The basis of this Hearing Statement is to call the Court’s  
18 attention to the fact that there are new fact allegations and issues of law regarding matters of  
19 substance which need to be addressed by the Court during the October 11, 2018 hearing  
20 scheduled to resolve matters relating to Jordan Dana Frasier Family Trust.

21  
22 **I. INTRODUCTION**

23  
24 It is with much gratitude to the Court for issuing the Order on August 16, 2018 to  
25 reschedule the hearing to October 11, 2018 to bring finality to this matter. The Court has  
26 graciously authorized the submission of this Hearing Statement relevant to this case and the  
27 following are my new fact allegations and issues of law regarding matters of substance.  
28

1                   **II.                   NEW FACT ALLEGATIONS AND ISSUES OF LAW**

2                   **A. A FAMILY HOME CARE (AFHC) BREACH OF AGREEMENT**

3                   The Court should be aware that Dinny Frasier entered into an agreement with A Family  
4 Home Care Inc (AFHC) effective August 30, 2016 which has not been honored by AFHC. (see  
5 Exhibit 2) The Agreement included the Privacy Issues Form which my Mother signed, that  
6 authorized Family Home Care and it's employees to discuss her health condition, diagnosis,  
7 health status, care, care needs and any other health care issue that might pertain to my Mother  
8 without restrictions. This document gave access without restrictions to the following family  
9 members and friends: Bill Wilson, Amy Frasier, Brooks Travis and Nicole (Shrive), Premier  
10 Trust Officer. The executed Agreement also included the pricing for both hourly and 24 hour  
11 care service. The 24 hour care services rate was listed on the Agreement as \$408 per 24 hour  
12 care period. Agreement definition of the 24 hour care periods may be comprised of one  
13 consecutive 24 hour shift, two consecutive 12 hour shifts, or three consecutive 8 hour shifts.  
14

15                   AFHC has not honored the Agreement Privacy Issues Form authorization providing  
16 access without restrictions to Amy and Bill. This contractual breach began when my Mother was  
17 admitted to the emergency room on October 29, 2016 and we were not notified of her admission.  
18 This lack of communication continues to the present. In addition, Bill and I contacted Jonathan  
19 Irish, VP AFHC on November 2, 2016 via speaker phone to notify him that we should have been  
20 notified when Dinny went to the emergency room, whether Nori or anyone told the caregiver not  
21 to notify us. We explained that that Bill and I were on my Mother's Medical Power of Attorney  
22 and the Agreement Privacy Issues Form that provided us access without restrictions. Bill sent  
23 follow-up email to Jonathan Irish with Dinny Frasier Medical Power of Attorney, dated 05/29/15  
24 attached. (see Exhibits 3, 4). This lack of access without restrictions continues to the present as  
25  
26  
27  
28

1 demonstrated by 2018 Premier Trust request for information and the refusal by AFHC to comply  
2 due the false claim that Dinny does not authorize the release of information.

3 AFHC has provided to Dinny 24 hour care services since August 30, 2016. AFHC has  
4 provided two shifts per 24 hour care period, consisting of day shift 7AM – 7PM and night shift  
5 7PM – 7AM. This falls under the Agreement definition for 24 hour care period comprising of  
6 “two consecutive 12 shifts”. A quick review of what AFHC has billed my Mother would raise  
7 serious doubt that my Mother has been correctly billed by AFHC at \$408 per 24 hour care period  
8 rate. (See Exhibit 5). The delta between the \$408/ 24 hr. care period rate from August 30, 2016  
9 to October 5, 2018 and what has been billed could exceed \$150K.  
10

11  
12 The explanation on why the possible \$150K discrepancy exists due to the comparison  
13 between what was agreed by Dinny and what was actually billed should be on the list for the  
14 Court ordered Investigator to address during the upcoming review.  
15

## 16 17 **B. VOGT, RESNICK, ETC RETAINER CHECK AND RELATED DOCUMENTS**

18 There remains a major issue for what actually occurred when my Mother entered into  
19 her current legal relationships during 2016. The letter to Brooks Travis dated November 1, 2016  
20 is unquestionably a letter that my Mother did not write. (see Exhibit 6). This letter and the email  
21 that Jonathan Irish sent on November 27, 2016 to Nicole Shrive (see Exhibit 7) creates more red  
22 flags. Jonathan states in his email that “Cynthia” was the caregiver present when my Mother  
23 spent time at the Irvine neighbor on or about November 2016. Yet in a previous court filing, it is  
24 stated that “Desarae” was the caregiver present when my Mother spent time at the Irvine  
25 neighbor on or about November 2016. This is important since it was reported that Dinny signed  
26 the retainer and agreement for legal representation by Barnet Resnick, Vogt, Resnick, etc on this  
27  
28

1 day. It was reported that my Mother signed the retainer check and agreement in the presence of  
2 three witnesses, the Irvine neighbor Bruce Schwartz, Desarae and my sister Nori Frasier. In the  
3 “Cynthia” version, Jonathan states that Nori reportedly told Cynthia to stay outside while the  
4 meeting was held inside. Nori was very upset because my Mother had made changes to the  
5 Survivor Trust which excluded Nori. Nori acknowledged in both a court filing and email that  
6 Nori wrote the check, but claimed that my Mother signed the retainer check (see Exhibit 8).

8 The questionable retainer check was reviewed by Mr. James Black, Examiner of  
9 Questioned Documents, curriculum vitae (see Exhibit 9). On October 4, 2018, Mr. Black  
10 examined an image of the check number 461, dated November 25, 2016, and drawn on Bank of  
11 America Account number 094611907. This document bears the purported signature of Dinny  
12 Frasier. Seven exemplars of the signature of the signature of Dinny Frasier were supplied  
13 consisting of images of checks. Mr. Black directed his attention to the Check Signature. The  
14 examination revealed that the signature is hesitant and slowly executed. Mr. Black’s expert  
15 opinion indicates this slowness and hesitancy is a manifestation of a simulation. A simulation is  
16 the reproduction of the signature of another produced with the intention that it pass as genuine  
17 when, in fact, it is not. Some examples are tracing, freehand drawing and photocopier  
18 manipulation. It is the opinion of Mr. Black that the Check Signature is a simulation. (see  
19 Exhibit 10). Thus, it is possible to impeach the veracity of any other document bearing the same  
20 signature on the same day to the same firm as it could be considered a stimulation as well. This  
21 could be the explanation on why the retainer check signature was not recognized by my Mother  
22 when asked by Nicole Shrive January 6, 2017. The questionable retainer check that Mr. Black  
23 has opined with the signature is a simulation and any other documents bearing the same  
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1 signature on the same day to the same firm should be on the list for the Court ordered

2 Investigator to address during the upcoming review

3  
4  
5 **C. ALLEGATIONS OF UNDUE INFLUENCE BY BARNET RESNICK**

6 In the Statement of Barnet Resnick Regarding RPC 1.14, Mr. Resnick demonstrates that  
7 he is either throwing mud towards Amy and Bill, or he lacks a sound knowledge of the facts  
8 regarding the Survivor's Trust Amendment. My Mother amended the Survivor's Trust in May  
9 2015. My Mother fell in July 2016. My Mother was not medicated and recuperating at a  
10 rehabilitation facility, nor was she helpless when she amended her trust in 2015. She was very  
11 strong and made all of her own decisions. This pattern of spreading lies about both Bill and I  
12 must stop now. My Mother excluded both my two siblings, Brad and Nori due to actions that  
13 deeply hurt my Mother in ways that Mr. Resnick will never know. I respect the Court's valuable  
14 time and will only provide several examples which provide an understanding of why my Mother  
15 made the decisions that she did in May 2015.  
16  
17

18 On the same day my father died, Brad rushed into my Mother's house and grabbed my  
19 Father's 18K gold Rolex watch without asking my Mother whether he could have it. The same  
20 night both Brad and Nori went through the entire house to look for all of the trust and financial  
21 records. Nori was trying to get into the safe, but she could not figure it out so Brad did it  
22 himself. My Mother became so angry that Brad and Nori were going through all of the  
23 paperwork, her drawers, safe so soon after my Father died. My Mother said it was like a feeding  
24 frenzy.  
25  
26

27 My Mother did not have her checkbook with her when we were making the funeral  
28 arrangements for my Father, so both Brad and Nori were fighting with each other who would use

1 their credit cards to purchase the funeral arrangements to obtain the points/miles on their credit  
2 card. This fight continued when we made the funeral arrangements for my Mother. My Mother  
3 became very angry over this fighting between Brad and Nori.  
4

5 It was understood that Frasier Family Thanksgiving family dinner was always at Brad's  
6 house since it was the biggest house and my Father liked to go there for Thanksgiving dinner.  
7 So on the first Thanksgiving after my Father died, Brad's wife decided that she was not going to  
8 hold Thanksgiving dinner, first claiming that she was sick and then that she said she did not want  
9 Nori and myself to come to the house. My Mother felt abandoned and alone that Brad would not  
10 invite her, and she became was very angry at both Brad and his wife.  
11

12 It was discovered by Brad that Nori was paying her Chase credit card from my Father and  
13 Mother's personal checking account for just over \$10K. (see Exhibit 11) The payments began  
14 when my Father went into the nursing home in July 2014, and continued after he had passed  
15 away Oct 22, 2014. My Mother was mortally wounded that Nori would as she called, "steal  
16 from her own Mother". Nori never told my Mother about the payments even after my Father  
17 passed, and she claimed that it was a side deal she had with my Father.  
18

19 My Mother claimed that Nori took her jewelry, my Father's jewelry, clothes, sewing  
20 materials and machines, Swarovski and Waterford crystal. My Mother tried to list all of things  
21 that were missing, but all she could do was cry. My Mother became very concerned that Nori  
22 was going to take more money and things from her.  
23

24 Brad went on a cruise after my Father passed away with his wife's family and my Mother  
25 was wounded that Brad should have taken her on the cruise. I told this to Brad that my Mother  
26 wanted to go on the cruise, but Brad just said she does not want to go, and she has the dogs. But  
27  
28

1 Brad never asked my Mother if she wanted to go on the cruise. My Mother remained angry  
2 about not being invited by Brad.

3 Brad came to my Mother in December 2014 to tell her that he needed her help to transfer  
4 money out of a Trust account so it could be transferred from Brad and his wife to their daughter,  
5 Danielle. (see Exhibit 12) The transaction was capped at \$28K to allow it to be considered as a  
6 gift for 2014 to Brad and his wife. Another transaction for \$14K was scheduled to occur in  
7 January 2015. This was done by Brad to avoid exceeding the allowable gift level in 2014 since  
8 he had gone to the skilled nursing home in September 2014 to have my Father sign the transfer  
9 letter for \$28K. The transfer was to Danielle directly, and it was considered from both my Father  
10 and Mother. But my Mother did not know about the September 2014 transfer until the bank  
11 called her to let her know that the December 2014 transfer had been completed. My Mother felt  
12 like Brad had pulled a fast one on her. At that point, she froze the account so no one could  
13 transfer any more money. During same time frame, November/December 2014, Brad was  
14 working out his deal with my Mother to pay her back for the medical building. Brad was  
15 attempting to use undue influence on my Mother since he claimed that she had dementia, yet he  
16 was trying to enter into agreements with someone that he claimed did not have capacity. Either  
17 he believed she had capacity to enter into an agreement or he did not believe she had capacity.  
18 Brad has claimed he understood my Mother's condition better since he was a medical doctor.  
19 But if that was the case, then he should be held to a higher standard of dealing with those that  
20 have limited capacity and are not represented by counsel.

21 Brad became repeatedly very abusive and acrimonious toward my Mother and she  
22 became very angry at him, very hurt that she raised a son that would treat his Mother that way.  
23 Brad left voice messages that my Mother would listen to over and over. My Mother would call  
24



1 me after listening to the voice messages, sounding very angry, crying, and I would tell her to stop  
2 listening to the messages.

