

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

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Elizabeth A. Brown  
Clerk of Supreme Court

**IN THE MATTER OF THE  
JORDAN DANA FRASIER  
FAMILY TRUST**

**No. 77981**

**AMY FRASIER WILSON,**

**Appellant,**

**vs.**

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

**Respondents.**

**RESPONDENT'S APPENDIX**

**VOL. 2**

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<b>CHRONOLOGICAL INDEX OF RESPONDENT'S APPENDIX</b>			
<b>Title</b>	<b>Date</b>	<b>Vol.</b>	<b>Page</b>
Recommendation for Order	04/21/16	1	1
Minute Order	08/18/16	1	6
Confirming Order	08/29/16	1	7
Supplemental Petition for Instructions	11/29/16	1	8
Response to Supplemental Petition for Instructions	01/26/17	1	19
Status Report	02/24/17	1	93
Notice of Entry of Order	07/24/17	1	95
Petition for Final Accounting of the Trust, for Removal of Premier Trust as Sole Trustee of the Trust, and for Appointment of a Sole Successor Trustee of the Trust Approved by the court	06/18/18	2	104
Stipulation and Order	08/07/18	2	228

## ALPHABETICAL INDEX OF RESPONDENT'S APPENDIX

<b>Title</b>	<b>Date</b>	<b>Vol.</b>	<b>Page</b>
Confirming Order	08/29/16	1	7
Minute Order	08/18/16	1	6
Notice of Entry of Order	07/24/17	1	95
Petition for Final Accounting of the Trust, for Removal of Premier Trust as Sole Trustee of the Trust, and for Appointment of a Sole Successor Trustee of the Trust Approved by the court	06/18/18	2	104
Recommendation for Order	04/21/16	1	1
Response to Supplemental Petition for Instructions	01/26/17	1	19
Status Report	02/24/17	1	93
Stipulation and Order	08/07/18	2	228
Supplemental Petition for Instructions	11/29/16	1	8

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

In the Matter of the

Case No: PR16-00128

**JORDAN DANA FRASIER FAMILY TRUST**

Dept. No.: 15 [PR]

**PETITION FOR FINAL ACCOUNTING OF THE TRUST, FOR REMOVAL**  
**OF PREMIER TRUST AS SOLE TRUSTEE OF THE TRUST, AND FOR**  
**APPOINTMENT OF A SOLE SUCCESSOR TRUSTEE OF THE TRUST**  
**APPROVED BY THE COURT**

Mrs. Dinny Frasier ("Mrs. Frasier") hereby petitions this Court an order requiring Premier Trust to submit a final accounting of the Jordan Dana Frasier Family Trust and Trusts created thereunder (the "Trust") to the Court for judicial review, for an order removing Premier Trust as Sole Trustee of the Trust, and for an order appointing a sole successor trustee of the Trust selected by the Court.

This Petition is based on the following Memorandum of Points & Authorities, any Exhibits attached thereto, any oral argument and evidence offered at the hearing on this Petition, and the papers and pleadings on file with this Court.

**DATED** this 15<sup>th</sup> day of June, 2018.

By: /s/ Patrick R. Millsap

Nevada Bar No. 12043  
Wallace & Millsap LLC  
Local Counsel for Mrs. Dinny Frasier



1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 **I. STATEMENT OF THE ISSUE & REQUESTED RELIEF**

3 This Court has jurisdiction to hear this Petition, remove Premier Trust ("PT")  
4 as Trustee, and appoint a sole Successor Trustee of the Trust.<sup>1</sup> Specifically, the Court  
5 assumed jurisdiction of the Trust pursuant to NRS 164.010. NRS 164.010 permits  
6 the Court to grant the relief described in NRS 153.031 and NRS 164.015. NRS  
7 153.031(1)(k) allows the Court to remove and appoint trustees. Similarly, NRS  
8 164.015(1) allows the Court to hear proceedings concerning the administration of a  
9 trust and determine matters involving trustees and beneficiaries of a trust.  
10 Therefore, pursuant to the statutory authority conferred upon this Court by NRS  
11 164.010, 164.015(1) and 153.031(1)(k), this Court may remove PT as trustee of the  
12 Trust and appoint a sole successor trustee to administer the Trust.

13 There is legal cause to remove PT as sole trustee of the Trust and appoint a  
14 sole successor trustee. Specifically, PT failed to timely pay credit card obligations of  
15 the Trust. PT erroneously double paid certain bills. PT failed to timely submit  
16 certain tax returns for Mrs. Frasier. PT failed to adequately maintain certain real  
17 property owned by the Trust. PT withheld payments and distributions requested by  
18 Mrs. Frasier to her financial detriment. And, PT failed to properly account for the  
19 finances of the Trust as required by law and the terms of the Trust. Considering PT's  
20 breaches of fiduciary duty, this Court should exercise its statutory authority to  
21 remove PT as trustee of the Trust and appoint a sole successor trustee approved by  
22 the Court.

23 Alternatively, the Court need not find PT breached its fiduciary duty, or was  
24 otherwise negligent in its duties, to remove PT as Trustee. Separate and apart from  
25 any alleged breach of duty, the Trust empowers Mrs. Frasier to appoint the trustee  
26 of the Trust. By virtue of this Petition, Mrs. Frasier exercises her right under the

27  
28 <sup>1</sup> The Jordan Dana Frasier Family Trust and Trusts created thereunder shall hereinafter be referred  
to as the Trust.

1 Trust instrument to remove PT as trustee and appoint a sole successor trustee of the  
2 Trust. Mrs. Frasier consents to this Court's selection of the sole successor trustee.

3 Finally, Mrs. Frasier requests this Court order PT to file a final accounting  
4 with the Court in order to conclude PT's affairs with the Trust pursuant to NRS  
5 153.031(1)(h) and NRS 153.041.

6 **II. STATEMENT OF CASE PROCEDURE**

7 This case began when Mrs. Frasier and PT filed a "Petition for Confirmation  
8 of Trustees, for Construction of the Trust Instruments, and for Instructions" on  
9 March 2, 2016. See the Petition attached as **Exhibit 1**. The Petition requested this  
10 Court assume jurisdiction of the Trust pursuant to NRS 164.010, confirm Mrs.  
11 Frasier is a co-trustee of the Trust, confirm PT is the corporate and primary co-trustee  
12 of the Trust, order PT to provide an annual accounting of the Trust to Mrs. Frasier,  
13 and provide guidance on PT's duties with respect to a medical office building in which  
14 the Trust had partial ownership. See **Exhibit 1** p. 7. After a lawfully noticed hearing  
15 before the Honorable Probate Commissioner Robin Wright on April 13, 2016,  
16 Commissioner Wright issued a Recommendation for Order on April 21, 2016. See  
17 Recommendation for Order attached as **Exhibit 2**. The Recommendation stated this  
18 Court assumed ongoing jurisdiction over the Trust pursuant to NRS 164.010 until  
19 otherwise ordered by the Court. See **Exhibit 2** ¶'s 3 and 17. The Recommendation  
20 also confirmed PT was the primary Co-Trustee of the Trust. See **Exhibit 2** ¶ 11. The  
21 District Court then adopted and confirmed the Recommendation for Order in a  
22 Minute Order dated August 18, 2016 with the exception of Paragraph 13 of the  
23 Recommendation. See August 18, 2016 Minutes attached as **Exhibit 3**. The Court  
24 issued a written Order on August 29, 2016 adopting the Recommendation for Order  
25 attached as **Exhibit 4**, except for Paragraph 13 of the Recommendation. Therefore,  
26 this Court has ongoing jurisdiction over the Trust pursuant to NRS 164.010.

27 Initially, the dispute before this Court involved the Trust's and Dr. Frasier's  
28 joint ownership of a medical office building in Southern California. See Dr. Frasier's

1 Response to Recommendation for Order filed on May 19, 2016 attached as **Exhibit**  
2 **5**. The Court set a bench trial on May 8, 2017, to determine the Trust's and Dr.  
3 Frasier's legal rights and responsibilities with respect to the medical building. *See*  
4 October 5, 2016 Order After Hearing attached as **Exhibit 6**. The Court also required  
5 the Parties to attend mediation prior to the bench trial. On February 24, 2017, PT  
6 filed a "Status Report" indicating the Parties mediated their issues with the medical  
7 building on January 27, 2017 and resolved the dispute. *See* Status Report attached  
8 as **Exhibit 7**.

9       Thereafter, the Parties disputed the terms of settlement, and in certain  
10 respects, contested whether there was an enforceable settlement agreement reached  
11 during mediation. In response, this Court conducted an evidentiary hearing on May  
12 9, 2017 regarding the enforceability of the settlement and its specific terms. After  
13 the hearing, the Court ordered the Settlement Agreement attached as **Exhibit 8**  
14 reached during the January 27, 2017 mediation was valid and enforceable. The Court  
15 further clarified the Agreement should be enforced as written subject only to the  
16 requirement that equalization payments should be made upon Mrs. Frasier's passing  
17 and that Amy Frasier Wilson will receive the Mission Viejo property and equalizing  
18 payments outright and free of trust. Therefore, the disputes arising out of the Trust's  
19 and Dr. Frasier's joint ownership of the medical building were resolved by the Parties  
20 during mediation, and the terms of their Settlement Agreement were enforced by this  
21 Court in its July 6, 2017 Order attached as **Exhibit 9**.

22       Separate and apart from the medical building, PT instituted litigation  
23 regarding Mrs. Frasier's capacity, and whether third-parties were unduly influencing  
24 her. *See* Second Supplemental Petition for Instructions filed May 31, 2017 on file  
25 with the Court. Mrs. Frasier objected to the Second Supplemental Petition and the  
26 Petition was set for hearing. *See* Court Docket. The Parties continued the hearing  
27 on several occasions in contemplation of settling the issues raised by the Petition. *See*  
28 Court Docket. However, Mrs. Frasier and PT were unable to reach a formal

1 resolution of the Petition and, consequently, the Court ordered the Parties to appear  
2 for a hearing on the Petition October 17, 2017.

3       During the hearing, Mrs. Frasier, through her counsel, offered to resign as co-  
4 trustee of the Trust to alleviate any concern of undue influence prejudicing Mrs.  
5 Frasier's administration of the Trust. See October 17, 2017 hearing Transcript  
6 attached as **Exhibit 10**, p. 19, lns. 11-17, and p. 21, lns. 13-15. The Court ordered  
7 Mrs. Frasier removed as co-trustee of the Trust consistent with her offer to resign as  
8 co-trustee. See Court Order dated December 11, 2017 attached as **Exhibit 11** ¶ 1.  
9 However, Mrs. Frasier requested PT's removal as trustee of the Trust in  
10 consideration of her resignation as co-trustee in compromise of PT's Second  
11 Supplemental Petition for Instructions. See **Exhibit 10** at p. 19, lns. 11-17. The  
12 Court did not order the immediate removal of PT as trustee, however, the Court  
13 indicated it would remove PT as Trustee if it were found to be in breach of its duties.  
14 *Id.* at p. 38, lns. 20-25 and **Exhibit 11** at ¶ 9. PT breached its fiduciary duties to the  
15 Trust and its vested beneficiary, Mrs. Frasier, as stated below. Consequently, PT  
16 should be removed as sole trustee of the Trust, and Mrs. Frasier consents to the  
17 Court's appointment of a sole successor trustee as contemplated during the October  
18 17, 2017 Hearing.

19 **III. STATEMENT OF FACTS**

20       On December 29, 1980, Mrs. Frasier, and her husband Jordan Dana Frasier,  
21 established the Jordan Dana Frasier Family Trust. See **Exhibit 1** ¶ 1. Mr. and Mrs.  
22 Frasier amended the Trust several times during Mr. Frasier's lifetime. See **Exhibit**  
23 **1** ¶'s 1-7. Ultimately, Mr. and Mrs. Frasier amended the Trust five separate times  
24 during Mr. Frasier's lifetime. *Id.*

25       Upon Mr. Frasier's death, the Trust required division of the Trust corpus into  
26 a Survivor's Trust for the sole benefit of Mrs. Frasier, and a Tax Exemption Trust.  
27 See **Exhibit 1** ¶ 9. Until her death, Mrs. Frasier is the sole income beneficiary of the  
28 Survivor's Trust and the Tax Exemption Trust. See **Exhibit 1** ¶ 17.

1       The Trust empowers Mrs. Frasier to select a corporate trustee to serve as the  
2 primary trustee of the Trust and administer the Trust for her benefit. *See Exhibit*  
3 *1* ¶'s 20, 22, 23, 42, 43. PT admitted the Trust allows the surviving spouse, in this  
4 case Mrs. Frasier, to select a corporate trustee to handle the primary administration  
5 of the Trust and oversee the Trust's affairs. *See Exhibit 1* ¶ 20. In May of 2015,  
6 Mrs. Frasier removed Merrill Lynch Trust Company of California as corporate  
7 trustee of the Trust and appointed PT as corporate trustee of the Trust pursuant to  
8 her power of appointment under the Trust. *See Exhibit 1* ¶ 13.

9       Since PT's appointment as corporate trustee of the Trust in May of 2015, PT  
10 failed to properly account for the Trust on an annual basis. Specifically, PT failed to  
11 provide annual accountings to Mrs. Frasier for the calendar years of 2015 and 2016  
12 in the form, and containing the content, required by NRS 165.1201 to 165.148. *See*  
13 *Verification of Dinny G. Frasier* attached as **Exhibit 12**. PT failed to timely pay  
14 credit obligations of the Trust and double-paid certain expenses. PT failed to timely  
15 submit Mrs. Frasier's personal tax returns. *See California Franchise Tax Board's*  
16 *Notice of Non-Filings* attached as **Exhibit 13**. PT failed to maintain the Trust's real  
17 property and allowed certain parcels of property to fall into disrepair. *See Photos*  
18 *attached as Exhibit 14*.

19       In light of the above, Mrs. Frasier respectfully petitions this Court for an order  
20 removing PT as sole trustee of the Trust and for appointment of a sole successor  
21 trustee by the Court pursuant to the statutory authority cited below and Mrs.  
22 Frasier's power to appoint the trustee under the terms of the Trust.

23 **IV. APPLICABLE LAW & ARGUMENT**

24       This Court has *in rem* jurisdiction over the Trust pursuant to NRS 164.010.  
25 Under NRS 164.010, the Court has authority to issue orders consistent with NRS  
26 153.031 and NRS 164.015. NRS 153.031 and NRS 164.015 permit the Court to  
27 remove and appoint trustees, as well as, to order the trustee to provide an accounting  
28 of a trust. Accordingly, Mrs. Frasier respectfully petitions this Court to: a) order the

1 removal of PT as trustee of the Trust for cause; or alternatively, **b)** order the removal  
2 of PT as trustee pursuant to Mrs. Frasier's power to appoint the trustee under the  
3 trust instrument. And finally, Mrs. Frasier requests this Court order PT to file a  
4 final accounting with the Court to conclude PT's services to the Trust pursuant to  
5 NRS 153.031(1)(h), NRS 153.041, and the terms of the Trust.