3       Lastly, Henry Coopersmith, my Father and Mother's long time Estate Planning Attorney  
4 provided memo notes regarding the February 2014 meeting with my Father and Mother. (see  
5 Exhibit 13). The changes that were anticipated to be made in the memo were the result of my  
6 Father and Mother being enraged that Brad's wife came in October 2013 to demand that my  
7 Father to move the medical building out of my Father and Mother's Trust. My Father told my  
8 Mother, Nori, Bill and myself that Brad's wife said if my Father did not move the building out  
9 of the trust, then Brad would have to share it with his sisters and he would not get any money.  
10 My Father took that personally, that neither Brad nor his wife appreciated everything that he had  
11 done for them. My Mother felt the same way, and from that point forward, my Father and  
12 Mother disparaged Brad and his wife.  
13  
14

15       These are some of the examples that could help illuminate why my Mother made the  
16 decisions regarding the Survivor's Trust, and demonstrate that just because you have lived next  
17 door for 30 years to someone, and not even bother to attend my Father's funeral, you do not  
18 know what is going on behind closed doors.  
19

#### 20       **D. MULRAIN ISSUES**

21       The timeline of Janie Mulrain should be challenged since it was claimed that she went  
22 though a through vetting process. The concern is why would such a complex case was handed  
23 over to someone with less than 3 years of experience? (see Exhibit 14). Questions remain why  
24 my Mother interviewed Janie Mulrain on December 10, 2016, and signed the Agreement with  
25 Janie Mulrain on the same day, yet Janie Mulrain began billing my Mother on 12/08/16. (see  
26 Exhibit 17) **But just as troubling is that Janie Mulrain billed my Mother for taking her out**  
27  
28

1 on her birthday 03/27/18. Janie Mulrain billed my Mother \$600.00 for 4 hours at \$150/hr  
2 plus \$12.83 mileage! I wonder if my Mother knew about this billing? This raises questions  
3 about the billing of the \$172K that Janie Mulrain demands that she should be paid. This should  
4 be on the list for the Court ordered Investigator to address during the upcoming review  
5

6 Janie Mulrain has made a number of statements in Court filings that need to be fact  
7 checked. One such statement was that Janie had contacted APS in December 2016 regarding  
8 Bill, and referenced in an Exhibit that was redacted. I contacted APS to inquire about the report.  
9 I was informed that there was never a call or report regarding Bill in December 2016, and if there  
10 was, APS would have contacted Bill. No such contact ever occurred. Yet the actual APS call  
11 was for Nori in December 2016. (see Exhibit 15). Neither Bill or I had been near my Mother's  
12 house since I tried to drop off a card and gift to my Mother in first week in November 2016.  
13 This type of mud continues to be thrown around by Janie Mulrain with the hope that something  
14 sticks.  
15

16 Janie Mulrain works on pure manipulation as she did with making my cousin Wendy  
17 Erhman afraid to communicate with me. Wendy told me that Janie told her that if she spoke to  
18 me or Bill, Janie would block her from talking to Dinny. The 01/03/17 email was the last email  
19 we have received from Wendy. (see Exhibit 16)  
20  
21

22 Nori has had problems as well with Janie Mulrain, and has considered taking legal action  
23 against her. (see Exhibit 18). On July 1, 2018, Karen Burk, one of my Mother's caregivers, was  
24 working the 7AM-7PM day shift for my Mother and has provided her Declaration to the  
25 following. (see Exhibit 19) Janie Mulrain came to see my Mother to review several matters.  
26 The first matter that Janie Mulrain discussed with my Mother was that Nori had allegedly  
27 written to Janie claiming that my Mother was choked around the neck by a caregiver named  
28

1 Sarah. Dinny told Janie that it never happened. Janie also said that Nori claimed Karen bruised  
2 Dinny's arms. Janie said that was not true since she was there with Dinny when the blood work  
3 was completed. Karen indicated that my Mother was angry for the rest of the day when Nori and  
4 her family came over to see my Mother. These allegations by Nori seemed very strange because  
5 if this was true, I suspect Nori would have been more vocal in her concern for my Mother via  
6 emails that she sometimes sends to me. On August 12, 2018, while Bill and I were at my  
7 Mother's house, Bill called Nori from my Mother's home phone. Bill talked with Nori to ask her  
8 if she ever wrote or communicated to Janie Mulrain regarding any of the caregivers choking my  
9 Mother. Nori flatly denied ever hearing anything about any choking incident, and said she never  
10 communicated anything to Janie Mulrain regarding such alleged allegation. Janie Mulrain stated  
11 in her Request for Fees Exh 1 Page 12 , (see Exhibit 20) that Nori contacted her on August 13,  
12 2018 to inform Janie Mulrain that Bill and Amy informed Nori that a caregiver choked Dinny.  
13 But I never spoke with Nori regarding any choking. Only Bill had spoken with Nori. Janie  
14 Mulrain then goes to state that Nori or Bill and Amy never reported the alleged allegation to the  
15 authorities. That is because it never occurred other than what Janie Mulrain told Dinny on July 1,  
16 2018 to get Dinny angry at Nori.

17 This form of manipulation by Janie Mulrain was also seen by Karen Burk when Janie  
18 told Karen when she met Janie for the first time in May 2018 that Nori and Dinny claimed that  
19 Bill pushed Dinny down the stairs. This prejudicial statement to Karen was intended by Janie  
20 Mulrain to be create a negative first impression of Bill and Amy. Karen did not believe this since  
21 she asked Dinny how did the fall occur, and Dinny told her that she tripped on her nightgown.

22 But there is a major ethical issue being raised here. If Janie Mulrain believed what Nori  
23 and Dinny informed her was actually true regarding Bill pushing Dinny down the stairs, then

1 Janie Mulrain had an ethical obligation as a fiduciary to report such elder abuse to the  
2 authorities. And if she did not believe this to be true, then she has an ethical obligation not to  
3 repeat such alleged allegations to others in the attempt to influence and inflame.  
4

5 Also during the July 1, 2018 meeting between Janie Mulrain and Dinny, Karen in her  
6 Declaration (see Exhibit 19) states that Janie Mulrain told Dinny that Dinny would be charged  
7 anytime the children called the nurse to ask about her medications, health care, etc. Dinny did  
8 not understand why she should be charged for telephone calls. Janie Mulrain was also trying to  
9 get my Mother to sign a piece a paper which she claimed was to pay the nurse. My Mother  
10 reportedly did not want to sign the piece of paper, stalling for close to 30 minutes until Janie  
11 Mulrain told her, "Dinny, you don't have to sign it, I can sign it because I have Power of  
12 Attorney over you. I was being nice to come over here to let you know". Dinny finally signed  
13 the piece of paper, but was not happy after being forced by Janie to sign the paper. Only one  
14 piece of paperwork was signed on July 1, 2018. This is of concern since Karen worked the entire  
15 day shift 7AM – 7PM and Janie Mulrain did not come back later in the day. Yet Janie Mulrain  
16 presented the letter that Dinny Frasier reportedly signed July 1, 2018 document that "I authorize  
17 Janie to tell my my kids to only visit when someone else is here" The question is this the  
18 document my Mother signed on July 1, 2018 that Janie Mulrain forced her to sign, and was it the  
19 result of the story that Janie Mulrain told my Mother that Nori claimed a caregiver had choked  
20 my Mother. This should be on the list for the Court ordered Investigator to address during the  
21 upcoming review  
22

23 The issue of the choking created a smoke screen over the real issue of what happened to  
24 my Mother when she fell on June 11, 2018. We heard mixed stories on how she fell, but nobody  
25 has provided any true answers to this point. We know that my Mother's bed has been changed to  
26  
27  
28

1 help avoid falling, and she has a special chair help the caregiver to get her up without falling. So  
2 did she fall in the house or somewhere else? I could see she had a scalp contusion, so I know  
3 something happened to her. This question of what happened to my Mother only creates more  
4 questions. I would request that the caregivers notes, medical notes for June 11, 2018 to be  
5 provided to the Court to indicate what truly happened to my Mother. This should be on the list  
6 for the Court ordered Investigator to address during the upcoming review

8 Bill and I ask questions when we go see my Mother. My Mother does not know what is  
9 going on, she does not remember what she just had for lunch. The statements by the caregivers  
10 that Bill and I ask her about financial, trust matters are totally false. My Mother would not  
11 understand anything about the Trust or any other complex matters if you talked with her. We  
12 just keep it light. But we want to know if she went out the day before we come, if she went to  
13 the movies, plays, etc so we know that if we are there on Sunday, she will be tired and need to  
14 rest or something else is wrong. Asking about things like how her week was, did she go out,  
15 doctor appointments, etc is just conversation.

18 Jonathan Irish, AFHC has made false allegations from 2016 when he claimed that Bill  
19 and I took photos and pages out of the caregivers book, and that Bill forced his way past the  
20 caregiver (see Exhibits 1, 21) We strongly deny both of these alleged allegations.

22 Janie Mulrain and "Dinny's Team" recently implemented a protocol for visitation with  
23 Dinny, including the requirement that a visitation monitor be present and visits only last two  
24 hours. The initial visitation monitor, Allyn Anderson, was someone that all of the children  
25 appreciated his rapport and support of my Mother. And then he was fired. This should be on the  
26 list for the Court ordered Investigator to address during the upcoming review

1                   **III.                   CONCLUSION**

2                   WHEREFORE, Amy Frasier-Wilson prays for orders from the Court as follows:

3                   A.                   Instructions for the in-person review of Dinny Frasier by Court Appointed  
4                   Investigator to address the above new fact allegations addressed in this Hearing  
5                   Statement.  
6

7  
8                   Pursuant to NRS 239B.030, the undersigned does hereby affirm that the preceding  
9                   document does not contain the social security number of any person.  
10

11                   I declare, under penalty of perjury under the laws of the State of Nevada and the State of  
12                   California, that the foregoing is true and correct. I declare under oath that the contents of the  
13                   objection and statement to which the declaration is attached are true and correct to the best of my  
14                   knowledge.

15  
16                   DATED this 5th day of October, 2018.

17  
18                   

19                   Amy Frasier-Wilson  
20                   10 Via Sonrisa  
21                   Mission Viejo, CA 92692  
22                   949-825-9563  
23                   In Pro Per  
24  
25  
26  
27  
28

1 **CERTIFICATE OF SERVICE**

2 I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the  
3 within action. On the 8 day of October 2018, ~~2017~~ I served the within documents(s):

4 ~~**OBJECTIONS TO ACCOUNTING AND STATEMENT OF CONCERNS**~~

5 **HEARING STATEMENT**

6 ☒ **BY ELECTRONIC MEANS:** by transmitting via electronic means 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).

7 G. David Robertson, Esq.  
8 Johnathan J. Tew, Esq.  
9 Courtney Miller O'Mara, Esq.  
Richard D. Williamson, Esq.  
Michael A. Rosenauer, Esq.

10 **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the  
11 address(es) set forth below. NRCP 5(b)(2)(A).

12 ☒ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with  
13 postage thereon fully prepaid, in the United States mail at Reno, Nevada addressed as set forth  
below. NRCP 5(b)(2)(B).

14 **BY DEPOSITING WITH THE CLERK:** by causing document(s) to be deposited  
15 with the Clerk of the Court, as the party or their attorney has no known address. NRCP  
16 5(b)(2)(C)

17 **BY PERSONAL DELIVERY:** by causing personal delivery by Reno/Carson  
18 Messenger Service of the document(s) listed above to the person(s) at the address(es) set forth  
below.

19 Michael E. Sullivan, Esq.  
20 Scott L. Hernandez, Esq.  
21 Robinson, Belaustegui, Sharp & Low  
22 71 Washington Street  
Reno, Nevada 89503  
Attorneys for Dr. Bradley L. Frasier

23 Bradley J. Richardson, Esq. [pro hac vice} David Sherak, Esq. [pro hac vice}  
24 Barnet Resnick, Esq. [pro hac vice} Courtney Miller O'Mara, Esq.  
25 c/o Fennemore Craig, P.C.  
300 East Second Street, Suite 1510  
26 Reno, NV 89501  
Attorneys for Dinny Frasier, individually

27 Bradley L. Fraiser, MD  
28 3609 Vista Way  
Oceanside, CA 92056

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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 10/8/18, Reno, Nevada.

/s/ Lindsay Wheeler, High Sierra Legal



**Index of Exhibits**

<b><u>Exhibit</u></b>	<b><u>Description</u></b>	<b><u>Pages</u></b>
1	Declaration of William (Bill) Wilson,	8
2	AFHC Agreement, effective Aug 30, 2016	8
3	11/02/16 Email to Jonathan Irish re: Dinny POA	2
4	Dinny Frasier Health Care POA, May 29, 2015	12
5	AFHC Billings Summary	14
6	Brooks Travis Letter Nov. 1, 2016	2
7	AFHC Caregiver Witness Discrepancy	5
8	Nori Frasier re: Retainer Check May 2017	2
9	James A. Black curriculum vitae	8
10	James A. Black Retainer Check Analysis & Check Copy	3
11	BOA Chase Card Payments Summary Nov 2014	2
12	First Citizens Trust Transfers & Checks, Dec 2014	4
13	Coopersmith Memo, Feb 2014	3
14	Janie Mulrain Professional Fiduciaries Bureau 02/09/17	2
15	Mulrain – APS Discrepancies	5
16	Wendy Erhman Email Jan 2017	2
17	Mulrain Vetting/Billing Issues	6
18	Nori Frasier Email – Mulrain	2
19	Declaration of Karen Burk	5
20	Mulrain – Choking	2
21	Jonathan Irish AFHC Email Communications Nov 2016	16

EXHIBIT “1”

EXHIBIT “1”

EXHIBIT “1”

1  
2 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**  
3  
4 **IN AND FOR THE COUNTY OF WASHOE**  
5

6 **In the Matter of the**

7 **JORDAN DANA FRASIER FAMILY**

8 **TRUST**  
9  
10  
11

) Case No.: PR16-00128

) Dept No.: PR  
12  
13

14 **DECLARATION OF WILLIAM WILSON**

15 I, William Wilson, hereby declare as follows:

16 1. I am a resident of California.

17 2. I am also known as Bill Wilson,

18 3. I have personal knowledge of the facts set forth below,

19 4. I am the husband of Amy Frasier Wilson, son-in-law of Jordan Frasier and Dinny  
20 Frasier.  
21

22 5. During a meeting in 2014 at the Frasier Irvine home that included Jordan Frasier,  
23 Dinny Frasier, Nori Frasier, Amy Frasier Wilson and myself, Jordan Frasier said to all of those  
24 present that Brad's wife told Jordan that if he did not move the building out of the trust, then  
25 Brad would have to share it with his sisters and he would not get any money. Jordan was hurt  
26 and enraged, stating neither Brad nor his wife appreciated everything that he had done for them.  
27  
28

**DECLARATION OF WILLIAM WILSON**

1 Dinny expressed the same sentiments, with both Jordan and Dinny making remarks that  
2 disparaged Brad and his wife on a regular basis after that meeting.

3  
4 6. I was present October 22, 2014 at the Frasier Irvine home when Brad raced up the  
5 stairs and grabbed Jordan's 18K gold Rolex watch without asking Dinny whether he could have  
6 it. Brad and Nori went through the entire house to look for all of the trust and financial records.  
7 Nori was trying to get into the safe, but she could not figure it out so Brad did it himself. Dinny  
8 was very angry that Brad and Nori were going through all of the paperwork, her drawers and the  
9 safe so soon after my father-in-law Jordan died. Dinny said it was like a feeding frenzy.  
10

11 7. I was present when the funeral arrangements were being made for Jordan. Dinny did  
12 not have her checkbook with her when we went to the mortuary. I witnessed both Brad and  
13 Nori fighting with each other as to who would use their credit cards to purchase the funeral  
14 arrangements to obtain the points and miles on their credit card. I witnessed the fight continue  
15 when the funeral arrangements for Dinny were being made. Dinny was very angry over this  
16 fighting between Brad and Nori when loss of her husband of 65 years.  
17

18 8. I was present during a telephone conversation during November 2014 that Brad and  
19 his wife rescinded the invitation to Amy, Nori, Dinny and myself for the Thanksgiving dinner at  
20 Brad's house.  
21

22 9. I was present in 2014 at the Frasier Irvine home when it was discovered that Nori had  
23 been paying her Chase Credit Card from Jordan and Dinny's personal checking account without  
24 Dinny's knowledge. I was present at the Frasier Irvine home when Dinny claimed Nori took her  
25 jewelry, valuables, Jordan's jewelry and personal items without Dinny's knowledge. I witnessed  
26 Dinny become extremely upset, angry and crying because Dinny claimed that she did not have  
27 any personal items left from Jordan. I witnessed Dinny state her concern that Nori was going to  
28

**DECLARATION OF WILLIAM WILSON**

1 take more money and personal items. I was present when Dinny confronted Nori and asked her  
2 move all of Nori's belongings out of Dinny's house and not come back.

3  
4 10. I was present in 2014 at the Frasier Irvine home when Dinny was made aware that  
5 Brad went on a cruise with his wife's family. Dinny was very hurt that Brad did not invite her  
6 on the cruise.

7 11. On October 30, 2016, Amy and I found out from a friend on social media that Dinny  
8 had been taken to the emergency room the day before. Amy and I were on the speaker phone  
9 when we called to Dinny's house. The caregiver, Stephanie, picked up the phone and Amy  
10 asked to talk with her Mother. Stephanie yelled to Dinny, "Its Amy Dinny, you don't have to  
11 talk with her, you don't want to talk with her do you?". Then Stephanie got back on the line to  
12 tell Amy "Dinny doesn't want to talk with you" Stephanie did not give me any information  
13 other than Dinny was home and resting. I asked why we were not notified that Dinny went to the  
14 hospital. Stephanie said that Nori and Dinny told everyone not to call Amy. Stephanie was told  
15 that she cannot tell me anything. I had been made aware that Dinny was going to be charged  
16 deposit fees unless she returned the Cox cable boxes from the Irvine home. I decided to go to  
17 Dinny's house to pickup Cox cable boxes so Dinny would not be charged and see how Dinny  
18 was doing. I drove to Dinny's San Juan Capistrano home, rang the bell, and was greeted by  
19 Stephanie. Stephanie told me that Dinny did not want to see me. I said I understood that she  
20 might be tired from yesterday, so just let her rest. I asked Stephanie if I could just get the Cox  
21 boxes so I could return them to avoid deposit fees. Stephanie told me that would be alright, just  
22 as long as I do not try to go see Dinny. I agreed, and Stephanie opened the door to allow me in  
23 and I went directly to the living room, located the Cox equipment and left the premises.  
24  
25  
26  
27  
28

**DECLARATION OF WILLIAM WILSON**

1 12. Amy and I were on the speaker phone when we called Jonathan AFHC on November  
2 2, 2016 to inform him of what Stephanie said and how she was trying to influence Dinny not to  
3 talk with Amy. I informed Jonathan that the Agreement Dinny signed with AFHC granted to  
4 both Amy and I the authorization to speak without restrictions regarding Dinny's health issues  
5 and that we should have been notified that Dinny went to the emergency room. I told Jonathan  
6 that Amy and Bill have the Medical Power of Attorney for Dinny, and that I would be emailing  
7 the document to Jonathan.  
8

9  
10 13. Neither Amy or I removed pages of care notes and took photos of the caregivers  
11 book as referenced in the email that Jonathan Irish sent to Nicole Shrive November 27, 2016.  
12 Neither Amy or I came in the house during November 2016, and it was reported by Jonathan,  
13 and it was Nori during this timeframe that was holding onto the caregivers book and taking  
14 pages.  
15

16 14. I have seen the Declaration of Chipiwa "Stella" Williams dated August 16, 2018 and  
17 I strongly dispute that Amy and I ever questioned Dinny about estate planning, financial issues,  
18 credit cards and money. I knew that it was better to avoid any issues regarding money so that  
19 was why I always paid for the food, movies, etc. even though Dinny would continue to offer to  
20 pay for everything. I would video and photo Dinny on a number of occasions so we would have  
21 current memories of Dinny, since with Dinny's age and health conditions, we never know if that  
22 would be the last time we would see her. We lost over 18 months for the opportunity to see her,  
23 and we were making up for lost time.  
24

25 15. On August 12, 2018, while Amy and I were at my Dinny's house, I called Nori from  
26 Dinny's home phone. I spoke to with Nori to ask her if she ever wrote or communicated to Janie  
27 Mulrain regarding any of the caregivers choking Dinny. Nori flatly denied ever hearing anything  
28

**DECLARATION OF WILLIAM WILSON**

1 about any choking incident, and said she never communicated anything to Janie Mulrain  
2 regarding such alleged allegation. I also asked Nori what she knew about the alleged theory of  
3 Bill pushing Dinny down the stairs when she fell. Nori told me that she heard that story from  
4 Dinny, but she did not believe it to be true, and she knew her Mother fell after tripping on her  
5 nightgown. The conversation was only between Nori and myself, as I walked to the backyard  
6 during the call. Amy was not on the call, and did not know the content of the call.  
7

8 16. I have seen the Declaration of Araceli Dalton dated September 12, 2018 and I  
9 strongly dispute the statement that another caregiver named Martha told Araceli that Amy said  
10 that she would be taking over Dinny's care and moving in. This is totally false statement. The  
11 August 12, 2018 meeting with Araceli became explosive due to the fact I requested Jonathan  
12 Irish, VP AFHC in 2016 to replace Araceli Dalton because we were concerned that she was not  
13 competent to handle the night shift with Dinny. Araceli was having problems finding the canned  
14 dog food that was on eye level in the refrigerator when the refrigerator was almost empty. As  
15 the result, Aracelli decided to feed the small dogs very large bowls of dry dog food that resulted  
16 in the dogs becoming sick, and having to take them to the vet. This kind of critical thinking  
17 raised a red flag since we felt that the night shift was the time when most things could go wrong  
18 with Dinny. The exchange on August 12, 2018 between Araceli and Amy resulted in the  
19 acknowledgment by Araceli that she told Nori to take anything valuable from Dinny's house  
20 since the other girls would take it. I can understand why Amy was upset since so many things  
21 are missing and no one knows where they are located in the house.  
22

23 17. I have seen the Declaration of Laura Germano dated September 12, 2018 and I  
24 strongly dispute the statement that Amy and I lied regarding the mail incident. I was sitting at  
25 the table with Dinny, Amy during our Rosh Hashanah dinner when Dinny brought up whether  
26  
27  
28

**DECLARATION OF WILLIAM WILSON**

1 Brad had sent Dinny a Rosh Hashanah card. I replied I do not know, and Amy asked Dinny if  
2 she wanted someone to check her mail to see if Brad sent her a card. Dinny said yes, and asked  
3 "Amy can you go check the mail". Amy then proceeded to go get the mail and that is when  
4 Laura started yelling at Amy that she was calling the office that Amy cannot get the mail. Amy  
5 then started yelling back at Laura and I tried to calm things down. Raquel Castillo from AFHC  
6 called, I spoke with Raquel to explain that Dinny asked Amy to get her mail, and Dinny was  
7 sitting at table with me now opening her mail with a butter knife. I told Raquel that she should  
8 inform her caregivers that if Dinny asks for someone to get her mail, it should be acceptable. I  
9 think that Laura could handled it better and not disrupted our very nice Rosh Hashanah dinner up  
10 to that point.  
11

12  
13 18. I have seen the Declaration of Sarah Magana dated September 16, 2018 and I  
14 strongly dispute the accusations of the events on that occurred on September 16, 2018 at Dinny's  
15 home. Amy was notified on September 14, 2018 in emails that there would be a new visitation  
16 protocol to see her Mother at the house. Both Amy and I did not know what to expect, sensing  
17 that something was in the works to gain some justification for having the visitation monitor for  
18 every home visit with Dinny. Amy wanted to leave almost as soon as we got there since she was  
19 feeling the effects of starting a new medicine for a sinus infection just before we entered the  
20 home.  
21

22  
23 Amy tried to get close to talk and kiss her Mother goodbye, sitting on the arm of the  
24 couch, then leaned into to kiss Dinny. Sarah physically blocked Amy from getting close to her  
25 Mother. Sarah was yelling at Amy that it was not safe to be on the arm rest of the special no-fall  
26 chair Dinny was sitting in. But Amy was sitting on the couch arm rest. Sarah over reacted to  
27 this exchange, and then again when Sarah started yelling to Amy to stop yelling at Dinny in her  
28

**DECLARATION OF WILLIAM WILSON**

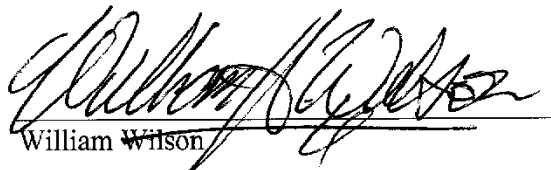


1 ear since she had her hearing aid in. Dinny did not have her hearing aid in her ear, it was around  
2 her neck, so it was useless. Amy told Sarah that her Mother's hearing aid is not even in her ear,  
3 she cannot hear even me. Amy told Sarah to leave her alone, and get away from me.  
4

5 At that point I wanted to get Amy out of there since I felt this was a setup, and that the  
6 intent was to call the police if anything happened. I tried to get Amy physically out of the house.  
7 Amy never physically assaulted Sarah as alleged in Court filings and that the Police should have  
8 never been called. This was an overreaction by Sarah and it should be noted that she should  
9 have allowed the visitation monitor present, Allyn Anderson, to deal with the matter. Mr.  
10 Anderson communicated to both Amy and I the next day that he felt that Sarah overreacted to the  
11 situation and should have never called the police. Mr. Anderson stated that Amy did not  
12 physically assault Sarah, and when he found out that this was reported in Court filings September  
13 17, 2018, Mr. Anderson said he would talk with Janie Mulrain and AFHC to make sure everyone  
14 knows he is the person in control and responsible for calling the police if required.  
15  
16

17  
18 I declare under penalty of perjury under the laws of the States of Nevada and California  
19 that the foregoing is true and correct.  
20

21 Executed at Mission Viejo, CA this 5th Day of October, 2018

22  
23   
24 William Wilson  
25  
26  
27  
28

DECLARATION OF WILLIAM WILSON

EXHIBIT “2”

EXHIBIT “2”

EXHIBIT “2”



*Family Home Care, Inc.*

## IN-HOME CARE SERVICES AGREEMENT

This In-Home Care Services Agreement (hereinafter "Agreement") is entered into this 30<sup>th</sup> day of August, 2016, by and between Family Home Care, Inc. (hereinafter "FHC"), with its principal place of business at 22691 Lambert Street, Suite 516 Lake Forest, CA 92630 and:

Dinny Frasier, (hereinafter "FRP"), whose principal residence is:  
(Printed Name of the Financially Responsible Party)

31521 Paseo Campeon

Address

Street

San Juan Capistrano, CA. 92675

City

Zip

Person(s) Receiving Care Services (hereinafter "Client"):

Dinny Frasier

(Printed Name of the Person(s) Receiving In-Home Care Services)

Address: same as above

Address

Street

City

Zip

### Type of Service:

### Rates of Service:

Regular Hourly Services

Rate: \$ 23.<sup>00</sup> per hour, with minimum of 4 hour(s)

Rate: \$ 45.<sup>00</sup> per hour, with minimum of 1 hour(s)

Regular Hourly Services are billed per hour, or fraction thereof, after the first hour for hourly cases for hours worked less than 9 hours per work day and less than 40 hours per work week for each visit by FHC to render services for this type of shift.