6 **a. Mrs. Frasier petitions this Court to remove PT as trustee of the**  
7 **Trust pursuant to NRS 153.031(1)(k).**

8 NRS 153.031(1)(k) states "[a] trustee or beneficiary may petition the court  
9 regarding any aspect of the affairs of the trust, including:...[a]ppointing or removing  
10 a trustee..." Therefore, this Court has statutory authority to order the removal of PT  
11 as trustee of the Trust and appoint a sole successor trustee of the Trust pursuant to  
12 NRS 153.031(1)(k). Mrs. Frasier respectfully requests this Court exercise its  
13 statutory authority to remove PT as trustee of the Trust, because PT breached its  
14 fiduciary duties to the Trust and its vested beneficiary – Mrs. Frasier.

15 Specifically, PT failed to timely make credit card payments for the Trust. PT  
16 failed to timely file Mrs. Frasier's tax returns with the California State Franchise  
17 Tax Board. PT failed to provide annual accountings to Mrs. Frasier in 2015 and 2016.  
18 And, PT failed to maintain certain parcels of real property owned by the Trust in good  
19 repair. These failures establish a basis for PT's removal as trustee of the Trust  
20 pursuant to NRS 153.031(1)(k).

21 Upon PT's removal as trustee, Mrs. Frasier requests the Court appoint a sole  
22 successor trustee of the Trust consistent with NRS 153.031(1)(k) and Mrs. Frasier's  
23 request delineated below in subsection (IV)(b) of this Petition

24 **b. Alternatively, Mrs. Frasier respectfully requests this Court**  
25 **confirm her discretionary authority to remove PT as trustee**  
26 **pursuant to the terms of the Trust.**

27 Alternatively, the Court may order PT's removal as trustee of the Trust,  
28 regardless of whether PT breached its duties, because the Trust instrument

1 empowers Mrs. Frasier to choose the corporate trustee of the Trust. PT admitted the  
2 Trust allows the surviving spouse, Mrs. Frasier, to select a corporate trustee to  
3 handle the primary administration of the Trust and oversee the Trust's affairs. See  
4 **Exhibit 1 ¶ 20.** Mrs. Frasier exercises her present right to choose the corporate  
5 trustee of the Trust by relieving PT as sole trustee and requesting the Court confirm  
6 the appointment of Whittier Trust Investment & Wealth Management as sole  
7 successor trustee of the Trust. Whittier's appointment is consistent with the Court's  
8 Order requiring the successor trustee to have offices in Reno, Nevada to enable this  
9 Court's continued jurisdiction over the Trust, as well as, allow for immediate response  
10 to any Court concerns regarding the Trust's ongoing administration and affairs.  
11 Additionally, Whittier Trust has an office in Southern California near Mrs. Frasier's  
12 residence, enabling her to develop a more personal relationship with the corporate  
13 trustee overseeing her affairs as she has previously desired. Moreover, the situs of  
14 all Trust assets and beneficiaries is Southern California, further supporting the  
15 appointment of Whittier since it has offices in both Reno and Southern California.

16  
17 **c. Mrs. Frasier petitions this Court for an order requiring PT to**  
18 **file a final accounting to conclude PT's financial affairs with the**  
19 **Trust.**

20 NRS 153.031(1)(h) empowers the Court to order the trustee to account to the  
21 beneficiary of a trust. Additionally, NRS 153.041<sup>2</sup> requires the trustee to file an  
22 account for a trust upon a properly noticed petition by the beneficiary. Mrs. Frasier  
23 petitions this Court for an order requiring PT to file its final account for the Trust  
24 pursuant to NRS 153.031(1)(h) and NRS 153.041 in order to conclude PT's financial  
25 management of the Trust. Notice of the NRS 153.041 petition for accounting will be  
26 provided in accordance with NRS 155.010.

27 <sup>2</sup> NRS 153.041 states "[t]he trustee may, upon petition of a beneficiary or the guardian of a beneficiary,  
28 be ordered to appear at a hearing and render an account. The trustee must be served with a citation  
in the manner provided in NRS 155.050. Unless otherwise ordered by the court, the citation must be  
served at least 30 days before the day of the hearing. The petition may not be denied unless an account  
has been filed with the court within 1 year before the petition is filed."

1 **V. CONCLUSION AND REQUESTED RELIEF**

2 Mrs. Frasier humbly petitions this Court for:

- 3 a) an order removing PT as trustee of the Trust;
- 4 b) an order appointing Whittier Trust Investment & Wealth
- 5 Management as sole successor trustee of the Trust, or an alternative
- 6 Corporate Trustee selected by the Court;
- 7 c) an order requiring PT to file a final accounting for the Trust with the
- 8 Court pursuant to NRS 153.041 and NRS 153.031(1)(h); and
- 9 d) For reasonable attorney's fees necessarily incurred to bring this
- 10 Petition before the Court.

11 **Affirmation**

12 The undersigned affirms this document does not contain the social security

13 number or legally private information of any person.

14 **Dated** this 15<sup>th</sup> day of June, 2018.

15 By: /s/ Patrick R. Millsap.

16 F. McClure Wallace, Esq.  
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**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 15<sup>th</sup> day of June, 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

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10 Via Sonrisa  
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Bradley L. Frasier, MD  
3609 Vista Way  
Oceanside, CA 92056

DATED this 15<sup>th</sup> day of June, 2018

By: /s/ Chris Miller.

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**INDEX OF EXHIBITS**

<b>EXHIBIT #</b>	<b>DESCRIPTION</b>	<b>PAGES</b>
<b>1</b>	Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions	10
<b>2</b>	Recommendation for Order Granting Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions	5
<b>3</b>	Minutes of the Court – August 18, 2016	1
<b>4</b>	Confirming Order	1
<b>5</b>	Dr. Frasier's Response to Recommendation for Order	4
<b>6</b>	Order After Hearing	3
<b>7</b>	Status Report	3
<b>8</b>	Settlement Agreement	4
<b>9</b>	Order Granting Motion to Approve and Enforce Settlement Agreement and Vacate Trial Date	5
<b>10</b>	Transcript of October 17, 2017 hearing	13
<b>11</b>	Order dated December 11, 2017	3
<b>12</b>	Verification of Dinny G. Frasier	2
<b>13</b>	California Franchise Tax Board Notices	2
<b>14</b>	Property Photos	2

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Jacqueline Bryant

Clerk of the Court

Transaction # 5396426 : csulezic

7 **IN THE SECOND JUDICIAL DISTRICT COURT**

8 **IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA**

9  
10 In the Matter of the Case No.  
11 JORDAN DANA FRASIER FAMILY TRUST Dept. No. PR

12  
13 **PETITION FOR CONFIRMATION OF TRUSTEES, FOR CONSTRUCTION OF THE**  
14 **TRUST INSTRUMENTS, AND FOR INSTRUCTIONS**

15 Pursuant to the provisions of NRS chapter 164, Petitioners Dinny G. Frasier ("Dinny")  
16 and Premier Trust, Inc. ("Premier"), Co-Trustees of the Jordan Dana Frasier Family Trust, by  
17 and through their attorneys of record, the law firm of Robertson, Johnson, Miller & Williamson,  
18 hereby petition this Court (i) to assume jurisdiction of the Jordan Dana Frasier Family Trust, and  
19 all other trusts created thereunder, (ii) to confirm their appointments as co-trustees of said trusts,  
20 (iii) for construction of the trust documents, (iv) for instructions on how to proceed, and (v) to  
21 confirm that the actions and non-actions by the co-trustees to date have been consistent with their  
22 duties as fiduciaries under the trusts.

23 **I. Trust Summary**

- 24 1. On December 29, 1980, Dinny and her husband, Jordan Dana Frasier ("Joe")  
25 established the Jordan Dana Frasier Family Trust, which was subsequently amended and restated  
26 (collectively, the "Frasier Family Trust").  
27 2. Joe and Dinny first amended that original trust instrument on December 31, 1984.  
28 3. Joe and Dinny amended the trust instrument for the second time on April 8, 1987.

1           4.     Joe and Dinny amended and completely restated the Frasier Family Trust on  
2 September 21, 1999 (the "Third Amendment").

3           5.     Joe and Dinny amended the Frasier Family Trust for a fourth time on March 15,  
4 2000 (the "Fourth Amendment").

5           6.     Joe and Dinny amended the Frasier Family Trust for a fifth time on June 7, 2000  
6 (the "Fifth Amendment").

7           7.     A copy of the Frasier Family Trust, including all five amendments, is attached  
8 hereto as Exhibit 1.

9           8.     Joe died on October 22, 2014.

10          9.     Upon Joe's death, the Frasier Family Trust, as amended, required a split of assets  
11 between the Survivor's Trust and a Tax Exemption Trust. The Frasier Family Trust authorized,  
12 but did not require, the creation of a third sub-trust, the Marital Trust. Following Joe's death,  
13 however, Dinny elected not to fund the Marital Trust.

14          10.    The Frasier Family Trust provides for the appointment of a corporate co-trustee.

15          11.    Following Joe's death, in accordance with the terms of the Fourth Amendment,  
16 Dinny initially sought to use Merrill Lynch Trust Company of California ("Merrill") as her  
17 corporate co-trustee.

18          12.    Dinny quickly realized that using Merrill created administrative problems in that  
19 Merrill wanted to oversee all investment funds, even those held with other institutional  
20 investment firms. For these and other reasons, Dinny felt that it would be more advantageous to  
21 the trusts to select Premier as an independent corporate co-trustee.

22          13.    In or around May, 2015, Dinny appointed Premier to serve as the corporate co-  
23 trustee for the Frasier Family Trust and all of its sub-trusts.

24          14.    Premier is a professional corporate trustee, duly licensed to conduct trust business  
25 in the State of Nevada.

26          15.    Premier is formed under the laws of the State of Nevada, with offices in Reno and  
27 Las Vegas.

16. Dinny and Premier have diligently allocated and administered the trust assets pursuant to the terms of the Frasier Family Trust, as amended.

17. Until her death, Dinny is the sole income beneficiary of all of the trusts.

18. Joe and Dinny had three children, Bradley L. Frasier ("Brad"), Nori Beth Frasier Cady ("Nori"), and Amy Michelle Frasier Wilson ("Amy").

19. Brad, Nori and Amy are currently classified as contingent beneficiaries of the Tax Exemption Trust (the Tax Exemption Trust is sometimes referred to as the "Tax Exempt Trust" or the "B Trust").

## II. Jurisdictional Facts

20. Through their amendments to the Frasier Family Trust, Joe and Dinny repeatedly emphasized that the surviving spouse could select a corporate co-trustee to handle the primary administration of the trusts and to oversee trust affairs.

21. The Third Amendment, which amended and completely restated the Frazier Family Trust, provides: "If at any time during this trust there are co-trustees, as between the trustees, the corporate trustee shall have custody of all personal property of the trust estate and shall maintain all records and accounts of the trust estate." (Ex. 1, 3d Am., art. 4(B)(6), at p. 36.)

22. The Fourth Amendment to the Frasier Family Trust goes on to state, in pertinent part:

[I]f Dinny G. Frasier is the survivor, she shall then serve as co-trustee with Merrill Lynch Trust Company of California as co-trustee. . . . Additionally, the then current income beneficiary [i.e., Dinny] . . . may at any time, from time to time, in writing, change corporate trustees by appointing another corporate trustee as trustee of the Trust.

(Ex. 1, 4th Am., at p. 1.)

23. As noted above, Dinny exercised her right to select Premier as her co-trustee.

24. Dinny is a California resident.

25. Moreover, the trusts own some real property located in California.

26. Since assuming its role as corporate co-trustee, however, Premier has been the primary administrator of the trust through its office located in Reno, Nevada.

27. As explained below, this Court has jurisdiction over each trust.



1           43.     In May, 2015, after several months of consideration, Dinny exercised her right to  
2 appoint Premier as her co-trustee.

3           44.     Premier is a Nevada corporation doing business in Washoe County, Nevada.

4           45.     Premier maintains the Frasier Family Trust accounts, maintains the day-to-day  
5 records of the Frasier Family Trust, and holds custody of all personal property.

6           46.     All of these functions occur in Washoe County, Nevada.

7           47.     According to the terms of the Frasier Family Trust:

8           The trustee is authorized to employ custodians, investment advisers, attorneys,  
9 accountants, and any other agents or advisers to assist the trustee in the  
10 administration of this trust, and to rely on the information and advice given by  
11 such agents and advisers. Reasonable compensation for all such services  
performed by such agents and advisers shall be paid from the trust estate out of  
either income or principal as the trustee in the trustee's discretion shall determine.

12 (Ex. 1, 3d Am., art. 3(P), at p. 32.)

13           48.     Premier intends to charge fees for its administration of the trusts in accordance  
14 with its agreed fee schedules and does not request specific confirmation of its administrative fees  
15 at this time.

16           49.     The Petitioners' attorneys intend to charge fees for their services on an hourly  
17 basis and do not request specific confirmation of their fees at this time.

18           50.     Both trustees have agreed to the payment of the attorneys' fees and costs.

19           51.     Dinny, in her capacity as co-trustee, has agreed to the payment of Premier's fees  
20 and the attorneys' fees and costs.

21           52.     The income beneficiary, Dinny Frasier, has agreed to payment of the co-trustee's  
22 fees and the attorneys' fees and costs.

23           53.     Premier has provided the original Frasier Family Trust instrument, along with all  
24 five amendments, to Brad, Nori and Amy.

25           54.     Premier has also provided periodic accountings to Dinny, and has worked with  
26 Dinny on the evaluation, maintenance and disposition of the trusts' assets.

27           55.     Pursuant to the terms of the Frasier Family Trust, "[t]he trustee shall be under no  
28 duty to obtain any authority or approval of any court in the exercise of any power conferred in

1 this trust, and shall be under no duty to make current accountings to any court.” (Ex. 1, 3d Am.,  
2 art. 3(L), at p. 31.)

3 56. Brad has requested an accounting of the assets in both the Survivor’s Trust and  
4 the Tax Exemption Trust.

5 57. According to the terms of the Frasier Family Trust, “[a]nnual accountings shall be  
6 made by the trustee to each then income beneficiary” of the trust. (*Id.*, art. 3(L), at p. 31.)

7 58. There is no authorization to provide an accounting to contingent beneficiaries.