Over Time (OT) Services

Rate for OT services is one and one-half (1.5) of the Regular Hourly Services Rate indicated above for hours, or fractions thereof, worked in excess of 9 hours per work day and in excess of 40 hours per work week.

12-Hour Shift Services

Rate: \$ N/A per hour for each 12 consecutive hour shift.

24-Hour Care Services

Rate: \$ 408.<sup>00</sup> per 24-hour care period. 24-hour care periods may be comprised of one consecutive shift, two consecutive 12-hour shifts, or three consecutive 8-hour shifts.

Travel Mileage

Rate: \$ 0.65 per mile for services rendered on behalf of the Client in an FHC employee's vehicle.

SEE FOLLOWING PAGES (3) FOR ADDITIONAL TERMS AND CONDITIONS WHICH ARE PART OF THIS AGREEMENT





**1. PURPOSE OF AGREEMENT:** The purpose of this Agreement is to set forth the terms and conditions under which FHC will furnish in-home care services to the Client and FRP's obligations to pay for said services. FHC, Client and FRP collectively are referred to as "Parties" herein.

**2. SCHEDULE CHANGES:** Only FHC management personnel are authorized to make changes for times of scheduled services. Notification of at least eight (8) hours in advance of changes or cancellation of scheduled services by the Client or his/her representative is required. In the event a FHC Employee arrives for regularly scheduled duty and the Client does not answer the door, or services are not needed by the Client, or the FHC Employee is sent home by the Client without providing services, the Client will be charged a call out charge equal to the cost of the cancelled shift, unless FHC has received at least 8 hours advance notice from the Client or FRP of cancelling or changing services.

**3. AUTHORIZATION FOR RELEASE OF INFORMATION:** For those issues concerning FHC's delivery of its services to the Client and the Client's care and condition, the Client authorizes appropriate members of FHC's staff to discuss with medical professionals, or other health care providers, information related to the Client's care and condition.

X Client's Signature: *Danny Frasier*

**4. BONDING POLICY:** All FHC Employees are covered by a bond against theft. The Client has the responsibility to ensure that all valuables are kept in a secure location to prevent theft. FHC is not liable for theft by Employees. The Client and/or FRP agree that in the event the Client feels an article of value is missing from the residence of duty, the Client warrants reporting the same to a FHC Manager and the local law enforcement agency for investigation.

**5. HOLIDAYS:** Recognized holidays are New Year's Day, Easter Sunday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The charge for services rendered on these recognized holidays is one and one-half times the applicable rate of service.

**6. FEES AND CHARGES:** The charges for FHC services are as indicated above. Each portion of an hour of services rendered after the minimum hour(s) will be billed at the fraction of the hour increments that services were rendered. Each hour or portion thereof, of services rendered in excess of an ending 24-hour shift will be billed at the hourly rate or fraction of the hour increment that services were rendered.

On or before the first day of service, but before the start of services, the FRP agrees to guarantee payment of all services rendered by FHC with a valid Visa, MasterCard, American Express or Discover credit card. In addition, the FRP authorizes FHC to charge the guaranteeing credit card for any invoices that are fourteen (14) days past due from the date on the invoice.





**6. FEES AND CHARGES (CONT.):** In the event the FRP does not have a credit card to guarantee services, on or before the first day of service, but before the start of services, he or she must pay to FHC the sum equal to the first week of services, to be held as “funds in advance”. In addition, FRP authorizes FHC to apply this advanced amount to any invoices that are fourteen (14) days past due from the date on the invoice. Any advanced funds applied to outstanding invoices will be billed to the FRP to bring the “funds in advance” back to its original amount.

**7. CONFIDENTIALITY:** The information provided herein is deemed confidential and neither party will disclose such information to any third party without the other party's prior written approval.

**8. TERM OF AGREEMENT:** The term of this Agreement shall commence on the date indicated above, and, unless terminated earlier as provided herein, shall terminate upon notice, either verbal or written, by the FRP to FHC management personnel. Such notice is required to be given at least 24 hours in advance, except in case of the Client's death.

**9. NON-WAIVER:** No waiver of any condition or covenant contained in this Agreement, or failure to exercise a right or remedy by either of the parties hereto, shall not be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right, or remedy.

**10. CONSTRUCTION:** Throughout this Agreement, the use of the singular shall be construed to include the plural and vice versa. The use of any gender shall include all genders, whenever required by the context.

**11. HEADINGS:** The headings, titles, and subtitles are inserted solely for convenient reference and shall be ignored in any construction of this Agreement.

**12. SEVERABILITY OF PROVISIONS:** If any provision of this Agreement is held to be illegal or invalid by any court of law, or arbitrator, in a final decision from which no appeal can be taken, such provisions shall be deemed modified to eliminate the invalid element, and, as so modified, such provision shall be deemed a part of this Agreement as though originally included herein. The remaining provisions of this Agreement shall not be affected by such modification.

**13. GOOD FAITH:** The parties agree to perform all of the duties and obligations set forth in this Agreement utilizing good faith business practices and decisions as it may affect the other party.





*Family Home Care, Inc.*

**14. FINANCIAL RESPONSIBILITY:** The FRP understands FHC invoices weekly for services rendered. Payment for each invoice is due and payable within 14 days of the invoice date. If payment is not received within said 14 day period for any one invoice, that invoice will be considered past due and FRP will be assessed a late charge equal to one and one-half (1.5) percent of the invoice amount per month or fraction thereof. In the event it becomes necessary to collect this account due to non-payment, FRP agrees to pay all costs incident thereto, including reasonable attorney's fees. In the event FRP issues FHC a check which is returned as a Non-Sufficient Funds (NSF) check, FRP agrees to pay FHC \$25.00 as NSF fee. Parties agree that these charges represent a fair and reasonable estimate of the cost FHC may incur due to NSF payment.

**15. ADDENDUMS TO AGREEMENT:** FRP has read, understood and signed all Addendums to this Agreement and agrees to adhere to the terms thereof. In addition, and as applicable, FRP has read the 24-Hour Shift Service Agreement Addendum, understands it, and agrees to adhere to the terms thereof. Failure to follow the terms of these Addendums to this Agreement shall constitute a breach of this Agreement and shall not release the Client or his/her FRP from financial responsibility of fees, services and/or, damages to Family Home Care, Inc.

**16. ENTIRE AGREEMENT:** All prior written or oral agreements between the parties are incorporated in this Agreement which constitutes the entire Agreement. Its terms are intended by the parties as a final expression of their Agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior agreement or contemporaneous oral agreement. Any amendments to this Agreement shall be null and void unless in writing, attached hereto, identified as an amendment or addendum to this Agreement, signed, and dated by all parties or their respective agents.

The parties understand and agree to be bound by the terms and conditions as set forth herein and all addendums attached hereto.

For Family Home Care, Inc.:

  
\_\_\_\_\_  
Signature

Raquel Castillo 9/2/16  
Printed Name Date

X Financially Responsible Party:

  
\_\_\_\_\_  
Signature

DINNY FRASIER 9/2/16  
X Printed Name Date





**IN-HOME SERVICE AGREEMENT  
TERMS AND CONDITIONS ADDENDUM**

FHC takes seriously its role as a provider of in-home care services. To minimize potential problems, FHC has set forth policies and procedures that detail activities that are strictly prohibited by its Employees to perform. However, it takes the cooperation of the Client, the Financial Responsible Party (FRP), and their families to ensure FHC's policies and procedures work. It is FHC's intention to inform the Client, the FRP, and their families, of some of its policies and procedures in an effort to enforce FHC's policies and procedures.

**I. Prohibited Activities of Family Home Care's (FHC) Employees**

- A. FHC has identified certain activities that it expressly prohibits its Employees from participating in. FHC's Employees are prohibited from performing activities or helping the Client, the FRP, or their families perform activities related to any of their financial matters, performed in person, by hand, over the telephone, or computer generated or activated, including, but not limited to:
1. Writing out bank deposits or other monetary deposits to any financial institution or organization,
  2. Going to the bank and making deposits or withdrawals,
  3. Opening bank statements or statements from any financial institution,
  4. Reconciling checkbooks or ledgers,
  5. Looking inside or making entries into checking books or ledgers,
  6. Writing out any portion of a check,
  7. Paying bills in cash, or using another monetary instrument,
  8. Assistance with the organization of bills in preparation of bill paying,
  9. Using the Client, the FRP, or their families credit cards, debit cards, or ATM cards for any purpose, or knowing the passwords of such,
  10. Handling cash or coins for any reason for the Client, the FRP, or their families, except in the case where the Client has a petty cash fund at the home of duty and that fund is solely for the purchase of groceries and prescriptions for the Client. All activity of the petty cash fund is required to be logged into the Activity Log.
  11. Discussing, counseling, giving advice, or otherwise knowing about or being involved with the Client's, the FRP's, or their families' financial affairs, stock holdings or stock portfolios, investments, holdings, bank balances, mortgages and/or their balances, certificates of deposits, financial statements of any sort, or any other financial matter.
- B. FHC's Employees are prohibited from cutting or trimming the Client's hair, fingernails, and/or toenails.
- C. FHC's Employees are prohibited from administering any medications. Employees can remind or assist the Client in taking his or her own medications.
- D. FHC's Employees, their families, friends or acquaintances, are expressly prohibited from asking for or receiving gifts or loans, in any manner or form, from the Client, the FRP, or their families.
- E. FHC's Employees are prohibited from having his or her friends, members of his or her family or acquaintances in or about the Client's home. The only exception would be for an attendant to be picked up or dropped off for a job assignment.
- F. FHC's Employees are prohibited from discussing with the Client, the FRP, or their families, the FHC's Employee's wages, his or her personal financial circumstances, his or her life history, or the present circumstances of his or her life. Additionally, Employees are not to discuss with the Client, the FRP, or their families or relatives the financial arrangements made between the Client and FHC or between FHC and the Employee.
- G. FHC's Employees are prohibited from giving to the Client, the FRP, or their families, the Employee's home telephone number or home address, or any other physical location or telephone number where the Employee could be contacted during off-duty hours. Employees are prohibited from any contact, in person or by telephone, or by computer with the Client or the Client's family, or FRP during the Employee's off duty hours.

- H. FHC's Employees are prohibited from using the Client's telephone for personal telephone calls. FHC Employees are prohibited from receiving personal telephone calls at the Client's home or residence of duty, unless otherwise directed by his or her supervisor. Employees are prohibited from making personal long distance telephone calls from and/or charging the same to the Client's telephone. Client understands, and agrees, that FHC's Employees will be using the Client's telephone to call in their start and end times for each shift they work for the Client. If an Employee needs to use the Client's telephone to call the FHC office, he or she is to receive the Client's permission first.

Any FHC Employee who participates in prohibited activities is deemed to be doing so outside the scope of their employment as an Employee of FHC.

**II. Employee(s) Working Privately for Client:**

FHC's Employees are prohibited from soliciting the Client, FRP, or their representatives to hire privately FHC's Employee(s) or any of FHC's Employee's relatives, friends, or acquaintances to perform chores, tasks, jobs, or projects, including home care services in or around the Client's, the FRP's, or their families homes or properties.

FHC values its Employees and prefers its Employees do not work privately providing care services for FHC's current or former Clients, or their families; or the Financial Responsible Party, or their families. FHC is not in the practice of providing its Clients with employment placement services or finding care providers for the Client to privately employ or to be employed by a third party to care for FHC's Clients. FHC recognizes, from time to time, that a FHC Client will decide to employ FHC's Employee(s) privately or will want FHC's Employee(s) to be hired by a third party to provide services for the Client.

It is understood and agreed by the FRP and FHC that in the event the Client, the FRP, or their families privately employs FHC's Employees, or causes FHC's Employees to be employed by a third party, for the purpose of providing care services for the Client or the FRP, or their families, while using FHC's services, and/or within a period of one (1) year after the Client's end of services date with FHC, the FRP shall pay upon demand to FHC a Finder's Fee of \$5,000.00 for the said private employment or third party employment of each FHC current or former Employee who meet the above criteria. The FRP further agrees to pay all customary fees, including legal fees, required to collect the Finder's Fee from the Financial Responsible Party. In the event FHC ceases to be in the business of home care services, on the date of FHC's cessation of home care services, this paragraph shall be considered as null and void by both parties.

**III. Client Agreed Cooperation:**

The Client, the FRP, and their families, agree they will never knowingly cause or allow any FHC Employee, nor any of the Employee's family, friends or acquaintances, at any time, to perform any prohibited activities, as detailed in this Addendum.


The Client and FRP acknowledge and agree they have been counseled by FHC representative at the time of the Assessment/Evaluation to, and will, take the necessary measures to ensure that any and all valuable articles at the residence of duty, including but not limited to; jewelry, coins, collections, currency, etc., will be properly put away under lock and key or stored in a safe place other than the residence of duty, before the start of services by FHC. Further, the Client and FRP agree to keep all financial information and materials in a safe place not readily accessible to others.

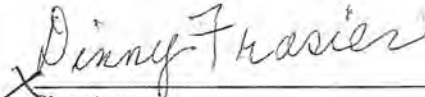
If a FHC Employee asks the Client, the FRP, or their families' for, directly or indirectly, any manner of gifts, loans, or monies, or otherwise engages in any prohibited activity as detailed above, the Client and/or the FRP agrees to immediately report the activity to the offending FHC Employee's supervisor.

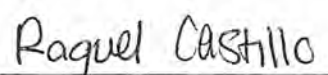
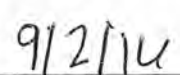
The parties understand and agree to be bound by the terms and conditions as set forth herein.

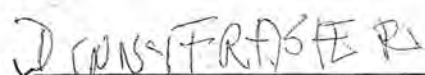

For Family Home Care, Inc.:

☒ Financially Responsible Party:

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Signature

   
\_\_\_\_\_  
Printed Name Date

   
\_\_\_\_\_  
Printed Name Date





Family Home Care, Inc.

## PRIVACY ISSUES FORM

Client's Name: DINNY FRASIER

I authorize Family Home Care and its employees to discuss my health condition, diagnosis, health status, care, care needs, and any other health or health care issue that might pertain to me without restrictions to the following family members and or friends:

Person's Name: Bill Wilson Phone No.: (949) 385-0125

Address: \_\_\_\_\_ Relationship: \_\_\_\_\_  
Street City State Zip

Person's Name: \_\_\_\_\_ Phone No.: \_\_\_\_\_

Address: Amy Frasier Relationship: \_\_\_\_\_  
Street City State Zip

Person's Name: Brook Travis Phone No.: (949) 365 5812

Address: \_\_\_\_\_ Relationship: \_\_\_\_\_  
Street City State Zip

Person's Name: Nicole Phone No.: \_\_\_\_\_

Address: \_\_\_\_\_ Relationship: \_\_\_\_\_  
Street City State Zip

The following list of persons are those individuals Family Home Care and its employees are expressly prohibited from discussing any part of the Client's health or health care issues that might pertain to the Client:

Person's Name: \_\_\_\_\_

Person's Name: \_\_\_\_\_

Person's Name: \_\_\_\_\_

For Family Home Care, Inc.:

[Signature]  
Signature

Raquel Castillo 8/30/16  
Printed Name Date

Financially Responsible Party:

Dinny Frasier  
Signature

DINNY FRASIER 8/30/16  
Printed Name Date

EXHIBIT “3”

EXHIBIT “3”

EXHIBIT “3”

**From:** William Wilson <william.h.wilson@me.com>  
**Sent:** Wednesday, November 2, 2016 1:00 PM  
**To:** Jonathan Irish  
**Cc:** Amy Frasier  
**Subject:** Health Care Power of Attorney Dinny Frasier 05 29 15  
**Attachments:** Health Care Power of Attorney Dinny Frasier 05 29 15.pdf

Hi Jonathan,

As we discussed, I have attached Dinny Frasier Health Care Power of Attorney 05 29 15 for your review & records.

I would appreciate your support in this matter.

Thanks

Bill

FILED  
Electronically  
PR16-00128  
2018-10-08 02:57:15 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6916625 : csulezic

**EXHIBIT “4”**

**EXHIBIT “4”**

**EXHIBIT “4”**

**This**  
**HEALTH CARE POWER OF ATTORNEY**  
**prepared for**  
**DINNY G. FRASIER**

**The Law Offices of H. Brooks Travis, PC.**

[HBTravis.Law@cox.net](mailto:HBTTravis.Law@cox.net)

[www.HBTTravis-Law.com](http://www.HBTTravis-Law.com)

**Laguna Niguel Office**  
**28202 Cabot Road, 3<sup>rd</sup> Floor**  
**Laguna Niguel, CA 92677**  
**Phone: (949) 454-8706**  
**Fax (949) 598-9613**

**Long Beach Office**  
**3780 Kilroy Way, Suite 200**  
**Long Beach, CA 90806**  
**Phone: (800) 353-1458**  
**Fax: (949) 598-9613**

**2015 AMERICAN ACADEMY OF ESTATE PLANNING ATTORNEYS**  
**All Rights Reserved**

# **Advance Health Care Directive**

## **California Probate Code § 4701**

You have the right to give instructions about your own health care. You also have the right to name someone else to make health care decisions for you. This form lets you do either or both of these things. It also lets you express your wishes regarding donation of organs and the designation of your primary physician. If you use this form, you may complete or modify all or any part of it. You are free to use a different form.

Part 1 of this form is a power of attorney for health care. Part 1 lets you name another individual as agent to make health care decisions for you if you become incapable of making your own decisions or if you want someone else to make those decisions for you now even though you are still capable. You may also name an alternate agent to act for you if your first choice is not willing, able, or reasonably available to make decisions for you. (Your agent may not be an operator or employee of a community care facility or a residential care facility where you are receiving care, or your supervising health care provider or employee of the health care institution where you are receiving care, unless your agent is related to you or is a coworker).

Unless the form you sign limits the authority of your agent, your agent may make all health care decisions for you. This form has a place for you to limit the authority of your agent. You need not limit the authority of your agent if you wish to rely on your agent for all health care decisions that may have to be made. If you choose not to limit the authority of your agent, your agent will have the right to:

- (A) CONSENT OR REFUSE CONSENT TO ANY CARE, TREATMENT, SERVICE, OR PROCEDURE TO MAINTAIN, DIAGNOSE, OR OTHERWISE AFFECT A PHYSICAL OR MENTAL CONDITION.
- (B) SELECT OR DISCHARGE HEALTH CARE PROVIDERS AND INSTITUTIONS.
- (C) APPROVE OR DISAPPROVE DIAGNOSTIC TESTS, SURGICAL PROCEDURES, AND PROGRAMS OF MEDICATION.
- (D) DIRECT THE PROVISION, WITHHOLDING, OR WITHDRAWAL OF ARTIFICIAL NUTRITION AND HYDRATION AND ALL OTHER FORMS OF HEALTH CARE, INCLUDING CARDIOPULMONARY RESUSCITATION.
- (E) MAKE ANATOMICAL GIFTS, AUTHORIZE AN AUTOPSY, AND DIRECT DISPOSITION OF REMAINS.

Part 2 of this form lets you give specific instructions about any aspect of your health care, whether or not you appoint an agent. Choices are provided for you to express your wishes regarding the provision, withholding, or withdrawal of treatment to keep you alive, as well as the provision of pain relief. Space is also provided for you to add to the choices you have made or for you to write out any additional wishes. If you are satisfied to allow your agent to determine what is best for you in making end-of-life decisions, you need not fill out Part 2 of this form.

Part 3 of this form lets you express an intention to donate your bodily organs and tissues following your death.

Part 4 of this form lets you designate a physician to have primary responsibility for your health care.

After completing this form, sign and date the form at the end. The form must be signed by two qualified witnesses or acknowledged before a notary public. Give a copy of the signed and completed form to your physician, to any other health care providers you may have, to any health care institution at which you are receiving care, and to any health care agents you have named. You should talk to the person you have named as agent to make sure that he or she understands your wishes and is willing to take the responsibility.

You have the right to revoke this advance health care directive or replace this form at any time.



## **PART 1: POWER OF ATTORNEY FOR HEALTH CARE**

### **1. DESIGNATION OF AGENT**

I, DINNY G. FRASIER, designate the following person(s) as my agent to make health care decisions for me. If I revoke my agent's authority or if my agent is not willing, able, or reasonably available to make a health care decision for me, I designate as my alternate agent(s), in the following order:

WILLIAM WILSON  
10 Sonrisa  
Mission Viejo, CA 92692

AND

AMY W. FRASIER WILSON  
10 Via Sonrisa  
Mission Viejo, CA 92692

### **2. AGENT'S AUTHORITY**

My agent is authorized to make all health care decisions for me, including decisions to provide, withhold, or withdraw artificial nutrition and hydration and all other forms of health care to keep me alive, except as I state here:

---

---

---

(Add additional sheets if needed)

### **3. WHEN AGENT'S AUTHORITY BECOMES EFFECTIVE**

My agent's authority becomes effective when my primary physician determines that I am unable to make my own health care decisions unless I mark the following box.

If I mark this box ☐, my agent's authority to make health care decisions for me takes effect immediately.



#### **4. AGENT'S OBLIGATION**

My agent shall make health care decisions for me in accordance with this power of attorney for health care, any instructions I give in Part 2 of this form, and my other wishes to the extent known to my agent. To the extent my wishes are unknown, my agent shall make health care decisions for me in accordance with what my agent determines to be in my best interest. In determining my best interest, my agent shall consider my personal values to the extent known to my agent.

#### **5. AGENT'S POST DEATH AUTHORITY**

My agent is authorized to make anatomical gifts, authorize an autopsy, and direct disposition of my remains, except as I state here or in Part 3 of this form:

---

---

(Add additional sheets if needed)

#### **6. NOMINATION OF CONSERVATOR**

If a conservator of my person needs to be appointed for me by a court, I nominate the agent designated in this form. If that agent is not willing, able, or reasonably available to act as conservator, I nominate the alternate agents whom I have named, in the order designated.

## **PART 2: INSTRUCTIONS FOR HEALTH CARE**

### **(LIVING WILL)**

If you fill out this part of the form, you may strike any wording you do not want.

#### **1. END-OF-LIFE DECISIONS:**

I direct that my health care providers and others involved in my care provide, withhold, or withdraw treatment in accordance with the choice I have marked below:

☒ **(a) Choice Not To Prolong Life**

I do not want my life to be prolonged if (1) I have an incurable and irreversible condition that will result in my death within a relatively short time, (2) I become unconscious and, to a reasonable degree of medical certainty, I will not regain consciousness, or (3) the likely risks and burdens of treatment would outweigh the expected benefits, OR

☐ **(b) Choice To Prolong Life**

I want my life to be prolonged as long as possible within the limits of generally accepted health care standards.

#### **2. RELIEF FROM PAIN**

Except as I state in the following space, I direct that treatment for alleviation of pain or discomfort be provided at all times, even if it hastens my death:

---

---

(Add additional sheets if needed)

#### **3. OTHER WISHES:**

(If you do not agree with any of the optional choices above and wish to write your own, or if you wish to add to the instructions you have given above, you may do so here.) I direct that:

---

---

(Add additional sheets if needed)

Health Care Power of Attorney of DINNY G. FRASIER

### **PART 3: DONATION OF ORGANS AT DEATH**

**1. UPON MY DEATH (MARK APPLICABLE BOX):**

☒ (a) I give any needed organs, tissues, or parts, OR

☐ (b) I give the following organs, tissues, or parts only.

---

☒ (c) My gift is for the following purposes (strike any of the following you do not want):

(1) Transplant

~~(2) Therapy~~

~~(3) Research~~

~~(4) Education~~

☐ (d) I do NOT want any organs, tissues or parts donated.

## PART 4: PRIMARY PHYSICIAN

(OPTIONAL)

1. **I DESIGNATE THE FOLLOWING PHYSICIAN AS MY PRIMARY PHYSICIAN:**

LYNN GRANLUND M.D.

Physician's Name

24411 HEALTH CENTER DR., SUITE 460  
LAGUNA HILLS, CALIFORNIA 92653

Physician's Address

(949) 373-7799

Physician's Phone

**OPTIONAL:** If the physician I have designated above is not willing, able, or reasonably available to act as my primary physician, I designate the following physician as my primary physician:

\_\_\_\_\_  
Physician's Name

\_\_\_\_\_  
Physician's Address

\_\_\_\_\_  
Physician's Phone



## PART 5:

### 1. EFFECT OF COPY

A copy of this form has the same effect as the original.

### 2. SIGNATURE

Sign and date the form here:

Date: May 29, 2015

DINNY FRASIER  
PRINT NAME

Dinny Frasier  
DINNY G. FRASIER  
3 Pinewood  
Irvine, California 92604

### 3. STATEMENT OF WITNESSES

I declare under penalty of perjury under the laws of California (1) that the individual who signed or acknowledged this advance health care directive is personally known to me, or that the individual's identity was proven to me by convincing evidence (2) that the individual signed or acknowledged this advance directive in my presence, (3) that the individual appears to be of sound mind and under no duress, fraud, or undue influence, (4) that I am not a person appointed as agent by this advance directive, and (5) that I am not the individual's health care provider, an employee of the individual's health care provider, the operator of a community care facility, an employee of an operator of a community care facility, the operator of a residential care facility for the elderly, nor an employee of an operator of a residential care facility for the elderly.

H. Brooks Travis  
SIGNATURE OF FIRST WITNESS

H. BROOKS TRAVIS\*  
NAME OF FIRST WITNESS

28202 CABOT RD, 3RD FL  
STREET ADDRESS

Joan M Travis  
SIGNATURE OF SECOND WITNESS

Joan M TRAVIS  
NAME OF SECOND WITNESS

28202 Cabot Rd 3rd Floor  
STREET ADDRESS

Health Care Power of Attorney of DINNY G. FRASIER

Laguna Niguel, CA 92677  
CITY, STATE, ZIP

5/29/2015  
DATE

Laguna Niguel CA 92677  
CITY, STATE, ZIP

5/29/2015  
DATE

**4. ADDITIONAL STATEMENT OF WITNESSES**

At least one of the above witnesses must also sign the following declaration:

I further declare under penalty of perjury under the laws of California that I am not related to the individual executing this advance health care directive by blood, marriage, or adoption, and to the best of my knowledge, I am not entitled to any part of the individual's estate upon his or her death under a will now existing or by operation of law.