8 59. The trustees want to reasonably cooperate with all potential beneficiaries, but  
9 because the Frasier Family Trust does not provide for the disclosure of any accountings to  
10 contingent beneficiaries the trustees are unsure if they are authorized to release this information  
11 to the contingent beneficiaries.

12 60. Brad’s trust and the Frasier Family Trust are co-owners in an office building in  
13 California, but the trustees have not received complete financial records for that building.

14 61. Again, the trustees want to reasonably cooperate with all potential beneficiaries,  
15 but they are also mindful of their duties to account for and appropriately apportion trust assets.

16 62. Thus, the Petitioners require guidance from this Court.

17 63. Petitioners believe that their actions and non-actions during their tenure as  
18 trustees of the trusts have been consistent with the intent of the grantors as expressed in the  
19 language of the trust documents.

20 64. Petitioners’ respective and collective actions and non-actions have been  
21 undertaken in good faith, and with reasonable care.

22 65. Petitioners seek confirmation that they are duly-qualified current Trustees of the  
23 trusts, and that their actions and non-actions have been consistent with their duties as fiduciaries.

#### 24 25 **IV. Notice of Petition**

26 66. As Noted above, Dinny is the sole income beneficiary of the trusts, and Brad,  
27 Nori and Amy are all classified as contingent beneficiaries of the B Trust.



67. The respective addresses for notice to Brad, Nori and Amy are:

Dr. Bradly Frasier  
1645 Aryana Drive  
Encinitas, CA 92024-1294

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

Amy Frasier Wilson  
10 Via Sonrisa  
Mission Viejo, CA 92692

68. Brad, Nori and Amy will all be given notice of this petition in accordance with NRS 164.037.

## V. Prayer for Relief

WHEREFORE, Petitioners pray for an order from the Court as follows:

A. Assuming jurisdiction of the trusts pursuant to NRS 164.010;

B. Confirming Dinny's status as co-trustee of the trusts;

C. Confirming Premier's appointment as corporate and primary co-trustee;

D. Ordering Premier to provide an annual accounting of the trust assets to Dinny;

E. Declaring whether, pursuant to the Frasier Family Trust agreements, the co-trustees are allowed to provide an accounting to any contingent beneficiary or other person until Dinny's death;

F. Declaring that only Dinny and Premier are authorized to administer the trusts and that no third party may interfere with the assets or administration of the trusts;

G. Confirming and declaring that the trustees are entitled to demand and inspect reasonable management and financial records concerning all trust assets (including, without limitation, information detailing the management, profitability, maintenance and operation of such assets); and

H. For such other and further relief and determinations as the Court may deem just and proper.

/ / /

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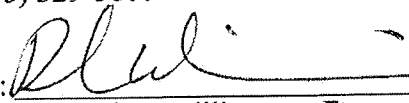
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**Affirmation**

Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

Dated this 2<sup>nd</sup> day of March, 2016.

ROBERTSON, JOHNSON,  
MILLER & WILLIAMSON  
50 West Liberty Street, Suite 600  
Reno, Nevada 89501  
(775) 329-5600

By:   
Richard D. Williamson, Esq.  
Marilee Breternitz, Esq.  
*Attorneys for Dinny G. Frasier and  
Premier Trust, Inc.*

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**VERIFICATION**

Under penalties of perjury, Dinny G. Frasier, Co-Trustee of the Jordan Dana Frasier Family Trust, hereby declares the following:

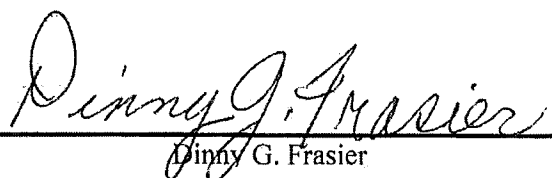
1. I am a duly-appointed co-trustee of Jordan Dana Frasier Family Trust, and a Petitioner herein;

2. I have read the foregoing Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions, and know the contents thereof; and

3. The statements made in this Petition are true of my own personal knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.

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

Dated this 27 day of February, 2016.

  
Dinny G. Frasier

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**VERIFICATION**

Under penalties of perjury, Nicole Shrive, as a Trust Officer of and on behalf of Premier Trust, Inc., a Nevada corporation, which is a Co-Trustee of the Jordan Dana Frasier Family Trust, hereby declares the following:

1. Premier Trust, Inc. is a duly-appointed co-trustee of Jordan Dana Frasier Family Trust, and a Petitioner herein;

2. I have read the foregoing Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions, and know the contents thereof; and

3. The statements made in this Petition are true of my own personal knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 29 day of February, 2016.



Nicole Shrive, Trust Officer for  
Premier Trust, Inc., a Nevada corporation

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

In the Matter of the Case No. PR16-00128  
JORDAN DANA FRASIER FAMILY TRUST. Dept. No. PR  
Hearing date: April 13, 2016

**RECOMMENDATION FOR ORDER  
GRANTING PETITION FOR CONFIRMATION OF TRUSTEES,  
FOR CONSTRUCTION OF THE TRUST INSTRUMENTS,  
AND FOR INSTRUCTIONS**

Petitioners Dinny G. Frasier and Premier Trust, Inc., Co-Trustees of the Jordan Dana Frasier Family Trust, having filed a *Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions*, the matter regularly having come on for hearing, and no objection being filed thereto;

And the undersigned Commissioner, deeming the matter significant enough to warrant additional notice to the beneficiaries, now FINDS and RECOMMENDS, prior to entry of final Order, as follows:

1. All notices of the hearing have been duly given as required by law;
2. The Court has jurisdiction of this matter;
3. Pursuant to NRS 164.010, the Court does hereby assume jurisdiction of the Jordan Dana Frasier Family Trust and all other trusts created thereunder;
4. The Jordan Dana Frasier Family Trust was amended and restated in its entirety on September 21, 1999, and was subsequently amended on March 15, 2000, and June 7, 2000;

1           5.       Petitioners Dinny G. Frasier and Premier Trust, Inc. are duly qualified  
2 to act as trustees of the Jordan Dana Frasier Family Trust and all other trusts  
3 created thereunder;

4           6.       Petitioner Dinny G. Frasier is a settlor of the Jordan Dana Frasier  
5 Family Trust and has always been a Co-Trustee of that Trust;

6           7.       Dinny G. Frasier should be confirmed as the Co-Trustee of the  
7 following Trusts:

8               a.       The ADMINISTRATION TRUST, created under the JORDAN DANA  
9 FRASIER FAMILY TRUST dated December 29, 1980, as amended and  
10 restated;

11              b.       The SURVIVOR'S TRUST, created under the JORDAN DANA  
12 FRASIER FAMILY TRUST dated December 29, 1980, as amended and  
13 restated; and

14              c.       The TAX EXEMPT TRUST, created under the JORDAN DANA  
15 FRASIER FAMILY TRUST dated December 29, 1980, as amended and  
16 restated;

17           8.       The trust instruments give Dinny G. Frasier the right to appoint a  
18 corporate trustee to serve as the primary Co-Trustee;

19           9.       Premier Trust, Inc. is a professional corporate trustee, duly licensed to  
20 conduct trust business in the State of Nevada;

21           10.       Based on the record before the Court, it appears that Petitioners have  
22 administered the trust assets pursuant to the terms of the Jordan Dana Frasier  
23 Family Trust, as amended, and that Premier Trust, Inc. has been the primary  
24 administrator of the Trusts through its office located in Reno, Nevada;

25           11.       Premier Trust, Inc. is hereby confirmed as the primary Co-Trustee of  
26 the following Trusts:

1           a.     The ADMINISTRATION TRUST, created under the JORDAN DANA  
2 FRASIER FAMILY TRUST dated December 29, 1980, as amended and  
3 restated;

4           b.     The SURVIVOR'S TRUST, created under the JORDAN DANA  
5 FRASIER FAMILY TRUST dated December 29, 1980, as amended and  
6 restated; and

7           c.     The TAX EXEMPT TRUST, created under the JORDAN DANA  
8 FRASIER FAMILY TRUST dated December 29, 1980, as amended and  
9 restated;

10        12.     Consistent with the Trust documents, Premier Trust, Inc. should be  
11 ordered to provide an annual accounting of the Trust assets to the income  
12 beneficiary, Dinny G. Frasier;

13        13.     Consistent with the terms of the Trust and with applicable Nevada law,  
14 the Court should find that Petitioners are under no obligation to provide an  
15 accounting to any contingent beneficiary, but may provide such information if they  
16 so choose in their sole discretion;

17        14.     Petitioners are authorized to administer the Trusts in their reasonable  
18 discretion, and no third party may interfere with the assets or administration of the  
19 Trusts;

20        15.     Based on the record before the Court, the Petitioners' actions and non-  
21 actions have been consistent with their duties as fiduciaries under the Trusts;

22        16.     Petitioners are entitled to demand and inspect reasonable  
23 management and financial records concerning all Trust assets (including, without  
24 limitation, information detailing the management, profitability, maintenance and  
25 operation of such assets); and

26        17.     The Court will retain continuing jurisdiction over the Jordan Dana  
27 Frasier Family Trust and all other Trusts created thereunder until such time as the  
28

1 Co-Trustees file a petition with the Court to remove such Trusts from this Court's  
2 jurisdiction.

3 Because this Petition seeks to affect the rights of the contingent  
4 beneficiaries, the Commissioner RECOMMENDS:

5 That this Recommendation will not become a final Order until thirty (30) days  
6 after service of this Recommendation upon the parties. The Petitioners herein shall  
7 cause this Recommendation to be served upon all parties interested in the Trust.  
8 Any interested party who wishes to seek judicial review of this Recommendation  
9 shall file a proper Petition for Judicial Review pursuant to WDCR 57.3(7-8) with this  
10 Court prior to that time.

11 DATED this 21<sup>st</sup> day of April, 2016.

12 IT IS SO RECOMMENDED:

13  
14 Robin Wright  
15 PROBATE COMMISSIONER  
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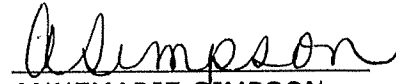
1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second  
3 Judicial District Court of the State of Nevada, County of Washoe; that on this 21st  
4 day of April, 2016, I electronically filed the foregoing with the Clerk of the Court  
5 System which will send a notice of electronic filing to the following:

6 RICHARD WILLIAMSON, ESQ. for PREMIER TRUST, INC., DINNY FRASIER

7 MARILEE BRETERNITZ, ESQ. for PREMIER TRUST, INC., DINNY FRASIER

8 Further, I certify that I deposited in the Washoe County mailing system for  
9 postage and mailing with the United States Postal Service in Reno, Nevada, a true  
10 copy of the attached document addressed to: [NONE]

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16 ANNEMARIE SIMPSON  
17 Administrative Secretary  
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PR16-00128  
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Jacqueline Bryant  
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Transaction # 6732426 : yvioria

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PR16-00128  
2016-08-18 10:30:43 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 5665322

CASE NO. PR16-00128

TRUST: JORDAN DANA FRASIER FAMILY TRUST

DATE, JUDGE  
OFFICERS OF  
COURT PRESENT

APPEARANCES-HEARING

CONTINUED TO

08/11/2016

HONORABLE  
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STIGLICH

DEPT. NO. 08

A. DeGayner  
(Clerk)

**IN CHAMBERS CONFERENCE**

Richard Williamson, Esq. was present on behalf of the Petitioners, who were not present.

Scott Hernandez, Esq. was present on behalf of the Beneficiary, Bradley Frasier, who was not present.

Court convened in chambers with Court and Counsel present. Counsel Williamson advised the Court that counsel is working hard to negotiate the case; some preliminary elements are standard and non-objectionable; Counsel has tried to informally mediate the case and have discussed a settlement conference or mediation. Counsel wants to keep working towards settlement but there is a dispute as to what documents Mr. Frasier is entitled to.

Counsel Hernandez advised the Court that Commissioner Wright left it to the discretion of the Trust whether documents will be produced but she did give flexibility to keep the issue open to allow Counsel to work on it. Counsel Hernandez further advised that there has been discussion amongst the parties, the CPA's are talking and they hope to hammer out the deal. Counsel Hernandez moved to table the document issue for 60 days to see if Counsel can make it work and if not then they can work it out at that time.

Counsel Williamson advised that paragraph 13 is the issue and agreed to table it for 60 days.

**COURT ORDERED:** Matter CONTINUED for Status Conference in 60 days. Court leaves open the ability to object to or further discussion the document issues. Court CONFIRMS the Master's Recommendation for Order in all respects except as to item #13. Court stood in Recess.

10/05/2016

2:00 p.m.

Status Hearing

**CODE: 3370**  
G. DAVID ROBERTSON, ESQ. (NV Bar 1001)  
RICHARD D. WILLIAMSON, ESQ. (NV Bar 9932)  
JONATHAN J. TEW, ESQ. (NV Bar 11874)  
Robertson, Johnson, Miller & Williamson  
50 West Liberty Street, Suite 600  
Reno, Nevada 89501  
Telephone No.: (775) 329-5600  
Facsimile No.: (775) 348-8300  
*Attorneys for Petitioners,*  
*Co-Trustees Dinny G. Frasier and Premier Trust, Inc.*

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

In the Matter of the

JORDAN DANA FRASIER FAMILY TRUST

Case No. PR16-00128

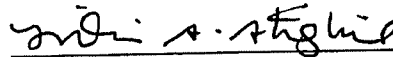
Dept. No. PR

**CONFIRMING ORDER**

On April 21, 2016, the Probate Commissioner served the *Recommendation for Order Granting Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions*. On May 19, 2016, Dr. Bradley Fraser, a beneficiary of the trust, filed his *Response to Recommendation for Order Granting Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions*, and on May 26, 2016, Petitioners filed their *Reply to Dr. Frasier's Response to the April 21, 2016 Recommendation for Order*. Thereafter, the Court conducted an in-chambers conference on August 11, 2016 with counsel for the parties wherein the parties stipulated to stay any dispute over disclosure of documents but otherwise accept the Recommendation for Order.

ACCORDINGLY, the Court hereby CONFIRMS, APPROVES, and ADOPTS the *Recommendation for Order Granting Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions* in all respects, except as to item number 13 therein.

Dated this 29<sup>th</sup> day of August, 2016.