N. Brooks Jr.  
SIGNATURE OF FIRST WITNESS

[Signature]  
SIGNATURE OF SECOND WITNESS

## **PART 6: SPECIAL WITNESS REQUIREMENT**

The following statement is required only if you are a patient in a skilled nursing facility--a health care facility that provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis. The patient advocate or ombudsman must sign the following statement:

### **STATEMENT OF PATIENT ADVOCATE OR OMBUDSMAN**

I declare under penalty of perjury under the laws of California that I am a patient advocate or ombudsman as designated by the State Department of Aging and that I am serving as a witness as required by Section 4675 of the Probate Code.

Date: May 29, 2015

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
SIGN YOUR NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
CITY, STATE

FILED  
Electronically  
PR16-00128  
2018-10-08 02:57:15 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6916625 : csulezic

**EXHIBIT “5”**

**EXHIBIT “5”**

**EXHIBIT “5”**



JORDAN DANA FRASIER TAX EXEMPT TRUST

SCHEDULE F - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
09/22/2016	Family Home Care	Discretionary Distribution-Invoice 48293 dated 9/6/2016	2,380.50
10/03/2016	Family Home Care	Discretionary Distribution-Invoice 48322 dated 9/12/2016	4,554.00
10/31/2016	Family Home Care	Discretionary Distribution-Invoice 10172016A dated 10/17/2016	205.95
10/31/2016	Family Home Care	Discretionary Distribution-Invoice 10172016 dated 10/17/2016	20.00
10/31/2016	Family Home Care	Discretionary Distribution-Invoice 48469 dated 10/17/2016	4,404.80
10/31/2016	Family Home Care	Discretionary Distribution-Invoice 48389 dated 9/27/2016	4,347.00
10/31/2016	Family Home Care	Discretionary Distribution-Invoice 48442 dated 10/10/2016	4,373.45
10/31/2016	Family Home Care	Discretionary Distribution-Invoice 48413 dated 10/4/2016	4,349.88
11/01/2016	Family Home Care	Discretionary Distribution-Invoice 48510 dated 10/24/2016	4,453.95
11/02/2016	Family Home Care	Discretionary Distribution-Invoice 48357 dated 9/19/2016	4,332.63
11/04/2016	Family Home Care	Discretionary Distribution-Invoice 48357 dated 9/17/2016	4,332.63
11/08/2016	Family Home Care	Discretionary Distribution-Invoice 10292016 dated 10/29/2016	169.27
11/08/2016	Family Home Care	Discretionary Distribution-Invoice 48540 dated 10/31/2016	4,444.50
11/22/2016	Family Home Care	Discretionary Distribution-Invoice 48568 dated 11/17/2016	251.97
11/22/2016	Family Home Care	Discretionary Distribution-Invoice 48584 dated 11/14/2016	4,586.30
11/29/2016	Family Home Care	Discretionary Distribution-Invoice 48625 dated 11/21/2016	4,355.63
12/14/2016	Family Home Care	Discretionary Distribution-Invoice 48644 dated 11/29/2016	4,531.77

See accompanying accountants' report

JORDAN DANA FRASIER TAX EXEMPT TRUST

SCHEDULE F - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
12/14/2016	Family Home Care	Discretionary Distribution-Invoice 48674 dated 12/5/2016	4,471.53
12/19/2016	Family Home Care	Discretionary Distribution-Invoice 48698 dated 12/13/2016	3,897.93
12/29/2016	Family Home Care	Discretionary Distribution-Invoice 12202016 dated 12/20/2016	15.10
12/29/2016	Family Home Care	Discretionary Distribution-Invoice 48718 dated 12/20/2016	4,303.88
01/05/2017	Family Home Care	Discretionary Distribution-Invoice 48748 dated 12/27/2016	4,374.03
01/11/2017	Family Home Care	Discretionary Distribution-Invoice 48777 dated 1/3/2017	4,539.63
01/11/2017	Family Home Care	Discretionary Distribution-Invoice 01042017 dated 1/4/2017	153.91
01/11/2017	Family Home Care	Discretionary Distribution-Invoice 01012017 dated 1/1/2017	156.11
01/12/2017	Synchrony Bank	Discretionary Distribution-Statement closing date 12/25/2016	58.32
	Total Disbursements		

See accompanying accountants' report.

JORDAN DANA FRASER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
<u>Distributions</u>			
01/26/2017	Family Home Care	Discretionary Distribution-Invoice 48793 dated 1/9/2017	4,706.38
01/26/2017	Family Home Care	Discretionary Distribution-Invoice 48820 dated 1/17/2017	4,334.35
01/26/2017	Family Home Care	Discretionary Distribution-Invoice 01142017 dated 1/14/2017	148.02
01/30/2017	Family Home Care	Discretionary Distribution-Invoice 48837 dated 1/23/2017	4,378.63
02/14/2017	Family Home Care	Discretionary Distribution-Invoice 48888 dated 2/6/2017	4,347.00
02/14/2017	Family Home Care	Discretionary Distribution-Invoice 48864 dated 1/30/2017	4,360.80
02/14/2017	Family Home Care	Discretionary Distribution-Invoice 02092017 dated 2/9/2017	220.41
02/23/2017	Family Home Care	Discretionary Distribution-Invoice 48915 dated 2/13/2017	4,370.00
02/28/2017	Family Home Care	Discretionary Distribution-Invoice 48939 dated 2/20/2017	4,378.63

See accompanying accountants' report

JORDAN DANA FRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
03/06/2017	Family Home Care	Discretionary Distribution-Invoice 48967 dated 2/28/2017	4,321.13
03/13/2017	Family Home Care	Discretionary Distribution-Invoice 48991 dated 3/6/2017	4,353.90
03/14/2017	Family Home Care	Discretionary Distribution-Invoice 03072017 dated 3/7/2017	155.78
03/20/2017	Family Home Care	Discretionary Distribution-Invoice 49019 dated 3/13/2017	4,390.70
03/28/2017	Family Home Care	Discretionary Distribution-Invoice 49058 dated 3/20/2017	4,347.00
04/04/2017	Family Home Care	Discretionary Distribution-Invoice 49074 dated 3/27/2017	4,355.53
		Discretionary Distribution-Invoice 590-50053 dated 4/4/2017	
04/10/2017	Family Home Care	Discretionary Distribution-Invoice 49111 dated 4/3/2017	4,394.53
04/13/2017	Family Home Care	Discretionary Distribution-Invoice 04052017 dated 4/5/2017	180.70
04/13/2017	Family Home Care	Discretionary Distribution-Invoice 04062017 dated 4/6/2017	116.91
04/17/2017	Family Home Care	Discretionary Distribution-Invoice 49148 dated 4/10/2017	665.96
04/17/2017	Family Home Care	Discretionary Distribution-Invoice 49134 dated 4/10/2017	3,151.00
04/18/2017	Family Home Care	Discretionary Distribution-Invoice 04112017 dated 4/11/2017	300.30
04/24/2017	Family Home Care	Discretionary Distribution-Invoice 49185 dated 4/17/2017	4,515.38
04/24/2017	Family Home Care	Discretionary Distribution-Invoice 04172017 dated 4/17/2017	60.42
04/24/2017	Family Home Care	Discretionary Distribution-Invoice 04102017 dated 4/10/2017	11.34
04/25/2017	Family Home Care	Discretionary Distribution-Invoice 04182017 dated 4/18/2017	297.90
05/08/2017	Family Home Care	Discretionary Distribution-Invoice 49259 dated 5/1/2017	4,349.88
05/08/2017	Family Home Care	Discretionary Distribution-Invoice 05012017 dated 5/1/2017	120.88

See accompanying accountants' report

JORDAN DANA FRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
05/08/2017	Family Home Care	Discretionary Distribution-Invoice 49239 dated 4/24/2017	4,542.50
05/08/2017	Family Home Care	Discretionary Distribution-Invoice 04242017 dated 4/24/2017	301.11
05/09/2017	Family Home Care	Discretionary Distribution-Invoice 05042017 dated 5/4/2017	148.81
05/15/2017	Family Home Care	Discretionary Distribution-Invoice 05082017 dated 5/8/2017	36.96
05/15/2017	Family Home Care	Discretionary Distribution-Invoice 05092017 dated 5/9/2017	12.70
05/15/2017	Family Home Care	Discretionary Distribution-Invoice 49294 dated 5/8/2017	4,375.75
05/15/2017	Family Home Care	Discretionary Distribution-Invoice 05052017 dated 5/5/2017	139.29
05/16/2017	Family Home Care	Discretionary Distribution-Invoice 05112017A dated 5/11/2017	168.40
05/17/2017	Family Home Care	Discretionary Distribution-Invoice 05112017 dated 5/11/2017	16.30
05/22/2017	Family Home Care	Discretionary Distribution-Invoice 49334 dated 5/12/2017	4,347.00
05/24/2017	Family Home Care	Discretionary Distribution-Invoice 05162017 dated 5/16/2017	39.11
05/24/2017	Family Home Care	Discretionary Distribution-Invoice 05182017 dated 5/18/2017	68.67
05/24/2017	Family Home Care	Discretionary Distribution-Invoice 05172017 dated 5/17/2017	85.18
05/31/2017	Family Home Care	Discretionary Distribution-Invoice 05222017 dated 5/22/2017	178.84
05/31/2017	Family Home Care	Discretionary Distribution-Invoice 49369 dated 5/22/2017	4,427.50
05/31/2017	Family Home Care	Discretionary Distribution-Invoice 05242017 dated 5/24/2017	9.04
06/06/2017	Family Home Care	Discretionary Distribution-Invoice 05292017 dated 5/29/2017	5.79
06/06/2017	Family Home Care	Discretionary Distribution-Invoice 06012017A dated 6/1/2017	70.23
06/06/2017	Family Home Care	Discretionary Distribution-Invoice 06012017 dated 6/1/2017	19.37
06/06/2017	Family Home Care	Discretionary Distribution-Invoice 49400 dated 5/31/2017	4,390.13
06/13/2017	Family Home Care	Discretionary Distribution-Invoice 49433 dated 6/5/2017	4,562.24
06/13/2017	Family Home Care	Discretionary Distribution-Invoice 06052017 dated 6/6/2017	241.43
06/13/2017	Family Home Care	Discretionary Distribution-Invoice 06062017 dated 6/6/2017	67.40

See accompanying accountants' report

JORDAN DANA FRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
06/20/2017	Family Home Care	Discretionary Distribution-Invoice 06102017 dated 6/10/2017	51.81
06/20/2017	Family Home Care	Discretionary Distribution-Invoice 06122017 dated 6/12/2017	178.10
06/26/2017	Family Home Care	Discretionary Distribution-Invoice 06192017 dated 6/19/2017	86.64
06/26/2017	Family Home Care	Discretionary Distribution-Invoice 49518 dated 6/19/2017	4,370.00
06/26/2017	Family Home Care	Discretionary Distribution-Invoice 49465 dated 6/12/2017	4,378.05
06/27/2017	Family Home Care	Discretionary Distribution-Invoice 06202017 dated 6/20/2017	152.67
06/27/2017	Family Home Care	Discretionary Distribution-Invoice 06222017 dated 6/22/2017	8.49
07/05/2017	Family Home Care	Discretionary Distribution-Invoice 06282017 dated 6/28/2017	131.19
07/06/2017	Family Home Care	Discretionary Distribution-Invoice 49528 dated 6/26/2017	4,399.90
07/07/2017	Family Home Care	Discretionary Distribution-Invoice 49580 dated 7/3/2017	4,367.13
07/12/2017	Family Home Care	Discretionary Distribution-Invoice 07052017 dated 7/5/2017	111.26
07/12/2017	Family Home Care	Discretionary Distribution-Invoice 07052015A dated 7/5/2017	82.18
07/20/2017	Family Home Care	Discretionary Distribution-Invoice 49608 dated 7/11/2017	4,586.20
07/20/2017	Family Home Care	Discretionary Distribution-Invoice 07102017 dated 7/10/2017	111.36
07/27/2017	Family Home Care	Discretionary Distribution-Invoice 07172017 dated 7/17/2017	110.72
07/27/2017	Family Home Care	Discretionary Distribution-Invoice 49646 dated 7/17/2017	4,316.83
07/27/2017	Family Home Care	Discretionary Distribution-Invoice 07082017 dated 7/8/2017	189.14
07/31/2017	Family Home Care	Discretionary Distribution-Invoice 49680 dated 7/24/2017	4,398.18
07/31/2017	Family Home Care	Discretionary Distribution-Invoice 07182017 dated 7/18/2017	51.81
07/31/2017	Family Home Care	Discretionary Distribution-Invoice 07192017 dated 7/19/2017	161.85
08/01/2017	Family Home Care	Discretionary Distribution-Invoice 072517 Dated 7/25/2017	21.50
08/04/2017	Family Home Care	Discretionary Distribution-Invoice 06202017A Dated 06/20/2017	164.54
08/04/2017	Family Home Care	Discretionary Distribution-Invoice 49715 Dated 07/31/2017	4,527.55