  
District Judge

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Clerk of the Court  
Transaction # 5523315 : yvlloria

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msullivan@rbsllaw.com  
Barry L. Breslow, Esq. (SBN 3023)  
bbreslow@rbsllaw.com  
Scott L. Hernandez, Esq. (SBN 13147)  
shernandez@rbsllaw.com  
**Robison, Belaustegui, Sharp & Low**  
A Professional Corporation  
71 Washington Street  
Reno, Nevada 89503  
Telephone: (775) 329-3151  
Facsimile: (775) 329-7169  
*Attorneys for Bradley 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.: PR

**RESPONSE TO RECOMMENDATION FOR ORDER GRANTING PETITION FOR**  
**CONFIRMATION OF TRUSTEES, FOR CONSTRUCTION OF THE TRUST**  
**INSTRUMENTS, AND FOR INSTRUCTIONS**

Bradley Frasier ("Dr. Frasier"), Beneficiary of the Jordan Dana Frasier Family Trust (the "Trust"), by and through his counsel, Robison, Belaustegui, Sharp & Low, hereby submits the following response to the Recommendation for Order Granting Petition for Confirmation of Trustees, for Construction of the Trust Instruments and for Instructions filed April 21, 2016 (the "Recommendation").

Dr. Frasier does not generally object to the Recommendation nor does he specifically object to the confirmation of Dinny G. Frasier and Premier Trust, Inc. as co-trustees of the Trust. However, there are certain concerns that Dr. Frasier must bring to the Court's attention.

To date, co-trustee Premier Trust, Inc. has not administered the Trust with a sufficient degree of transparency commiserate with its fiduciary duty owed to the Trust

1 beneficiaries. Premier Trust, Inc. should be admonished that all beneficiaries are  
2 entitled to an accounting of Trust assets and to all reasonable requests for information  
3 related to assets and administration of the Trust.

4 Dr. Frasier has certain outstanding information and document requests for which  
5 Premier Trust, Inc. has yet to provide a response. This is improper. Accordingly, the  
6 Court should order the co-trustees to provide any and all documents and information  
7 related to the Trust to Dr. Frasier and the other Trust beneficiaries as soon as  
8 practicable. Alternatively, if the co-trustees assert that there is a legal rationale for not  
9 providing such information to Dr. Frasier and the other Trust beneficiaries, such a  
10 rationale should be provided to Dr. Frasier and the other Trust beneficiaries in writing as  
11 soon as practicable.

12  
13 Please note, there are outstanding disputes being negotiated between Dr.  
14 Frasier, the other Trust beneficiaries, and the co-trustees. If Premier Trust, Inc. were to  
15 provide the requested information in a prompt and timely matter, it would streamline and  
16 facilitate a resolution of the current disputes.

17 WHEREFORE, Dr. Frasier respectfully requests the Court to issue the following  
18 orders in addition to its order adopting the Recommendation:

- 19 1. Premier Trust, Inc. must immediately provide the Trust beneficiaries an  
20 accounting of Trust assets;
- 21 2. Premier Trust, Inc. must immediately provide Dr. Frasier with all  
22 information he has previously requested regarding Trust assets and  
23 administration, as well as provide immediate access to all documents  
24 related to Trust assets and administration; and
- 25 3. Alternatively, if Premier Trust, Inc. believes that Dr. Frasier is not entitled  
26 to an accounting of Trust assets or information and documents related to  
27 the assets and administration of the Trust, Premier Trust, Inc. must submit  
28 the legal basis of this belief in writing and to be filed with the Court.

1 **AFFIRMATION:** The undersigned does hereby affirm that this document does not  
2 contain the Social Security Number of any person.

3 DATED this 19<sup>th</sup> day of May, 2016.

4  
5 ROBISON, BELAUSTEGUI, SHARP & LOW  
6 71 Washington Street  
7 Reno, Nevada 89503

8 By: \_\_\_\_\_

9 Michael E. Sullivan, Esq.  
10 Barry L. Breslow, Esq.  
11 Scott L. Hernandez, Esq.  
12 *Attorneys for Bradley Frasier*

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON,  
BELAUSTEGUI, SHARP & LOW, and that on this date I caused a true copy of  
**RESPONSE TO RECOMMENDATION FOR ORDER GRANTING PETITION FOR**  
**CONFIRMATION OF TRUSTEES, FOR CONSTRUCTION OF THE TRUST**  
**INSTRUMENTS, AND FOR INSTRUCTIONS** to be served on all parties to this action

by:

  X   placing an original or true copy thereof in a sealed, postage  
prepaid, envelope in the United States mail at Reno, Nevada to the  
following:

Dinny G. Frasier  
3 Pinewood  
Irvine, CA 92604

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

Dinny G. Frasier  
P.O. Box 54324  
Irvine, CA 92619

Nicole Shrive  
Trust Officer  
Premier Trust, Inc.  
1 East Liberty Street, Ste. #600  
Reno, NV 89501

Amy Frasier Wilson  
10 Via Sonrisa  
Mission Viejo. CA 92692

       personal delivery/hand delivery


  X   by using the Court's CM/ECF Electronic Notification System addressed to:

Richard D. Williamson, Esq.  
Marilee Breternitz, Esq.  
Robertson, Johnson, Miller & Williamson

       Federal Express/UPS or other overnight delivery

       Reno Carson Messenger Service

Dated this 19<sup>th</sup> day of May, 2016.

  
Employee of Robison, Belaustegui,  
Sharp & Low

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 Dept. No. 8  
TRUST

ORDER AFTER HEARING

On October 5, 2016, the parties appeared through counsel in Department Eight for a Status Conference in the above-entitled action.

This matter is hereby scheduled for a bench trial to commence on May 8, 2017, and be completed in no more than three calendar days.

The parties are hereby ORDERED to participate in a mediation within 120 days of the filing of this Order. The Court has no objection to the venue or the manner (i.e., private or judicial mediation) in which the mediation is conducted but cautions the parties to consider cost-effective options. Of note, a judicial mediation conducted in the Second Judicial District Court is available at no cost to the parties.

The parties are directed to set a conference with the Court forthwith should

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1 disputes arise among the parties. The Court will make itself available to resolve  
2 any such disputes in a timely manner.

3 IT IS SO ORDERED.

4 DATED this 5<sup>th</sup> day of October, 2016.

5   
6 LIDIA S. STIGLICH  
District Judge

**CERTIFICATE OF SERVICE**

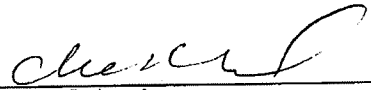
Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this 5<sup>th</sup> day of October, 2016, I electronically filed the following with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

Michael Sullivan, Esq.

Scott Hernandez, Esq.

Barry Breslow, Esq.

Richard Williamson, Esq.

  
Judicial Assistant

FILED  
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PR16-00128  
2018-06-18 09:10:46 AM

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PR16-00128  
2017-02-24 04:47:52 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 5967515 : csulezic

**CODE: 3835** Jacqueline Bryant  
Clerk of the Court  
G. DAVID ROBERTSON, ESQ. (NV Bar 1001)  
Transaction # 6732426 : Swiloria  
RICHARD D. WILLIAMSON, ESQ. (NV Bar 9932)  
JONATHAN J. TEW, ESQ. (NV Bar 11874)  
Robertson, Johnson, Miller & Williamson  
50 West Liberty Street, Suite 600  
Reno, Nevada 89501  
Telephone No.: (775) 329-5600  
Facsimile No.: (775) 348-8300  
*Attorneys for Petitioners,  
Co-Trustees Dinny G. Frasier and Premier Trust, Inc.*

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

In the Matter of the

Case No. PR16-00128

JORDAN DANA FRASIER FAMILY TRUST

Dept. No. 15 [PR]

**STATUS REPORT**

COME NOW Premier Trust, Inc. and Dinny Frasier, co-trustees of the Jordan Dana Frasier Family Trust ("Co-Trustees"), by and through their attorneys of record, Robertson, Johnson, Miller & Williamson, and pursuant to the Order Accepting Random Assignment and Order to File, entered herein on January 30, 2017, hereby submit this Status Report.

A mediation was conducted with all interested parties present on January 27, 2017, at the JAMS office located in Orange, California. At such mediation, the parties reached a tentative settlement of the issues now pending before this Court. Except for one, all signatures on the tentative settlement agreement have been received. The Co-Trustees are advised that the final signature was recently received and is currently in the possession of the mediator. Therefore, the mediator should have a fully-executed copy of the tentative settlement agreement.

The parties are working through the process of converting the tentative agreement terms into a formal settlement document, which is expected to be completed within thirty (30) days. The final settlement agreement is anticipated to resolve all of the currently-pending disputes in this action.

1 The Co-Trustees suggest that a status conference be scheduled for late March to assess  
2 the parties' progress on the settlement agreement if the matter has not been resolved by then.

3 **Affirmation**

4 Pursuant to NRS § 239B.030, the undersigned does hereby affirm that the preceding  
5 document does not contain the social security number of any person.

6 Dated this 24<sup>th</sup> day of February, 2017.

7 ROBERTSON, JOHNSON,  
8 MILLER & WILLIAMSON  
9 50 West Liberty Street, Suite 600  
Reno, Nevada 89501  
(775) 329-5600

10 By: /s/ G. David Robertson  
11 G. David Robertson, Esq.  
12 Richard D. Williamson, Esq.  
13 Jonathan J. Tew, Esq.  
14 *Attorneys for Dinny G. Frasier and*  
15 *Premier Trust, Inc.*  
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Michael E. Sullivan, Esq.  
Barry L. Breslow, Esq.  
Scott L. Hernandez, Esq.  
Robinson, Belaustegui, Sharp & Low  
71 Washington Street  
Reno, Nevada 89503  
*Attorneys for Dr. Bradley L. Frasier*

Kristen E. Caverly, Esq.  
Henderson, Caverly, Pum & Charney  
12750 High Bluff Drive, Suite 300  
San Diego, CA 92130  
*Co-Counsel for Dr. Bradley L. Frasier*

An Employee of Robertson, Johnson, Miller & Williamson

FILED  
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PR16-00128  
2018-06-18 09:10:46 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6712416 : yvyloria

EXHIBIT “1”

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2017-05-05 12:04:47 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6086841 : yvyloria

EXHIBIT “1”

EXHIBIT “1”

## SETTLEMENT AGREEMENT

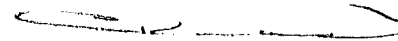
The Parties to this Agreement dated January 27, 2017, are Barnet Resnick, Esq., attorney for Dinny Frasier ("Dinny"); G. David Robertson, Esq., attorney for Co-Trustees Premier Trust, Inc. ("Premier") and Dinny Frasier in her capacity as Co-Trustee; Nicole Shrive, on behalf of Premier; Kristen Caverly, Esq., attorney for Bradley Frasier ("Brad"); Nori Frasier Cady ("Nori"); Amy Frasier Wilson ("Amy"); and Justice Jeffrey King (retired), Mediator ("Justice King"), (*individually, "Party" and collectively, "Parties"*). The Parties hereby agree as provided herein regarding the Matter of Jordan Dana Frasier Family Trust, Case No. PR16-00128, Second Judicial District Court, County of Washoe, State of Nevada.

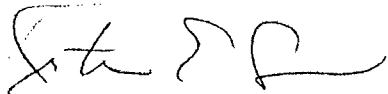
1. Justice Jeffrey King (retired), mediator, attests to Dinny Frasier's capacity to contract and to make testamentary disposition of her estate.
2. Dinny shall be evaluated by a qualified gerontologist to assess her capacity to contract and to make testamentary disposition of her estate.
3. Trust B will exchange the following listed real properties with assets held in Trust A:
  - a. 4372 Pacific Way, Unit 3, Oceanside, CA
  - b. 3609 Vista Way, Oceanside, CA
4. The above two parcels of real properties, as well as 10 Via Sonrisa, Mission Viejo, shall be appraised by a qualified real estate appraiser as agreed to by and between Barnet Resnick and Kristen Caverly, and the appraised values ("Appraised Values") shall be binding on all Parties. All communications with the appraiser shall include Mr. Resnick and Ms. Caverly.
5. All fees, costs, and expenses associated with the appraisals shall be borne by Trust B, to be paid from principal.
6. The real property located at 3609 Vista Way tenant in common interest shall be calculated based on the average between a discounted fifty percent interest and a partitioned interest.
7. Contingent on Court approval of this Agreement, and subject to a capacity assessment by a qualified gerontologist, Dinny shall distribute or authorize to distribute from Trust A the real property located at 4372 Pacific Way Unit 3, Oceanside, CA to Nori; 10 via Sonrisa, Mission Viejo, CA to Amy; and 3609 Vista Way, Oceanside, CA to Brad, at the Appraised Values.
8. Dinny agrees to amend Trust A to equalize distributions to each of her children based on the Appraised Values, *AND DEDUCT AN ADDITIONAL \$10,000 TO NORI + AMY*
9. The Parties agree that as a result of the exchange, there may be tax incurred by Trust B, which taxes if any shall be paid out of principal of Trust B. *divided EQUALLY*
10. The sum of fifty thousand dollars previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited. *yes not*
11. The check from Brad in the amount of twenty thousand dollars currently being held by Premier shall be destroyed, and Brad may stop payment on same.
12. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the gift of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B.
13. This Agreement shall be subject to Nevada probate court approval.
14. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary.

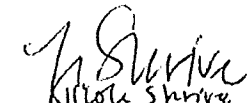
15. Amy, Nori and Brad agree to waive any claim they may have that either trust is entitled to receive rent from Amy and Nori for the period that they resided in a trust property.


**EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF ITS RIGHT TO SEEK COUNSEL.**

  
Brad Frasier

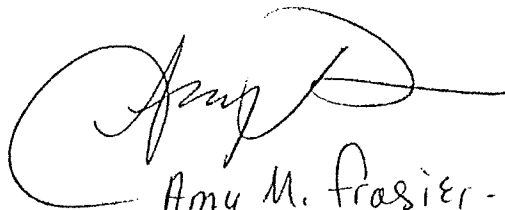
  
Barrett R. Erick

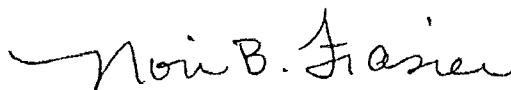
  
Kristen Caverly

  
Nicole Shinn  
Trust Officer  
Premier Trust

  
G. DAVID ROBERTSON, Atty  
for G-Trustees

\* U

  
Amy M. Frasier-Wilson

  
Nori B. Frasier





### SETTLEMENT AGREEMENT

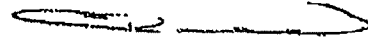
The Parties to this Agreement dated January 27, 2017, are Barnet Resnick, Esq., attorney for Dinny Frasier ("Dinny"); G. David Robertson, Esq., attorney for Co-Trustees Premier Trust, Inc. ("Premier") and Dinny Frasier in her capacity as Co-Trustee; Nicole Shrive, on behalf of Premier; Kristen Caverly, Esq., attorney for Bradley Frasier ("Brad"); Nori Frasier Cady ("Nori"); Amy Frasier Wilson ("Amy"); and Justice Jeffrey King (retired), Mediator ("Justice King"), (individually, "Party" and collectively, "Parties"). The Parties hereby agree as provided herein regarding the Matter of Jordan Dana Frasier Family Trust, Case No. PR16-00128, Second Judicial District Court, County of Washoe, State of Nevada.

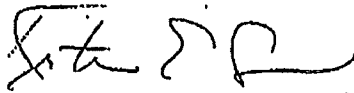
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5. All fees, costs, and expenses associated with the appraisals shall be borne by Trust B, to be paid from principal.
6. The real property located at 3609 Vista Way tenant in common interest shall be calculated based on the average between a discounted fifty percent interest and a partitioned interest.
7. Contingent on Court approval of this Agreement, and subject to a capacity assessment by a qualified gerontologist, Dinny shall distribute or authorize to distribute from Trust A the real property located at 4372 Pacific Way Unit 3, Oceanside, CA to Nori; 10 Via Sonrisa, Mission Viejo, CA to Amy; and 3609 Vista Way, Oceanside, CA to Brad, at the Appraised Values.
8. Dinny agrees to amend Trust A to equalize distributions to each of her children based on the Appraised Values, ~~and to distribute an additional \$10,000 to Nori~~ *and to distribute an additional \$10,000 to Nori* *equally*
9. The Parties agree that as a result of the exchange, there may be tax incurred by Trust B, which taxes if any shall be paid out of principal of Trust B.
10. The sum of fifty thousand dollars previously paid by Brad shall be returned to Brad from the subtrust/account to which it was deposited.
11. The check from Brad in the amount of twenty thousand dollars currently being held by Premier shall be destroyed, and Brad may stop payment on same.
12. The Parties agree that there is no principal residence in Trust B, but to the extent Dinny's principal residence is in Trust B, then Amy's share in Trust B shall include the gift of the principal residence or the net proceeds of the sale, if sold, and shall not be in addition to her equal share in Trust B. *D.G.F.*
13. This Agreement shall be subject to Nevada probate court approval.
14. Both Brad and Nori decline to act as trustee of Amy's sub-trust, and Dinny will nominate a corporate fiduciary.

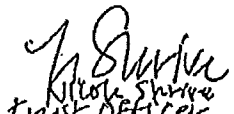
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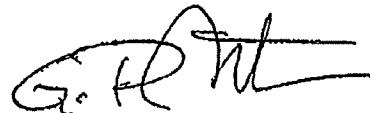
**\* EACH PARTY HAS BEEN URGED TO CONSULT WITH AN INDEPENDENT LEGAL COUNSEL REGARDING THIS AGREEMENT, AND ITS FAILURE TO DO SO PRIOR TO COURT APPROVAL SHALL BE DEEMED A WAIVER OF ITS RIGHT TO SEEK COUNSEL.**

  
Brad Frasier

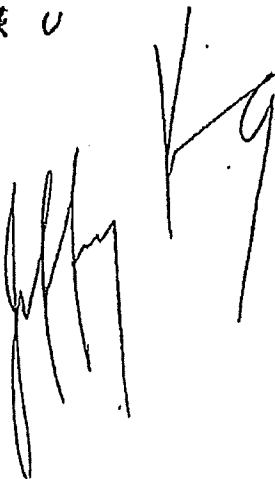
  
DAVID ROBERTSON


  
Kristen Caverly

  
Nicole Shreve  
Trust Officer  
Premier Trust

  
G. DAVID ROBERTSON, Atty  
for Co-Trustees

\* u



  
Amy M. Frasier-Wilson

Danny Gray Frasier

2018-06-18 09:10:46 AM

Jacqueline Bryant

Clerk of the Court

Transaction # 6181140

**CODE: 2700**  
G. DAVID ROBERTSON, ESQ. (NV Bar 1001)  
RICHARD D. WILLIAMSON, ESQ. (NV Bar 9932)  
JONATHAN J. TEW, ESQ. (NV Bar 11874)  
Robertson, Johnson, Miller & Williamson  
50 West Liberty Street, Suite 600  
Reno, Nevada 89501  
Telephone No.: (775) 329-5600  
Facsimile No.: (775) 348-8300  
*Attorneys for Petitioners,*  
*Co-Trustees Dinny G. Frasier and Premier Trust, Inc.*

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

In the Matter of the

JORDAN DANA FRASIER FAMILY TRUST

Case No. PR16-00128

Dept. No. 15 [PR]

**ORDER GRANTING MOTION TO APPROVE AND ENFORCE SETTLEMENT**  
**AGREEMENT AND VACATE TRIAL DATE**

**I. Procedural History**

On April 14, 2017, Dinny Frasier, in her individual capacity, filed a Motion to Approve and Enforce Settlement Agreement and Vacate Trial Date ("Motion"), and, on April 17, 2017, further filed an Ex-Parte Motion for Order Shortening Time Regarding Motion to Enforce Settlement Agreement and to Vacate Trial ("Ex-Parte Motion"). On April 19, 2017, this Court ruled on the Ex-Parte Motion by issuing an Order vacating the trial date and setting an evidentiary hearing to commence on May 8, 2017 regarding enforceability of the Settlement Agreement. On April 21, 2017, the parties stipulated that the evidentiary hearing be continued to May 9, 2017, and the Court granted that continuance on April 24, 2107.

Prior to the hearing, the Court carefully reviewed the entire Court file, including the Pre-Hearing Statements submitted by the co-trustees (Premier Trust and Dinny Frasier in her trustee capacity), Bradley Frasier and Dinny Frasier in her individual capacity.

The hearing was held on May 9, 2017. Present at the hearing were Nicole Shrive, a representative of co-trustee Premier Trust, G. David Robertson, Esq. appearing on behalf of

**ORDER GRANTING MOTION TO APPROVE AND ENFORCE SETTLEMENT AGREEMENT  
AND VACATE TRIAL DATE**

PAGE 1

1 Premier Trust and Dinny Frasier in her capacity as co-trustee, Barnet Resnick, Esq. and Courtney  
2 O'Mara, Esq. appearing on behalf of Dinny Frasier in her personal capacity, Bradley Frasier and  
3 his counsel Mike Sullivan, Esq. and Kristen Caverly, Esq., Nori Frasier, representing herself *in*  
4 *pro per*, and Amy Frasier Wilson also representing herself *in pro per*. At the evidentiary hearing  
5 the Court considered the Motion and multiple ancillary issues relating thereto. The Court took  
6 evidence at the hearing in the form of oral statements from the three Frasier children, i.e., Amy,  
7 Nori and Bradley. The Court further heard arguments from counsel on both the Motion and also  
8 the ancillary issues. This Order addresses only resolution of the Motion; the ancillary issues are  
9 addressed in a separate Order.

## 10 **II. Factual History**

11 Pursuant to Judge Polaha's Order at the December 6, 2016 status conference, co-trustees'  
12 counsel arranged for a mediation to occur in Orange, California before the Honorable Justice  
13 Jeffrey King (ret.). The primary purpose of the mediation was to resolve certain disputes  
14 surrounding a medical building owned jointly by the Jordan Dana Frasier Family Trust, as  
15 amended, and all other trusts created thereunder (collectively, the "Trusts") and Bradley Frasier,  
16 son of Jordan Frasier and Dinny Frasier. Present at the mediation were Nicole Shrive, on behalf  
17 of co-trustee Premier Trust, Dinny Frasier, in her capacities as both a co-trustee and personally,  
18 G. David Robertson, Esq. appearing on behalf of Premier Trust and Dinny Frasier in her co-  
19 trustee capacity, Barnet Resnick, Esq. appearing on behalf of Dinny Frasier in her personal  
20 capacity, Bradley Frasier and his counsel Kristen Caverly, Esq., Nori Frasier, representing  
21 herself *in pro per*, and Amy Frasier Wilson, also representing herself *in pro per*.

22 The mediation resulted in a two-page document entitled "Settlement Agreement" which  
23 recited the material terms of the settlement reached and was ultimately signed by all of the  
24 parties and, where applicable, their counsel.

25 The parties to the Settlement Agreement contemplated that a further agreement would be  
26 prepared after the mediation to provide guidance regarding certain details of the settlement.  
27 Although the parties were unable to agree upon the more detailed document, such was not  
28 required by the Settlement Agreement. As a result of the parties' inability to reach a more

1 detailed agreement, Dinny Frasier, in her individual capacity, brought the Motion to enforce the  
2 original two-page Settlement Agreement, asserting that it contains all material terms needed to  
3 enforce the settlement.

4 **III. Findings of Fact**

5 In addition to the documents noted above, the Court has also reviewed all evidence and  
6 argument presented at the May 9, 2017 hearing. After considering same, the Court makes the  
7 following factual findings.

8 First, the parties do not dispute that they all signed the Settlement Agreement following  
9 the mediation with Justice King. While Amy Frasier Wilson and Nori Frasier represented  
10 themselves *in pro per* at the mediation, both have acknowledged that they had an opportunity  
11 following the mediation to retain counsel to review the Settlement Agreement. In addition, the  
12 Settlement Agreement provides substantial immediate – albeit initially unequal – benefits to all  
13 three of the Frasier children, with a later equalization mechanism to resolve this inequity. Thus,  
14 each of the children had a reasonable basis and incentive to agree upon the material terms set  
15 forth in the Settlement Agreement.

16 The primary concerns and issues of fact now raised by certain of the parties regarding the  
17 Settlement Agreement are: 1) whether the gerontologist must be Court appointed; 2) whether the  
18 appraiser must be Court appointed; 3) who will bear the tax consequences of the transactions set  
19 forth in the Settlement Agreement; 4) timing of the equalizing payments and 4) whether the  
20 distribution to Amy Frasier Wilson will be free of trust.

21 The first three of these issues are easily resolved by reference to the Settlement  
22 Agreement itself. The agreement does not require Court appointment of either the gerontologist  
23 or appraiser. Further, the agreement specifically states that Trust B is to bear the tax  
24 consequences of these transactions. Thus, there is no legitimate dispute regarding those issues.

25 The Settlement Agreement is silent as to the fourth issue regarding whether the  
26 equalization payments will occur as part of this transaction or later upon the death of Dinny  
27 Frasier. All parties at the hearing acknowledged that they contemplated the latter distribution,

1 and the Court accepts that representation. Regardless, the Court finds that the timing of this  
2 event is not a material term of the Settlement Agreement.

3 Finally, as to distribution of the Mission Viejo property to Amy Frasier Wilson free of  
4 trust, all parties at the hearing acknowledged this was the intent of the Settlement Agreement,  
5 and the Court accepts that representation.

6 Because Dinny Frasier was not present at the hearing, the Court requested that after the  
7 hearing Mr. Resnick inquire whether she agreed the equalizing payments should occur upon her  
8 death and if the property distribution to Amy Frasier should be free of trust. The Court then set a  
9 telephonic conference for April 16, 2017 to discuss her responses. As noted in the Minutes of  
10 said conference, Mr. Resnick advised that Dinny Frasier agreed the equalizing payments should  
11 be made upon her death and that the distribution to Amy Frasier Wilson under the Settlement  
12 Agreement be outright and free of trust.

13 Thus, as to the five above-listed concerns and disputed issues of fact raised by the parties,  
14 the Court finds as follows: 1) the gerontologist need not be Court appointed; 2) the appraiser  
15 need not be Court appointed; 3) Trust B shall bear all tax consequences of the transactions set  
16 forth in the Settlement Agreement; 4) the equalizing payments shall be made upon the death of  
17 Dinny Frasier; and 5) the Mission Viejo property shall be distributed to Amy Frasier Wilson  
18 outright and free of trust.

19 **IV. Conclusions of Law**

20 1. This Court has jurisdiction over the Trusts and co-trustees as established by prior  
21 Order of this Court.

22 2. The parties to the Settlement Agreement required this Court to approve said  
23 Agreement and therefore submitted to the jurisdiction of the Court with respect to such approval.

24 3. Significant Nevada law requires that the Settlement Agreement be enforced if the  
25 parties thereto agreed to all of its material terms. See generally Grisham v. Grisham, 128 Nev.  
26 \_\_\_, 289 P.3d 230 (2012); May v. Anderson, 121 Nev. 668, 119 P.3d 1254 (2005).

27 4. The Settlement Agreement contains all material terms required to effectuate the  
28 settlement contemplated.

5. The Settlement Agreement shall therefore be enforced as written, subject only to the clarifications that all equalization payments shall occur upon Dinny Frasier's death, and that Amy Frasier Wilson shall receive the Mission Viejo property and her equalizing payment(s) outright and free of trust.

IT HEREBY IS SO ORDERED

Dated this 6<sup>th</sup> day of July, 2017.

District Judge

ORDER GRANTING MOTION TO APPROVE AND ENFORCE SETTLEMENT AGREEMENT  
AND VACATE TRIAL DATE  
PAGE 5

**In the Matter Of:**

Department 15

**TRANSCRIPT OF PROCEEDINGS**

*October 17, 2017*

*Job Number:*



1 CODE #4185

2 SUNSHINE REPORTING SERVICES

3 151 Country Estates Circle

4 Reno, Nevada 89511

5 (775) 323-3411

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8 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9 IN AND FOR WASHOE COUNTY

10 HONORABLE DAVID A. HARDY, JUDGE

11 -o0o-

12 IN RE:

13 Case No. PR16-00128

14 Dept. No. 15

15 JORDAN DANA FRASIER FAMILY  
16 TRUST,

17 TRUST/CONSERVATORSHIP

18

19 TRANSCRIPT OF PROCEEDINGS

20 ORAL ARGUMENTS

21 OCTOBER 17, 2017

22 RENO, NEVADA

23

24

25 REPORTED BY: AMY JO TREVINO, CRR #825  
SUNSHINE LITIGATION SERVICES (775) 323.3411

A P P E A R A N C E S

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FOR DINNY FRASIER:

BARNET RESNICK, ESQ.  
VOGT RESNICK SHERAK  
4400 MacArthur Blvd.  
Suite 900  
Newport Beach, CA 92658  
(949) 851-9001

PATRICK MILLSAP, ESQ.  
WALLACE & MILLSAP  
510 W. Plumb Lane  
Suite A  
Reno, NV 89509  
(775) 683-9599

FOR PREMIER TRUST:

G. DAVID ROBERTSON, ESQ.  
ROBERTSON JOHNSON MILLER &  
WILLIAMSON  
50 West Liberty Street  
Suite 600  
Reno, Nevada 89501  
(775) 329-5600

FOR BRADLEY FRASIER:

SCOTT L. HERNANDEZ, ESQ.  
ROBISON SIMONS SHARP BRUST  
71 Washington Street  
Reno, NV 89503  
(775) 329-3151

1 WASHOE COUNTY, NEVADA, OCTOBER 17, 2017, 9:30 A.M.

2 -oOo-

3 THE COURT: This is case number PR16-00128. Your  
4 appearances, please.

5 MR. ROBERTSON: Good morning, David Robertson,  
6 Robertson, Johnson, Miller, Williamson, on behalf of Premier  
7 Trust and the trustee assigned to this case Ryan Gonda.