\*See accompanying accountants' report

JORDAN DANA FRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
08/11/2017	Family Home Care	Discretionary Distribution-Invoice 08022017 Dated 8/2/2017	41.87
08/23/2017	Family Home Care	Discretionary Distribution-Invoice 49742 Dated 8/7/2017	4,385.53
08/23/2017	Family Home Care	Discretionary Distribution-Invoice 49775 Dated 8/14/2017	4,360.80
			1,983.00
			998.00
			298.64
			1,452.97
			4,600.00
			1,079.00
			(14,374.71)
			4,123.96
08/28/2017	Family Home Care	Discretionary Distribution-Invoice 49806 Dated 8/21/2017	4,353.33
			438.40
08/30/2017	Family Home Care	Discretionary Distribution-Invoice 08232017 Dated 8/23/2017	85.23
09/06/2017	Family Home Care	Discretionary Distribution-Invoice 49838 Dated 8/28/2017	4,256.53
09/06/2017	Family Home Care	Discretionary Distribution-Invoice 08302017 Dated 8/30/2017	80.26
09/06/2017	Family Home Care	Discretionary Distribution-Invoice 08152017 Dated 8/15/2017	55.67
09/13/2017	Family Home Care	Discretionary Distribution-Invoice 49868 Dated 9/5/2017	4,264.20
09/13/2017	Family Home Care	Discretionary Distribution-Invoice 09062018 Dated 9/6/2017	119.02
09/19/2017	Family Home Care	Discretionary Distribution-Invoice 49913 Dated 9/11/2017	4,533.30
09/20/2017	Family Home Care	Discretionary Distribution-Invoice Dated 9/15/2017	17.05
09/22/2017	Family Home Care	Discretionary Distribution-Invoice 49932 Dated 9/18/2017	4,359.08

See accompanying accountants' report

JORDAN DANA FRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
09/22/2017	Family Home Care	Discretionary Distribution-Invoice 07262017 Dated 7/26/2017	23.32
09/22/2017	Family Home Care	Discretionary Distribution-Invoice 0812017 Dated 8/21/2017	7.99
09/26/2017	Family Home Care	Discretionary Distribution-Invoice 09222017 Dated 9/22/2017	114.99
10/02/2017	Family Home Care	Discretionary Distribution-Invoice 49960 dated 9/26/2017	4,364.25
10/06/2017	Family Home Care	Discretionary Distribution-Invoice 49991 dated 10/11/2017	4,451.65
10/18/2017	Family Home Care	Discretionary Distribution-Invoice 50014 dated 10/9/2017	4,397.03
10/23/2017	Family Home Care	Discretionary Distribution-Invoice 50038 dated 10/16/2017	4,451.08
10/25/2017	Family Home Care	Discretionary Distribution-Invoice 10152017 dated 10/15/2017	121.64
10/25/2017	Family Home Care	Discretionary Distribution-Invoice 10052018 dated 10/5/2017	116.39
10/25/2017	Family Home Care	Discretionary Distribution-Invoice 09102017 dated 9/10/2017	62.12
10/25/2017	Family Home Care	Discretionary Distribution-Invoice 09032017 dated 9/3/2017	119.58
10/27/2017	Family Home Care	Discretionary Distribution-Invoice 09172017 dated 9/17/2017	164.17
11/01/2017	Family Home Care	Discretionary Distribution-Invoice 50068 dated 10/23/2017	4,389.55
11/07/2017	Family Home Care	Discretionary Distribution-Invoice 10302017 dated 10/30/2017	91.83
11/07/2017	Family Home Care	Discretionary Distribution-Invoice 50097 dated 10/30/2017	4,432.68
11/07/2017	Family Home Care	Discretionary Distribution-Invoice	122.67
11/07/2017	Family Home Care	Discretionary Distribution-Invoice 10222017 dated 10/22/2017	83.64
11/17/2017	Family Home Care	Discretionary Distribution-Invoice 11102017 dated 11/10/2017	25.27
11/17/2017	Family Home Care	Discretionary Distribution-Invoice 10312017 dated 10/31/2017	122.02
11/17/2017	Family Home Care	Discretionary Distribution-Invoice 50137 dated 11/6/2017	4,536.18
11/20/2017	Family Home Care	Discretionary Distribution-Invoice 50171 dated 11/10/2017	4,410.25

See accompanying accountants' report



JORDAN DANA TRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
11/21/2017	Family Home Care	Discretionary Distribution-Invoice 111102017A dated 11/10/2017	104.78
11/21/2017	Family Home Care	Discretionary Distribution-Invoice 11172017 dated 11/17/2017	87.29
11/29/2017	Family Home Care	Discretionary Distribution-Invoice 50192 dated 11/20/2017	4,509.92
11/29/2017	Family Home Care	Discretionary Distribution-Invoice 11202017A dated 11/20/2017	43.05
11/29/2017	Family Home Care	Discretionary Distribution-Invoice 11202017 dated 11/20/2017	117.41
11/29/2017	Family Home Care	Discretionary Distribution-Invoice 11172017A dated 11/17/2017	149.52
11/29/2017	Family Home Care	Discretionary Distribution-Invoice 09242017 dated 9/24/2017	78.07
12/04/2017	Family Home Care	Discretionary Distribution-Invoice 50227 dated 11/27/2017	4,524.87
12/04/2017	Family Home Care	Discretionary Distribution-Invoice 11232017 dated 11/23/2017	75.89
12/04/2017	Family Home Care	Discretionary Distribution-Invoice 11272017 dated 11/27/2017	5.00
12/05/2017	Family Home Care	Discretionary Distribution-Invoice 11282017A dated 11/27/2017	100.15
12/05/2017	Family Home Care	Discretionary Distribution-Invoice 11282017 dated 11/28/2017	146.04
12/13/2017	Family Home Care	Discretionary Distribution-Invoice 50765 dated 12/4/2017	4,351.60
12/13/2017	Family Home Care	Discretionary Distribution-Invoice 11302017 dated 11/30/2017	151.00
12/13/2017	Family Home Care	Discretionary Distribution-Invoice 12042017 dated 12/4/2017	125.80
12/19/2017	Family Home Care	Discretionary Distribution-Invoice 12042017A dated 12/4/2017	11.30
12/19/2017	Family Home Care	Discretionary Distribution-Invoice 12072017 dated 12/7/2017	102.99
12/19/2017	Family Home Care	Discretionary Distribution-Invoice 50287 dated 12/8/2017	4,372.88
12/22/2017	Family Home Care	Discretionary Distribution-Invoice 50316 dated 12/18/2017	4,411.05
12/26/2017	Family Home Care	Discretionary Distribution-Invoice 12112017 dated 12/11/2017	135.03
12/27/2017	Family Home Care	Discretionary Distribution-Invoice 12112017A dated 12/11/2017	6.35
01/02/2018	Family Home Care	Discretionary Distribution-Invoice 50346 dated 12/26/2017	4,352.21
01/03/2018	Family Home Care	Discretionary Distribution-Invoice 12182017 dated 12/18/2017	118.36
01/03/2018	Family Home Care	Discretionary Distribution-Invoice 12172017 dated 12/22/2017	44.39

See accompanying accountants' report

JORDAN DANA FRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
01/08/2018	Family Home Care	Discretionary Distribution-Invoice 50378 dated 1/2/2018	4,560.52
01/16/2018	Family Home Care	Discretionary Distribution-Invoice 50417 dated 1/8/2018	4,522.95
01/16/2018	Family Home Care	Discretionary Distribution-Invoice 01052018 dated 1/5/2018	83.65
01/16/2018	Family Home Care	Discretionary Distribution-Invoice 01022018 dated 1/2/2018	62.11
01/17/2018	Family Home Care	Discretionary Distribution-Invoice 01102018 dated 1/10/2018	123.40
01/17/2018	Family Home Care	Discretionary Distribution-Invoice 12252017 dated 12/25/2017	75.38
01/17/2018	Family Home Care	Discretionary Distribution-Invoice 12152018 dated 12/15/2017	93.30
01/17/2018	Family Home Care	Discretionary Distribution-Invoice 12312018 dated 12/31/2017	159.77
01/22/2018	Family Home Care	Discretionary Distribution-Invoice 01092018 dated 1/9/2018	230.27
01/22/2018	Family Home Care	Discretionary Distribution-Invoice 150455 dated 1/15/2018	4,423.70
01/25/2018	Family Home Care	Discretionary Distribution-Invoice 01162018 dated 1/16/2018	20.05
01/30/2018	Family Home Care	Discretionary Distribution-Invoice 50472 dated 1/22/2018	4,447.66
02/01/2018	Family Home Care	Discretionary Distribution-Invoice 01182018 dated 1/18/2018	117.65
02/01/2018	Family Home Care	Discretionary Distribution-Invoice 01222018 dated 1/22/2018	205.78
02/09/2018	Family Home Care	Discretionary Distribution-Invoice 01312018 dated 1/31/2018	243.84
02/09/2018	Family Home Care	Discretionary Distribution-Invoice 50505 dated 1/29/2018	4,907.50
02/09/2018	Family Home Care	Discretionary Distribution-Invoice 02012018 dated 2/1/2018	18.62
02/09/2018	Family Home Care	Discretionary Distribution-Invoice 01262018 dated 1/26/2018	122.73
02/09/2018	Family Home Care	Discretionary Distribution-Invoice 50532 dated 2/5/2018	4,896.45
02/13/2018	Family Home Care	Discretionary Distribution-Invoice 02022018 dated 2/2/2018	113.39
02/23/2018	Family Home Care	Discretionary Distribution-Invoice 50556 dated 2/12/2018	5,100.33
02/23/2018	Family Home Care	Discretionary Distribution-Invoice 02082018 dated 2/8/2018	107.75
02/26/2018	Family Home Care	Discretionary Distribution-Invoice 50576 dated 2/19/2018	5,200.00
02/27/2018	Family Home Care	Discretionary Distribution-Invoice 02162018 dated 2/16/2018	156.56
03/02/2018	Family Home Care	Discretionary Distribution-Invoice 02222018 dated 2/22/2018	94.42
03/02/2018	Family Home Care	Discretionary Distribution-Invoice 50620 dated 2/26/2018	5,175.25

See accompanying accountants' report

JORDAN DANA FRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
03/06/2018	Family Home Care	Discretionary Distribution-Invoice 02262018 dated 2/26/2018	104.50
03/15/2018	Family Home Care	Discretionary Distribution-Invoice 03022018 dated 3/2/2018	151.53
03/15/2018	Family Home Care	Discretionary Distribution-Invoice 50648 dated 3/6/2018	5,108.13
03/15/2018	Family Home Care	Discretionary Distribution-Invoice 03072018 dated 3/7/2018	12.02
03/20/2018	Family Home Care	Discretionary Distribution-Invoice 03092018 dated 3/9/2018	113.97
03/20/2018	Family Home Care	Discretionary Distribution-Invoice 50862 dated 3/3/2018	4,935.45
03/20/2018	Family Home Care	Discretionary Distribution-Invoice 03132018 dated 3/13/2018	63.57
03/20/2018	Family Home Care	Discretionary Distribution-Invoice 03062018 dated 3/6/2018	75.16
03/22/2018	Family Home Care	Discretionary Distribution-Invoice 03132018A dated 3/13/2018	123.50
03/26/2018	Family Home Care	Discretionary Distribution-Invoice 50510-Adjusted Invoice dated 3/19/2018	11.05
03/26/2018	Family Home Care	Discretionary Distribution-Invoice 50691 dated 3/19/2018	4,945.85
04/02/2018	Family Home Care	Discretionary Distribution-Invoice 50719 dated 3/26/2018	5,065.45
04/04/2018	Family Home Care	Discretionary Distribution-Invoice 03232018 dated 3/23/2018	133.60
04/05/2018	Family Home Care	Discretionary Distribution-Invoice 03282018 dated 3/28/2018	158.49
04/05/2018	Family Home Care	Discretionary Distribution-Invoice 03252018 dated 3/25/2018	68.89
04/09/2018	Family Home Care	Discretionary Distribution-Invoice 50742 dated 4/2/2018	5,003.70
04/09/2018	Family Home Care	Discretionary Distribution-Invoice 03302018 dated 3/30/2018	73.77
04/09/2018	Family Home Care	Discretionary Distribution-Invoice 03312018 dated 3/31/2018	175.38
04/10/2018	Family Home Care	Discretionary Distribution-Invoice 04042018 dated 4/4/2018	158.64
04/16/2018	Family Home Care	Discretionary Distribution-Invoice 50765 dated 4/9/2018	5,189.60
04/17/2018	Family Home Care	Discretionary Distribution-Invoice 04112018A dated 4/11/2018	241.43

See accompanying accountants' report.