8 MR. RESNICK: Barnet Resnick, for Dinny Frasier,  
9 co-trustee.

10 MR. MILLSAP: Patrick Millsap, local counsel with  
11 Mr. Resnick.

12 MR. HERNANDEZ: Scott Hernandez on behalf of  
13 Dr. Frazier, beneficiary and interested party.

14 THE COURT: This Court participated in a telephone  
15 conference yesterday at 4:00. It was undoubtedly difficult for  
16 the attorneys. At the conclusion of my remarks this morning  
17 the attorneys will be invited to orally place any observations  
18 of the telephone call into the record so those observations may  
19 be preserved.

20 This Court presided over a hearing on May 9th this  
21 year wherein the issue was the enforceability of a settlement  
22 agreement. Nevada law authorizes a fact finder to conduct  
23 indirect circumstantial facts together into a preponderant  
24 finding. Nevada law further authorizes a finder to use his or  
25 her every day common sense in considering the facts.

1 Counsel, when I was in private practice I was a  
2 nationally certified elder law attorney through the National  
3 Academy Elder Law Attorneys. On my 13 years on the bench I  
4 have presided for six years over adult guardianship issues, and  
5 now I preside over contested probate and trust matters. I have  
6 experienced elderly clients and litigants with full capacity.  
7 I also have sensitivity to facts indicating cognitive  
8 compromises on the continuum of capacity. Regrettably, I also  
9 have experience, too much experience, with the economic  
10 principle called Parkinson's Law, wherein litigation expands to  
11 fill the space created by the availability of litigation funds.  
12 The shameful litigation I have observed as a judge in 13 years  
13 is that litigation where lawyers have access to large sums of  
14 money without a client directing, approving, or understanding  
15 litigation choices and costs.

16 I left the May 9th hearing concerned that this dispute  
17 is creating an injustice for a dear woman in the final season  
18 of her life. I heard conflicting arguments from counsel about  
19 Ms. Frasier's capacity, her directions in this litigation, but  
20 I received no evidence from Ms. Frasier herself. I was  
21 concerned about whether -- I was concerned that Ms. Frasier  
22 appeared to be surrounded by a private attorney and a private  
23 fiduciary acting as an agent under a power of attorney  
24 instrument and that she was refusing to speak with her  
25 co-trustee without her private attorney present. I began to

1 detect a form of isolation and thought it possible, if not  
2 probable, that Ms. Frasier's decisions were being directed by  
3 Mr. Resnick who might not have wanted the scrutiny and  
4 oversight Premier asserted.

5           This Court's concerns increased with reading the post-  
6 hearing moving papers and learning that Ms. Frasier was  
7 attempting to terminate Premier only increased. I was  
8 concerned that it was not Ms. Frasier who was directing this  
9 litigation, and I expected her to be present to persuade this  
10 Court that it was she who was directing this litigation.

11           This Court carefully drafted its order. As I  
12 indicated on the phone yesterday, those words were not  
13 arbitrary or haphazardly chosen. The Court's intent by that  
14 order was to bring sense to a senseless litigation.

15           I carefully read as follows: Quote, this Court is  
16 concerned about Ms. Frasier's cognition and capacity and the  
17 external influences that have been excluded from and introduced  
18 into Ms. Frasier's life. The alleged pattern of altered  
19 personal relationships, revolving professional relationships,  
20 to include the recent substitution of local counsel, isolation  
21 of her capacity, investing confidence in those spacially close,  
22 despite the absence of familia or friendship antecedes is  
23 familiar to this Court. Given the unworkable relationship  
24 between co-trustees, it appears that one trustee may be removed  
25 from service.

1 Any attorney reading my July 6th order would know that  
2 this Court intended to assert judicial control and manage this  
3 litigation from the bench. There can be no other reading.  
4 With one great antidote to endless litigation is a firm hearing  
5 trial date. This Court knows the value of designated time and  
6 place to convert allegations and arguments into found facts and  
7 adjudications.

8 It is, therefore, with some reluctance this Court  
9 signed a continuance in August. The basis of the continuance  
10 was consistent with ongoing settlement discussions. The  
11 stipulated order presented to the Court specifically included  
12 Dr. Spar's availability. This Court accommodated those dates  
13 and set the hearing for today.

14 Subsequently, beneficiary Brad Frasier filed a motion  
15 to enforce the payment of attorneys fees. It had been agreed  
16 to by the parties and ordered by this Court. Trust counsel and  
17 Ms. Frasier's counsel argued about who should pay those fees,  
18 into which account those fees should be paid, and whether  
19 ancillary accounting of Ms. Frasier's consumer spending  
20 patterns was an antecedent, and yet that \$50,000 was not paid.

21 This Court devoted yesterday to prepare for today's  
22 hearing. I read several hundred pages, including exhibits, to  
23 include a reply filed, a reply filed by no moving party, which  
24 violated well-settled principles of moving practice, and new  
25 arguments and evidence was introduced.

1           The day before hearing I learned about subsequent  
2 assessments by Dr. Spar occurring sometime in September, so I  
3 agreed to join the conference call requested by the attorneys.  
4 I learned that they had made an attempt to stipulate to vacate  
5 this morning's hearing. There is no doubt, Mr. Millsap knows  
6 this well, I expressed my frustration and displeasure. The  
7 Court is always troubled when attorneys presume that it will  
8 abdicate its responsibilities and simply go with attorneys'  
9 decisions. I likely would not have adopted the stipulation as  
10 presented knowing the virtue of litigation finality.

11           Every judge who takes the bench, who prepares, takes  
12 the bench with some inclinations, charges to bring to the bench  
13 his inclinations with an open mind to persuasive alternative  
14 ethics.

15           My prehearing inclinations are to remove Ms. Frasier  
16 as the trustee of this trust, because the relationship is  
17 unworkable. To deny your request to confirm an out-of-state  
18 trust company in place of Premier. Like many pro hac vice  
19 counsel understands, this Court is concerned about having an  
20 out-of-state trustee who may not appreciate this Court's role  
21 in a dispute docketed in this Court's department.

22           This Court is inclined to order to the fullest extent  
23 possible under the law and the trust documents themselves, some  
24 form of accounting and understanding of what has been spent on  
25 Ms. Frasier's behalf.

1           This Court is inclined to order \$50,000 to be paid  
2   with attorneys fees by 5:00 o'clock today, and that beginning  
3   tomorrow \$500 sanction individually against Mr. Robertson,  
4   Mr. Resnick, and Mr. Millsap will accrue.

5           I'm ready for the first witness, but I suspect you may  
6   wish to be heard, counsel.

7           MR. ROBERTSON: Your Honor, Premier Trust stands  
8   ready, willing, and able to do whatever it is that this Court  
9   suggests or orders with respect to this trust and Ms. Frasier.  
10   Premier wants to do the right thing and they are here ready to  
11   do whatever the Court guides us. That's why we sought  
12   instructions.

13          THE COURT: The Court previously aired its guidance on  
14   July 6th.

15          MR. ROBERTSON: Understood, Your Honor. I was not in  
16   control of bringing Ms. Frasier today. I do not have witnesses  
17   to present because Premier is accepting whatever the Court  
18   rules, and we don't believe that as we stand here today there  
19   are any disputed facts other than Ms. Frasier's comments to  
20   make decisions.

21          THE COURT: Is it possible that Ms. Frasier suffers an  
22   unjust outcome today because of reliance upon your agreement to  
23   vacate today's hearing? If I were just to order as inclined,  
24   would that be unfair to Ms. Frasier?

25          MR. ROBERTSON: Well, Your Honor, we did not agree



1 that Ms. Frasier did not need to appear until I think it was  
2 last Wednesday or Thursday. The suggestion was made awhile ago  
3 and we resisted that. Finally, on I think Wednesday or  
4 Thursday we signed the stipulation. We anticipated that  
5 Dr. Frasier's counsel would sign it as well and I wrongly -- I  
6 own that. I wrongly assumed that the Court would vacate the  
7 hearing upon counsel's stipulation. I apologize for that.

8 I have at no time ever said to Mr. Millsap or  
9 Mr. Resnick that they should not bring Ms. Frasier. All I have  
10 said is that they have resisted bringing her, and I have said  
11 that we were willing to sign a stipulation that would convert  
12 this hearing into a status conference where we would explain to  
13 the Court the current status of the settlement discussions and  
14 ask for the Court's guidance. So I would say no we never  
15 misled them to believe they should not bring her.

16 THE COURT: As payment of the \$50,000 to Bradley  
17 Frasier by today --

18 MR. ROBERTSON: We can gladly do that, Your Honor.  
19 All we need is for you to tell Premier that Premier doesn't  
20 need to know what happened to the \$50,000 before -- Premier  
21 should not look into that, Premier should just write the check  
22 and Premier will do it. They are stuck. They have judicial  
23 duty. They are very concerned. We have some additional  
24 evidence that we just learned of at the end of last week that I  
25 haven't even had a chance to present to other counsel. We have

1 some new evidence that raises very serious concerns --

2 THE COURT: Of what nature?

3 MR. ROBERTSON: A very large withdrawal from  
4 Ms. Frasier's account immediately after Janie Mulrain was  
5 appointed her fiduciary -- given her power of attorney. I have  
6 it here. It's not fair to spring it on counsel, but it is a  
7 large withdrawal that I just learned about the end of last  
8 week.

9 THE COURT: Most of my practice area was in contested  
10 guardianship, contested guardianship litigation, and there are  
11 wonderful and morally impeccable private fiduciaries. And  
12 there are also private fiduciaries who are in prison upon my  
13 signature because of defecation.

14 MR. ROBERTSON: There may be a good explanation for  
15 this large withdrawal, Your Honor. We haven't had a chance to  
16 explore it, but about two weeks after she became private  
17 fiduciary she withdrew \$100,000 out of Ms. Frasier's account,  
18 and I have the withdrawal slip here. This is new news to us,  
19 but as you were saying it tends to support concerns that we've  
20 been having at Premier.

21 But regardless of that, as we said in our opposition,  
22 so to speak, to Dr. Frasier's motion, we agree it should be  
23 paid. The settlement agreement says it's supposed to come out  
24 of Ms. Frasier's personal account. Apparently that Bank of  
25 America account doesn't even exist. We agree it should be

1 paid. We can write the check, I believe, I would have to  
2 consult with Premier, but I believe we can write the check  
3 today, if not in a couple days if they have to liquidate some  
4 securities. And we are happy to do that. It's just that they  
5 are torn, because they don't want somebody later to say hey,  
6 you knew money was missing, and you kept giving money to Dinny  
7 Frasier without looking into it. But if the Court simply says  
8 we should pay the \$50,000, we are happy to do that.

9 THE COURT: Mr. Resnick. Excuse me, Mr. Resnick,  
10 anything from yesterday's conference call that you wish to add  
11 to the record for review and preservation?

12 MR. ROBERTSON: No, Your Honor, I thought that you  
13 were clear and direct and understandably upset about a change  
14 that was brought to your attention at the last minute.

15 THE COURT: You did make a factual argument that I  
16 would invite you to repeat in which you made a statistical  
17 projection of 99.9 percent.

18 MR. ROBERTSON: Yes, Your Honor, and I'm not at  
19 liberty to disclose contents of communications. I was able to  
20 meet with Ms. Frasier personally for a brief period, an hour,  
21 hour and a half, something like that a few weeks ago. I don't  
22 want to divulge any of the communications that occurred during  
23 that meeting, and Mr. Resnick asked me to sign a  
24 confidentiality agreement and I did. I would just say that I  
25 believe my opinion is that as an officer of the court that if

1 Ms. Frasier were here today, no question in my mind that it  
2 wouldn't be within five minutes that the Court would find that  
3 its concerns were validated.

4 THE COURT: Counsel.

5 MR. RESNICK: Your Honor, as far as the \$100,000, I  
6 believe Premier was advised that that was from the Bank of  
7 America account was closed and the Opus bank account was  
8 opened, and there is correspondence to that effect to Premier  
9 bank and to Mr. Robertson, and I'll offer on behalf of Jane  
10 Mulrain, who I do not represent, that she has said she is  
11 willing to give you her accounting in camera to review. She  
12 does not pay any bill over \$1,000 unless she discusses it with  
13 Dinny Frasier and she initials the bill. She is a professional  
14 fiduciary licensed in California, excellent reputation, and if  
15 necessary she will come up and testify before you at anytime  
16 you want, but she has offered to give you her accounting in  
17 camera. Obviously, it deals with personal expenses.

18 As to Dr. Spar, we didn't find out until yesterday  
19 that the Inspector General was doing a spot audit at the UCLA  
20 facility that he is the professor of. He said it would be  
21 criminal on his part not to attend. He had to be at 1:00  
22 o'clock at this meeting with the Inspector General from the  
23 U.S. I tried my best to get him here. We had tickets, he was  
24 ready to go. Didn't find out until yesterday. I didn't -- I  
25 couldn't do anything else. As to --

1 THE COURT: How do you reconcile that with the fact  
2 that there was a stipulation signed last week to take this  
3 matter off the contested calendar?

4 MR. RESNICK: Well, he still had the ticket and was  
5 prepared to go, and it was a stipulation, but it wasn't signed  
6 by Your Honor. So we still had him waiting. He really wanted  
7 to know last Friday, because he has all these patients that he  
8 wanted to see and he left the date open and the day is open and  
9 he is available except at 1:00 o'clock. He is available  
10 between 10:00 and 12:00 to do -- we tried for last night, tried  
11 to get audio visual and the best we could do was audio. He is  
12 available to talk to you, granted only by telephone between  
13 10:00 and 12:00. That's the best I could do. I cannot move  
14 the mountain.

15 THE COURT: This entire hearing is predicated on Ms.  
16 Frasier's purported edict and direction to fire Premier.

17 MR. RESNICK: I understand that. I don't know what  
18 else I could have done. Nothing else I could have done to move  
19 him to come here. He said in his own words, and I can get a  
20 declaration, he said it would be criminal if he wasn't there at  
21 1:00 o'clock. How do I respond to that? There is a court  
22 order you are supposed to attend, that's the best I could do.  
23 I talked with him between 10:00 and 12:00. You can ask him  
24 yourself. As to Dinny I have a letter from her attending  
25 physician. May I give it to the officer?

1 THE COURT: You can represent it. I indicated in my  
2 order the declaration would be filed. I understand that the  
3 author of that attending physician's letter doesn't need to be  
4 here. That as I expressed to local counsel yesterday -- what's  
5 the date of the letter?

6 MR. RESNICK: Yesterday. Should I read it --

7 THE COURT: Sure, fine.

8 MR. RESNICK: "I'm Dinny Frasier's primary care  
9 physician. I'm not related to Dinny Frasier by blood or  
10 marriage. I am licensed to practice medicine in the State of  
11 California. Please note I'm very opposed to having Mrs.  
12 Frasier fly to Reno. She is constantly battling her anxiety,  
13 and this trip will make it much worse. Her anxiety directly  
14 affects her pain level, and her blood pressure, and over-all  
15 well-being. She is 80 years old and needs her daily-nightly  
16 routine stabilized as much as possible. It is seriously not in  
17 her best interest medically or emotionally to fly to Reno.  
18 Thanks for your consideration in this matter."

19 I had no involvement in the composition of this. This  
20 is what he wrote on his own.

21 In September of 2016 I was called by a colleague of  
22 mine, Bruce Swartz, who was a neighbor of Dinny for 30 years,  
23 and he was approached by one of the children saying that things  
24 are going on, Dinny is unhappy, she is unhappy in her house,  
25 she is unhappy with the arrangement with Premier. She doesn't

1 like the trust officer. Doesn't like the attorney. Can I help  
2 out.

3 So I met with her on two occasions. Engagement letter  
4 was signed and she charged me with the responsibility of one,  
5 settling the Brad litigation, which I did within three or four  
6 months, would you say? We had a JAMS mediation, arbitration,  
7 and we settled. And the second charge was to remove Premier  
8 and appoint another corporate trustee. Those are my only  
9 responsibilities. Obviously, there is a lot of innuendo that  
10 I'm unduly influencing her. I have seen her maybe six times.  
11 I have always had at least three or four people in my office  
12 that are not related to me, either Janie, her caregiver, Bruce  
13 Swartz, that can attest my only involvement is on the legal  
14 side. I have no influence over her financially. And in  
15 44 years of practice I can't believe these accusations. I mean  
16 I can see it is happening, but it boggles my mind. I'm beside  
17 myself.

18 Any questions of the Court? Thank you, Your Honor.

19 THE COURT: Because I respect and admire what you just  
20 made in your presentation, one of the recurring and  
21 predictable, many signals of diminished capacity is ongoing  
22 angst and impending upending relationships. If I could just  
23 illustrate by parody. Mother and daughter have a life long  
24 relationship. Mother ages into a place where she needs  
25 assistance. Daughter provides that assistance, and in the last

1 season of mother's life she is hating daughter, distrusting  
2 daughter, pushing back against daughter. I'm not stating to  
3 these three children, because I believe some of their conduct  
4 was absolutely shameful, but I'm trying to place a decision,  
5 you told me you were detained to remove Premier, and I'm trying  
6 to understand why when Premier was previously selected it was  
7 so necessary to Ms. Frasier and now to remove them.

8 MR. RESNICK: I wasn't present during the employment  
9 of Premier, but as I understand it Amy Frasier arranged for  
10 Brooks Travis, the attorney that represented her previously,  
11 who she has never met before, while she was in a rehab facility  
12 after she fell down the stairs. I don't know the condition of  
13 her, whether she was on medication. She doesn't recall signing  
14 the amendment that disinherited the other kids in favor of Amy  
15 and appointing Premier. So I can only tell you what I know  
16 secondhand, but I do see that amendment that disinherits the  
17 other kids. She doesn't want the kids to receive anything.  
18 You saw their conduct in May. And you haven't seen all the  
19 e-mails going back and forth. It's an e-mail-a-thon. I have  
20 been doing this 50 years. It's crazy.

21 THE COURT: How is Ms. Mulrain being compensated?

22 MR. RESNICK: She hasn't taken a penny. She has not  
23 been paid anything.

24 THE COURT: Well --

25 MR. RESNICK: She is paid \$150 an hour. She has been



1 accruing it. I have not seen her bills. I'm sure she would be  
2 happy to share it with you. She has been a godsend.

3 THE COURT: One of the reasons why agency instruments  
4 in Nevada are risky is that there is no transparency and  
5 oversight. And Nevada law contemplates both in the civil and  
6 criminal conduct that misuses of that agency are actionable.  
7 Now, I am emeritus in California, but I don't have expertise or  
8 experience in California. It troubles me when there are unseen  
9 transactions and a resistance to disclose those transactions.

10 MR. RESNICK: I have seen her accounting. The utility  
11 bills, caregiving, maintenance for the house, my legal fees. I  
12 have reviewed everything. There is nothing untoward. Again,  
13 I'm sure she will be willing to show it to you.

14 THE COURT: Why has she deferred payment?

15 MR. RESNICK: There is not enough money in there.  
16 Dinny has no money. She has been asking for \$50,000 to be  
17 deposited to pay some of her bills.

18 THE COURT: And the aggregate amount of legal fees  
19 that Ms. Frasier has been charged by your firm?

20 MR. RESNICK: 150, 165 over the course of 15 months  
21 responding to all of Premier's pleadings, coming to this  
22 hearing. I have no problem showing my billing. It's very  
23 specific. Date, description, amount. I am not embarrassed  
24 about my billing at all.

25 THE COURT: What is the aggregate amount of attorneys

1 fees that have been spent, aggregate including Premier?

2 MR. RESNICK: I believe --

3 THE COURT: More than a half million dollars?

4 MR. RESNICK: I believe their fees, and correct me if  
5 I'm wrong, last I saw was in excess of 250.

6 MR. ROBERTSON: We are at \$250,000 over, I think we  
7 have been involved for about 18 months, Your Honor.

8 MR. RESNICK: It's crazy.

9 THE COURT: Reminds me of a guardianship case I had  
10 where \$800,000 were incurred slightly over a year to include  
11 federal actions, direct appeals, writ petitions, and petition  
12 for certiorari in United States Supreme Court because the  
13 attorneys just had muddling check.

14 MR. ROBERTSON: Your Honor, I would like to address  
15 that. I haven't gone through and performed a calculation, but  
16 a large portion of our fees were to resolve the medical  
17 buildings in dispute, not these other issues. We were involved  
18 in trying to resolve the medical building in dispute for at  
19 least six months before Mr. Resnick got involved, and I was the  
20 one that came to court and asked to have a JAMS mediation,  
21 because I couldn't settle the case no matter how hard I tried.  
22 Dr. Frasier's position was that the -- he shouldn't have to pay  
23 anything. He should just get the medical building, the trust's  
24 half of the medical building should just be given to him. The  
25 medical building was in the name of the trust and Dr. Frasier

1 as equal co-owners. Premier just couldn't give half of the  
2 medical building to Dr. Frasier. So we got into kind of a  
3 feedback loop with the accountants, because the accountants  
4 said it's an asset of the trust, it can't be given to  
5 Dr. Frasier, he has to buy out his half, that half of the  
6 asset, the trust half of the asset. And, anyway, we spent an  
7 enormous amount of time getting that dispute resolved and that  
8 was a multimillion dollar dispute. So spending \$150,000 to get  
9 that resolved I don't think was out of line.

10 THE COURT: So what is your proposal, Mr. Resnick?

11 MR. RESNICK: That Dinny have the opportunity of  
12 removing Premier subject to court approval and finding another  
13 corporate trustee as sole trustee. She is willing to resign.  
14 To give an accounting of my legal fees to you under penalty of  
15 perjury and Janie Mulrain's accounting of her fees and the  
16 handling of disbursements on Dinny's account so that you feel  
17 comfortable that nothing unusual is happening.

18 THE COURT: I just don't understand why the change to  
19 Premier is necessary by oversight, misconduct, lack of  
20 professionalism, lack of expertise, or why Ms. Frasier just  
21 wants the change, because Premier's traceable to a child? I  
22 don't know why we are doing this.

23 MR. RESNICK: It's really not an issue for this  
24 hearing, but we received finally the accounting from Premier,  
25 which was due annually after two years, and I was dumped a

1 bunch of paper. He may disagree, but I have been in this  
2 business 50 years of which I was running a trust department,  
3 seven years prior to being in practice, and I have never seen a  
4 conglomeration of paperwork that was represented as accounting.

5 THE COURT: So are you driving the decision in making  
6 recommendations or is your client?

7 MR. RESNICK: I have spoken to my client, and we  
8 cannot get a starting base and an ending base or understand  
9 what the disbursements were for. And we rendered our questions  
10 to Premier, and they are continually answering our questions.  
11 I can't explain to my client what Premier did during the tenure  
12 of the trust administration based on that accounting. I have  
13 got a listing of a number of pages of late payments, of double  
14 payments, and misapplied payments for the benefit of  
15 Ms. Frasier. She doesn't like Premier. I have declarations  
16 signed by her. Previous pleadings. She doesn't like the trust  
17 officer. She doesn't like Mr. Robertson. She just wants the  
18 trustee that she can identify with. Plus now we see all these  
19 errors. We are okay with another corporate trustee as the sole  
20 trustee, preferably in California, because everything is in  
21 California. But if the Court so orders it --

22 THE COURT: Well, everything is in California but the  
23 Court has jurisdiction over the trust.

24 MR. RESNICK: I understand that. So if the Court so  
25 orders it, then get a Nevada trustee but not Premier. She

1 would prefer a California trust. She would like the  
2 opportunity of going to the trust office, Farmers and Merchants  
3 or BNY Mellon, two of the largest institutions are nearby her,  
4 but it could be any corporate trustee.

5 THE COURT: And see this is the difference between the  
6 arguments of counsel and the value of evidence. I don't know  
7 what Ms. Frasier thinks. I know your representations to me,  
8 and I know you feel maligned by the Court, but I'm in the  
9 business of distinguishing between attorneys arguments and  
10 facts, and I have one attorney who tells me, Judge, within  
11 99.9 percent you will be able to tell in five minutes she does  
12 not have the capacity to drive trust administration.

13 MR. RESNICK: I'm suggesting if the Court determines  
14 she doesn't, then she said she will resign in favor of another  
15 corporate trustee. She will not be involved in the  
16 infrastructure. If the Court so wishes, please set another  
17 hearing, and I will bring her up. I don't want it on my  
18 conscience if she gets medically injured as a result of coming  
19 up here. That would really bug me, and I have a problem  
20 bringing her up here when I have a letter from Dr. Haga that  
21 says it's not in her best interest. If we can somehow do a  
22 video conference. I understand it's not as good but it may  
23 give you a sense. She is a frail 88-year-old woman. Dr. Spar,  
24 preeminent gerontologist, has given us three assessment  
25 letters, April, May, and September of this year that says she

1 has testamentary contract capacity. That's all he does. I  
2 understand you want to talk to her. Is there something almost  
3 as good as her being here?

4 THE COURT: I don't know. Because trust me,  
5 underneath the robe is a human too, with some empathy called to  
6 the work of the elderly. Some would say my writing and  
7 advocacy for the elderly reveals my protective nature of them,  
8 and I knew when signing my order that I might be ordering the  
9 impossible. I now accept your representation that I might be  
10 ordering the risk, but I don't know how to parse through,  
11 pierce through all of this background noise about what she  
12 wants and what her abilities to understand are.

13 MR. RESNICK: If you give us a continuance for  
14 purposes of her testimony and we get time, maybe she can drive  
15 up and take two or three days and stop and make it more like a  
16 pleasure trip. The going through security of an airport and  
17 stress of commercial travel, I don't want her to do that.

18 THE COURT: And all of that is preferred over  
19 Premier's continuing --

20 MR. RESNICK: Yes. If you could talk to her, you will  
21 understand. All I can tell you is what she tells me.

22 THE COURT: I know as both a lawyer and a judge, I  
23 know what you are saying. Many of our elderly are like our  
24 newborns. Our children are born completely dependent. They  
25 need nurturing and care as they develop, and then through no

1 fault of ours we age in incrementally greater forms of  
2 dependence, and I don't know where she is in that continuum.

3 MR. RESNICK: I want to give you the opportunity, sir,  
4 but if we can do it by car travel, where she stops in Santa  
5 Barbara, a couple stops, and makes it sort of recreational, I  
6 think that it will be easier on her. I have talked to Dr. Haga  
7 about that.

8 THE COURT: Dr. Hay?

9 MR. RESNICK: Dr. Haga. And he also feels strongly  
10 about it. Commercial air travel I think -- I don't want it on  
11 my conscience. If you have a chance to talk to her, she can be  
12 very sharp. And from the get-go she didn't want to have  
13 anything to do with the kids. From the first meeting with her  
14 nothing to do with the kids.

15 THE COURT: And that's not at issue before me right  
16 now, I get that, and I'm not challenging that, but I have the  
17 post-hearing requested by her attorney that Premier go away and  
18 it is troubling. Because there is a difference between saying  
19 my client wishes to change Premier. Elderly people struggling  
20 to maintain their lives often change their views, and a  
21 direction to Premier is different than a petition to remove  
22 Premier for cause based upon you allege unprofessional conduct,  
23 failure of competence --

24 MR. RESNICK: I never alleged unprofessional conduct.  
25 Negligence, yes.

1 THE COURT: Okay. That's an entirely different thing  
2 than she just feels angst about Premier and doesn't want  
3 Premier and has the capacity to remove Premier. Those are two  
4 different standards for me.

5 MR. RESNICK: I agree. We hopefully will be able to  
6 present to the Court an accounting for the Court to review at  
7 sometime, and maybe that's the appropriate time. I am just  
8 suggesting to see what the accounting is and what objections  
9 interested parties may have to the accounting.

10 THE COURT: I made reference in my order to the change  
11 of local counsel. I welcome Mr. Millsap into the case. He is  
12 well known to the Court and to the subset of law that presents,  
13 but just that change of counsel, too, is troubling to me,  
14 because these are patterns that we see. I would ask you to  
15 disclose, but the inferences the Court often makes with  
16 changing counsel is that counsel doesn't comply, and there is a  
17 disconnect between counsel's professional judgment and somebody  
18 else's desires.

19 MR. RESNICK: We had Courtney Miller here at the last  
20 hearing, and she was ready to testify the reason they wanted to  
21 be removed as local counsel is because they have other business  
22 with Premier, and if it became adversarial, they didn't want to  
23 be in that position. And there is a declaration to that effect  
24 as well, and you weren't accepting declarations, but I do  
25 represent to you that's the reason they told me. If we could



1 somehow get her in front of the Court. Maybe you had a  
2 conversation with her as well?