JORDAN DANA FRASIER SURVIVOR'S TRUST  
SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES  
FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
04/20/2018	Family Home Care	Discretionary Distribution-Invoice 50789 dated 4/16/2018	4,996.55
04/20/2018	Family Home Care	Discretionary Distribution-Invoice 04122018 dated 4/12/2018	16.13
04/23/2018	Family Home Care	Discretionary Distribution-Invoice 04172018 dated 4/17/2018	128.68
04/27/2018	Family Home Care	Discretionary Distribution-Invoice 50813 dated 4/23/2018	4,956.25
05/01/2018	Family Home Care	Discretionary Distribution-Invoice 04212018 dated 4/21/2018	118.68
05/01/2018	Family Home Care	Discretionary Distribution-Invoice 04242018 dated 4/24/2018	175.60
05/04/2018	Family Home Care	Discretionary Distribution-Invoice 50846 dated 4/30/2018	5,014.10
05/08/2018	Family Home Care	Discretionary Distribution-Invoice 05032018 dated 5/3/2018	177.96
05/11/2018	Family Home Care	Discretionary Distribution-Invoice 50865 dated 5/7/2018	4,356.25
05/15/2018	Family Home Care	Discretionary Distribution-Invoice 05062018 dated 5/6/2018	183.86
05/15/2018	Family Home Care	Discretionary Distribution-Invoice 05082018 dated 5/8/2018	194.97
05/15/2018	Family Home Care	Discretionary Distribution-Invoice 03202018 dated 3/20/2018	24.67
05/15/2018	Family Home Care	Discretionary Distribution-Invoice 05092018 dated 5/9/2018	76.78
05/18/2018	Family Home Care	Discretionary Distribution-Invoice 50896 dated 5/14/2018	4,883.67
05/22/2018	Family Home Care	Discretionary Distribution-Invoice 05172018 dated 5/17/2018	140.81
05/22/2018	Family Home Care	Discretionary Distribution-Invoice 05182018 dated 5/18/2018	145.81
06/05/2018	Family Home Care	Discretionary Distribution-Invoice 05172018A dated 5/17/2018	27.98
06/05/2018	Family Home Care	Discretionary Distribution-Invoice 50959 dated 5/29/2018	4,966.43
06/05/2018	Family Home Care	Discretionary Distribution-Invoice 50924 dated 5/21/2018	4,949.75
06/05/2018	Family Home Care	Discretionary Distribution-Invoice 05232018 dated 5/23/2018	100.72

See accompanying accountants' report

JORDAN DANA FRASIER SURVIVOR'S TRUST

SCHEDULE E - DISTRIBUTIONS TO BENEFICIARIES

FOR THE PERIOD JUNE 1, 2015 THROUGH JUNE 30, 2018

DATE	PAYER/PAYEE	DESCRIPTION	AMOUNT
06/11/2018	Family Home Care	Discretionary Distribution-Invoice 06012018 dated 6/1/2018	59.10
06/11/2018	Family Home Care	Discretionary Distribution-Invoice 05312018 dated 5/31/2018	131.93
06/11/2018	Family Home Care	Discretionary Distribution-Invoice 50998 dated 6/5/2018	5,177.25
06/12/2018	Family Home Care	Discretionary Distribution-Invoice 06052018 dated 6/5/2018	72.57
06/18/2018	Family Home Care	Discretionary Distribution-Invoice 51025 dated 6/11/2018	5,052.45
06/22/2018	Family Home Care	Discretionary Distribution-Invoice 51058 dated 6/18/2018	5,037.50
06/26/2018	Family Home Care	Discretionary Distribution-Invoice 06202018 dated 6/20/2018	176.63
06/29/2018	Family Home Care	Discretionary Distribution-Invoice 51087 dated 6/25/2018	5,086.20
	Total Disbursements		

See accompanying accountants' report

EXHIBIT “6”

EXHIBIT “6”

EXHIBIT “6”

November 1, 2016

Brooks Travis  
28202 Cabot Rd. 3<sup>rd</sup> floor  
Laguna Niguel, CA 92677  
(949) 454-8706

Dear Mr. Travis,

I'm distressed about the current state of affairs with regard to my family and my family's trust. I am not happy about the possibility of needing to go to Reno, Nevada for a mediation conference to settle an issue that should have been settled a long time ago. I will not go to Reno.

You have not respected my wishes regarding having my son pay back the loan on the building. Brad and I have an agreement from December 2014 to have him pay me back the loan that my husband Jordan and I gave to him to purchase his medical building.

Your actions in preventing this repayment has cost me thousands of dollars in legal fees and has dragged out this issue for too long. It has also caused a strained relationship in my family.

If you can't remedy this situation immediately, I will hire a new trust attorney and will no longer need your services.

I am also not happy that my trust was transferred to Reno. I want it back in California now. I am looking for a California Trust management company, like the one my husband chose.

Sincerely,

Dinny Frasier

FILED  
Electronically  
PR16-00128  
2018-10-08 02:57:15 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6916625 : csulezic

EXHIBIT “7”

EXHIBIT “7”

EXHIBIT “7”



Thursday, August 16, 2018 at 12:53:32 PM Pacific Daylight Time

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**Subject:** RE: Dinny Frasier and Care Giving

**Date:** Monday, November 28, 2016 at 9:27:23 AM Pacific Standard Time

**From:** David Robertson <gdavid@nvlawyers.com>

**To:** J <administrator@sprynet.com>, Nicole Shrive <nshrive@premiertrust.com>

**CC:** Rich Williamson <rich@nvlawyers.com>

Thanks Jonathan. Very helpful information. Thank you! Have a great trip and we will correspond with you again next week. 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](mailto:gdavid@nvlawyers.com)  
Please visit our website at [www.nvlawyers.com](http://www.nvlawyers.com)

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**From:** J [mailto:administrator@sprynet.com]

**Sent:** Sunday, November 27, 2016 4:04 PM

**To:** Nicole Shrive

**Cc:** David Robertson; Rich Williamson

**Subject:** Re: Dinny Frasier and Care Giving

Nicole, David, Rich;

Sorry for the delay in responding. Here are some answers to the questions you've raised:

- We have the book in our possession, Nori returned it to the incoming caregiver this morning in the E.R..
- Our day caregiver (Cynthia) was asked to wait outside the home, we have no knowledge of the content or outcome of Dinny's meeting with the Irvine neighbor. Nori is the one who asked Cynthia to wait outside.
- The caregivers' handwritten notes are rotated out of the book by members of my management team upon each visit. We currently average 4 management visits per week.
- Nori would only has access to the notes recorded after the previous management visit. For example, I cleared the logbook of "Care Notes" on my visit to the home Thursday and again Friday morning. This morning (Sunday) Nori had access to notes in the book recorded Friday, Saturday, and the first part of Sunday.
- We have copies of "Care Notes" in our office's secure filing system. We know some Notes have been previously taken out of the book by Bill and/or Amy. There are a few days of Notes we cannot account for. After this was discovered, and after Bill & Amy were observed taking pictures of the Care Notes, we increased the frequency of management visits.
- In the "Care Notes" - there may be notations re: Nori's activities, we train our employees to specific by name anytime a visit enters a clients home, but the majority of the notes focus on Dinny, her activity, her state of wellness, etc. As much as possible, our team is trained to keep their notes as neutral and care oriented as possible. They may or may not have quotes or references to interpersonal communications. While I understand how useful it would be for the notes to reflect a "coaching" of Dinny by Nory, you will see that the notes are basic and reflective of Dinny's variety of services, level of care, current condition. Today's day caregiver (Cecilia) has informed me that Nori is speaking to Dinny about firing the night caregiver (Araceli). If you recall, she was attempting to fire the day caregiver (Sarah) on Wednesday and Thursday via her emailed comments. Nori has not contacted our office with any comments or concerns.

I will be traveling to our Arizona offices tomorrow and will be out of the State for a week. My coworkers are familiar with Dinny's care, they have all been in her home on several occasions. Oddly, none of us have ever met Nori face to face.

Please feel free to email me with any questions or requests. We will get to work copying the Notes for you.

Jonathan Irish  
Vice President of Operations  
Family Home Care, Inc.  
P: 805-458-0002  
F: 866-480-9809  
E: [administrator@sprynet.com](mailto:administrator@sprynet.com)

[www.familyinhomecare.com](http://www.familyinhomecare.com)

***Licensed, accredited, & supporters of/by leading home care and civic associations in Arizona and California:***



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

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**EXHIBIT “8”**

**EXHIBIT “8”**

**EXHIBIT “8”**



Amy Wilson <digitalmermaid8@gmail.com>

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**FW: Premier Trust - Second Supplemental Petition for Instructions**

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Nori Frasier <nori\_frasier@hotmail.com>

Wed, May 31, 2017 at 6:50 PM

To: David Robertson <gdavid@nvlawyers.com>, "Amy Frasier (digitalmermaid8@gmail.com)" <digitalmermaid8@gmail.com>, "Mike Sullivan (MSullivan@rbsllaw.com)" <MSullivan@rbsllaw.com>, "comara@fclaw.com" <comara@fclaw.com>, "kcaverly@hcesq.com" <kcaverly@hcesq.com>, "Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net)" <bresnick@vrslaw.net>, "BRICHARDSON@fclaw.com" <BRICHARDSON@fclaw.com>

Cc: "Nicole Shrive (nshrive@premiertrust.com)" <nshrive@premiertrust.com>, Rich Williamson <rich@nvlawyers.com>, Teresa Stovak <teresa@nvlawyers.com>, Nori Frasier <nori\_frasier@hotmail.com>, "rick@cady.net" <rick@cady.net>

David,

You are 100% incorrect about the retainer check for Barry.

She visited Bruce her neighbor, my mother asked me to write the check out (as she was upset after seeing her house in the state it was in) and she would sign it as it was her decision. Not sure why you are out for Barry as she trusts him and this is important I believe.

I wrote the check out and she signed the check 100% in front of an attorney. There were 3 witnesses for her signing the check.

Not sure what you are trying to prove by all this information after the case.

Kindly, Nori

---

**From:** David Robertson <gdavid@nvlawyers.com>

**Sent:** Wednesday, May 31, 2017 6:06 PM

**To:** Amy Frasier ([digitalmermaid8@gmail.com](mailto:digitalmermaid8@gmail.com)); Nori Frasier ([nori\\_frasier@hotmail.com](mailto:nori_frasier@hotmail.com)); Mike Sullivan ([MSullivan@rbsllaw.com](mailto:MSullivan@rbsllaw.com)); [comara@fclaw.com](mailto:comara@fclaw.com); [kcaverly@hcesq.com](mailto:kcaverly@hcesq.com); Barnet Resnick ([bresnick@VRSLaw.net](mailto:bresnick@VRSLaw.net)) ([bresnick@VRSLaw.net](mailto:bresnick@VRSLaw.net)); [BRICHARDSON@fclaw.com](mailto:BRICHARDSON@fclaw.com)

**Cc:** Nicole Shrive ([nshrive@premiertrust.com](mailto:nshrive@premiertrust.com)); Rich Williamson; Teresa Stovak

**Subject:** FW: Premier Trust - Second Supplemental Petition for Instructions

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PR16-00128  
2018-10-08 02:57:15 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6916625 : csulezic

EXHIBIT “9”

EXHIBIT “9”

EXHIBIT “9”

**JAMES A. BLACK**  
**EXAMINER OF QUESTIONED DOCUMENTS**

**QUALIFICATIONS**

James A. Black is an Examiner of Questioned Documents and Handwriting Identification Expert in private practice since 1981. He has a Bachelor of Science degree from the California State University at Long Beach and has completed additional studies in the biological and physical sciences at the same institution.

Prior to starting his own practice, he studied document examination full time for two years in the Los Angeles office of his father, David A. Black, of Sellers and Black. David A. Black was a prominent document examiner in Southern California for over forty years. During this training period all aspects of questioned documents examination were studied, including handwriting and handprinting examination, identification of writer(s), typewriters and other mechanical impressions, copy machines, erasures and other forms of alteration, obliterated writing and their decipherment, paper and inks, and numerous other document problems. James Black completed, under David Black's direction, the course of study prescribed by the United States Army.

James A. Black has qualified as an expert witness on numerous occasions in the identification of handwriting, signatures and questioned document matters in Superior Courts of the counties of Los Angeles, Orange, Kern, San Bernardino and others, as well as Federal Court, The Administrative Law Courts of the California State Bar, the Medical Board of the State of California, the California Department of Motor Vehicles and others. Mr. Black's opinions have, on numerous occasions, been accepted by stipulation in lieu of personal testimony. He has been retained by governmental agencies such as the California Department of Justice, the California Franchise Tax Board and the United States Department of Justice. Mr. Black is the contract document examiner for the police department of the city of Orange, California. He has lectured at the Forensic Evidence seminar of the California Association of Public Defenders and is a guest lecturer at the Department of Criminal Justice at the California State University at Long Beach. A review of Mr. Black's credentials and experience by a committee of Los Angeles County Superior Court judges resulted in his appointment to the Panel of Experts assisting the Court in providing expertise to prosecutors and defense counsel.

James A. Black is a member of the International Association for Identification, a Fellow of the Questioned Documents Section of The American Academy of Forensic Sciences and is a former chairman of the Questioned Documents Subcommittee of the Forensic Sciences Committee of the American Society of Testing and Materials.

Five articles published in *The Journal of Forensic Identification* and in the *Journal of Forensic Sciences* were written by James Black.

James A. Black conducts examinations in a laboratory which makes scientific use of microscopes, a multi-spectral imaging system, grids, filters, scientific measuring instruments, photographic equipment, an ESDA, a library of over one hundred volumes of books relating to documentary evidence and an extensive typewriter library. Specialized training in computer technology and its application to questioned documents examinations has been completed. The cumulative volume of his caseload is thousands of cases and hundreds of trials.

PMB 152, 24331 MUIRLANDS BOULEVARD, SUITE 4, LAKE FOREST, CALIFORNIA 92630

Telephone: (949) 380-1733    Telecopier: (949) 380-0187    jblackQDE@gmail.com

**EXHIBIT A**