3 MR. MILLSAP: I did, and as an officer of the Court  
4 and I will be brief, Ms. Miller contacted us and asked if we  
5 would be interested in filling the void that would be left with  
6 her withdrawal. She indicated to me and Mr. Wallace that she  
7 would be withdrawing because her firm and her personally had  
8 represented Premier Trust in the past. Mr. Resnick's  
9 representation is accurate that they anticipated it was  
10 possible that the relationship may become adversarial. If that  
11 possibility manifested, Ms. Miller did not want to be involved,  
12 nor her firm. Mr. Wallace and I had no presentation with  
13 Premier Trust and agreed to accept the representation. There  
14 was no foul play, Your Honor.

15 THE COURT: Thank you.

16 MR. HERNANDEZ: I don't have much to add, Your Honor.  
17 We apologize for our part for the stipulation mix up. This was  
18 something that came on our desk without any prior notice that  
19 the stipulation was happening. We were actually prepared to go  
20 forward today. To the effect that that caused any of the  
21 problems that created this situation, we apologize. We just  
22 weren't aware that a stipulation was in order until we  
23 appeared.

24 I want to put one thing on the record. I don't want  
25 to get into quibbling with counsel, but my client, my client

1 would very much disagree with Mr. Robertson's contentions  
2 regarding the prior dispute regarding the medical building.  
3 Fortunately, that issue has been resolved and with the Court's  
4 order now it will truly be resolved, and that settlement sum  
5 appears it will be paid very quickly.

6 Initially Dr. Frasier as a medical professional was  
7 incredibly concerned about his mother coming out here, and he  
8 shares those concerns, but especially now that we are aware  
9 that there are attorneys fees creeping up towards half a  
10 million dollars, he believes that whatever needs to happen to  
11 make the bleeding stop that it needs to happen, and if his  
12 mother needs to come up to make the fees stop, then that's what  
13 needs to happen, because he is concerned she is going to be  
14 left with nothing at the end of this. So that's the position.

15 So while it may seem like we are taking a contrary  
16 position to what we have taken in the past, I think based on  
17 the events of the last couple months I think we are in  
18 agreement with Your Honor that there needs to be some finality  
19 one way or the other, and we are happy to make whatever  
20 accommodations counsel and the Court feel are proper to make  
21 that happen.

22 THE COURT: I would like to know a little bit more  
23 about the meeting that Mr. Robertson had with Ms. Frasier and  
24 Mr. Resnick's presence after May 9th, because Mr. Robertson,  
25 you mentioned that a protective order was requested and granted

1 or protective agreement was requested and granted and that  
2 seemed unusual to me.

3 MR. ROBERTSON: Yes, Your Honor, as the Court can  
4 imagine Premier was very anxious to speak with Ms. Frasier for  
5 the same reasons that the Court would like to hear from her,  
6 and we repeatedly requested that and it was denied. Ultimately  
7 when we kept whittling away at why can't we meet with  
8 Mrs. Frasier, the response came back that she doesn't want to  
9 incur any attorney's fees to have you come down here. I then  
10 said not only will I come down at no charge, give up an entire  
11 day of my practice, I will pay for my own travel expenses, and  
12 so will Premier. At that point we finally got our meeting, but  
13 we were only allowed the meeting if we would sign a  
14 confidentiality agreement that we would not disclose anything  
15 said by Ms. Frasier at the meeting, which we did agree to do.

16 THE COURT: What's the purpose of that?

17 MR. ROBERTSON: I don't know, because I think if I  
18 could expose some of the things that happened at the meeting it  
19 would enlighten that, but I was asked to sign that. I have to  
20 honor what I signed. And also the Premier Trust officer that  
21 flew out from Las Vegas as well, Richard Ward, he was requested  
22 to sign it, and he signed it as well.

23 THE COURT: Mr. Resnick, why is that meeting, the  
24 content of the meeting helpful to the Court?

25 MR. RESNICK: My client was concerned that statements

1 she may make could be misconstrued and used. She has had  
2 concerns about that happening in the past.

3 THE COURT: See, you infuse so much sophistication in  
4 her understanding and involvement in all this, and I have  
5 respected your presentations this morning, but you tell me she  
6 was concerned that her statements might be used in pleadings,  
7 is it her concern or your concern? Are you projecting to her  
8 your legal expertise and concerns?

9 MR. RESNICK: I'm her advocate. She asked me advice  
10 should I meet with them. I tell her the pros and cons and then  
11 she makes the decision. She is college educated with a  
12 masters, a teacher, a very intelligent woman. I invite you to  
13 talk with her.

14 THE COURT: So the purpose of the protective agreement  
15 was so that nothing disclosed would be what?

16 MR. RESNICK: Misconstrued and pled, yes.

17 MR. ROBERTSON: Your Honor, if that is the  
18 representation, then I think I can make one additional  
19 statement that might help enlighten the situation, because it  
20 is not something that was disclosed by Ms. Frasier. In the  
21 course of an hour and a half, despite having my business card  
22 in front of her and my name written down on a sheet of paper in  
23 front of her, in the course of an hour and a half she asked me  
24 five times who I was.

25 MR. RESNICK: That's not correct, Your Honor.

1 THE COURT: Which is exactly why I set this hearing,  
2 because I have two attorneys advocating with argument, and in  
3 this courtroom I have no facts. We instruct our juries that  
4 nothing attorneys say is evidence. I'm the jury.

5 It is unworkable that Ms. Frasier serve as a  
6 co-trustee when there is not a willingness or ability to  
7 communicate with the co-trustee. Ms. Frasier is removed as the  
8 co-trustee of the Premier -- as trustee of the trust for which  
9 she is settlor. Premier shall serve as the sole trustee;  
10 however, Ms. Frasier might move to remove Premier if she so  
11 wishes, but it is no longer her capacitated decision to do so  
12 without explanation but instead upon proof I think that the  
13 accounting that was identified is an important predicate, and  
14 to that proof, let me say that I don't know Premier. I guess  
15 I'm saying this for your benefit, Mr. Resnick, because you are  
16 the only one from out of the Washoe County area. I never  
17 interacted with Premier in my private practice. I have seen  
18 Premier as a trial participant about a handful of times, have  
19 no memory of either ruling for or against Premier. I learned  
20 for the very first time earlier this week that Mr. Gonda is  
21 associated with Premier in some way. I don't know if it is  
22 corporate ownership, I don't know the situs, I don't know its  
23 size. I know nothing about Premier.

24 If upon proof Premier should be removed, I would sign  
25 that order, but I would replace Premier with a local, with a

1 company, with a trust company over which I have some control.

2 I don't know exactly what that means.

3 Now, I'm going to talk about pro hoc vice counsel  
4 without reference to you, Mr. Resnick. I don't want you to  
5 feel you are being picked out here, but I always require local  
6 counsel to be a substantive part of the pro hoc vice  
7 appearances, because I find I can get more responsiveness and  
8 my control is greater over local counsel. For example,  
9 Mr. Millsap, would have to pay \$500 per day beginning tomorrow  
10 if the \$50,000 isn't paid, and for the same reason I want a  
11 trust company that doesn't have to fly up here, that doesn't  
12 have a reputation or a relationship with Northern Nevada.

13 I learned for the first time that Premier has somebody  
14 in Vegas, and there may be a trust company that has the  
15 presence in both Nevada and California. I have no interest in  
16 who the successor trustee will be, but first I have to be  
17 persuaded that Premier should be removed, particularly at the  
18 great expense that will be incurred in seeking removal and  
19 expense that will be incurred in transferring the  
20 administration of this trust.

21 That's the first order. She is no longer a  
22 co-trustee. She may move to remove Premier.

23 The motion to remove Premier because grounded in facts  
24 makes Ms. Frasier's independent decision or desires less  
25 relevant, which may be one way I get around her travel and

1 personal appearance, because it's almost unnecessary for me to  
2 know what she wants. It's necessary for me to know whether  
3 Premier, whether she could be better served by a different  
4 trust accountant.

5 I am going to order an in camera review of Ms. --  
6 there is a V in there. Is her beginning name this -- Valerie  
7 her first name?

8 MR. RESNICK: Janie.

9 THE COURT: I am finding a V in there. Mulrain will  
10 provide within 15 days an in camera review a complete  
11 accounting of her services on behalf of Ms. Frasier.  
12 Ms. Mulrain may also include a request for additional  
13 disbursements from the trust. I shudder to think that she is  
14 working without compensation. I know the value of the bill  
15 paying and the accounting attendance for people who are aged  
16 into the last season of their lives. There is no reason at all  
17 that Ms. Mulrain should be working for free if indeed her  
18 services are necessary, reasonable. And so that request for  
19 trust disbursement may very well be upon review likely to be  
20 ordered by the Court.

21 Mr. Resnick, I will have you also submit as part of  
22 the account inspection review of all of your charges incurred  
23 and amounts paid, which I think will be in Ms. Mulrain's  
24 account.

25 The \$50,000 will be paid to Mr. Brad Frasier, today is

1 Wednesday, if you have to liquidate securities, no later than  
2 Tuesday of next week. Counsel, do you wish to be heard on the  
3 propriety of fees Mr. Bradley has incurred? I have to tell you  
4 I was really frustrated when I started reading about Bank of  
5 America and Opus and whether it comes out of one account or is  
6 deposited into another one, because it all confused the simple  
7 issue that he is entitled to the money in the agreement that I  
8 confirm. So Mr. Sullivan has requested that fees be paid. He  
9 identified the challenge of this Court, which are fees that are  
10 generally paid by each party absent a statute, rule or  
11 contract. Mr. Sullivan cited some attenuated statutes for  
12 fees. I would have to a substantial finding of bad faith,  
13 unreasonableness, which I'm not really willing to make. I  
14 understand the concern that Premier has expressed, but I just  
15 think it's outrageous that Mr. Bradley has had to pay attorneys  
16 to get where we are, so I wish, I invite you to be heard on  
17 whether I had an additional \$3,000 for attorneys' fees.

18 MR. ROBERTSON: Thank you, Your Honor. Clearly there  
19 has been no bad faith here by Premier. In the advance of the  
20 filing of the motion we had been in discussion and we asked  
21 that the motion be filed not just against Premier, because  
22 Premier does not have control of the bank account, but the  
23 motion be filed against Dinny who did have control of the bank  
24 account. For whatever reason it ended up being filed against  
25 Premier alone. Premier looked at the situation. Premier had a



1 request at that point -- I'm sorry, Premier did not have a  
2 request at that point from Dinny to pay her the \$50,000 so she  
3 could pay Dr. Frasier, because the \$50,000 was paid to her and  
4 the agreement she was personally supposed to repay it out of  
5 her personal account. We don't know what happened to that  
6 \$50,000, so Premier could not just write a check out of the  
7 account that the agreement required the check be written out  
8 of. Premier just simply couldn't do that. So Premier was  
9 asked to give Dinny an additional \$50,000 to put in that  
10 account. That made perfect sense. We received a handwritten  
11 document from Ms. Frasier that said please send me \$50,000. We  
12 then wrote back and said we would like to speak to you about  
13 this, and it was arranged for a telephone conference. During  
14 the telephone conference I asked her do you want us to send you  
15 \$50,000 so that you can pay Dr. Frasier. She said absolutely  
16 not. Now this one there was no confidentiality agreement. She  
17 said I don't want to pay him a penny. I said you understand  
18 you are supposed to pay \$50,000 out of this account. She said  
19 I'm not paying a penny. So at that point Premier was not being  
20 asked to send money to her, she was resisting the settlement  
21 agreement.

22 Since then, middle or late last week, we now received  
23 a handwritten request from Dinny that says I'm sorry, I was  
24 wrong. After the telephone conference Mr. Resnick explained to  
25 me that I had to pay the \$50,000. Based upon that

1 representation to me I have now decided yes, please send me the  
2 \$50,000 and I will pay back Brad as I'm supposed to under the  
3 agreement.

4 THE COURT: How much money did you incur in trying to  
5 figure out whether this \$50,000 was payable?

6 MR. ROBERTSON: From what, Your Honor?

7 THE COURT: From what source would the payment be made  
8 and when would the payment be made? How much money have you  
9 charged the trust for your time?

10 MR. ROBERTSON: I think it would be very little, Your  
11 Honor, because I looked at the agreement, the agreement said it  
12 has to be paid out of this account.

13 THE COURT: So can you estimate, you had a telephone  
14 call, did you receive letters? Did you file an opposition?

15 MR. ROBERTSON: Mostly I advised Premier is what I  
16 did. I said here is your situation, here is what the agreement  
17 said. What do you want to do? And I would say that probably  
18 no more than two or three hours total.

19 THE COURT: Okay.

20 MR. ROBERTSON: But I don't think --

21 THE COURT: So filing that opposition was in total, it  
22 includes two or three hours?

23 MR. ROBERTSON: Well, we --

24 THE COURT: There is an 11 page opposition.

25 MR. ROBERTSON: I would have to go back and look as

1 far as the opposition as to what time was spent, but I know  
2 that a substantial portion, if you were to look at our bills,  
3 you will see a lot of our time entries say no charge, and I  
4 know a substantial of that opposition we did not charge for.  
5 All of the research that was done as far as the fiduciary  
6 duties of Premier under these circumstances where money is  
7 unaccounted for, whether Premier should send additional money  
8 to her, we did not charge for any of that research. It's been  
9 through the trust for all of that.

10 So I don't know, Your Honor, I would say five, six  
11 hours total if you want to count the opposition. But I don't  
12 think there is any indication here that Premier has acted in  
13 bad faith. It's quite the opposite. We are stuck in a  
14 situation where the law tells us when money is missing we have  
15 to be careful.

16 THE COURT: I understand. I told you I'm not willing  
17 to make the finding under the statute Mr. Sullivan asserts, but  
18 our trust statute, I wish I could recite it exactly, but there  
19 is a lengthy provision which allows the Court to award fees  
20 for, to avoid injustice as it relates to trusteeship. And what  
21 Mr. Frasier needs is some just relief from the fact that he  
22 hasn't received his money. And I suspect three or \$4,000 is  
23 appropriate.

24 MR. ROBERTSON: I would just make the point, Your  
25 Honor, that we did say in our opposition that we supported the

1 payment of the fees and we wanted to pay the fees.

2 THE COURT: I know, but that opposition kind of  
3 connected an accounting of pride money.

4 MR. ROBERTSON: Yes, because again Premier is stuck  
5 between the law that says if they are concerned about her  
6 competency, they shouldn't be distributing large sums of money  
7 to her without knowing where the money is going. And the  
8 obligation that she personally had to pay this money, which we  
9 wanted to pay but we don't even know if she has the \$50,000 in  
10 the account already. We just don't know the situation.

11 THE COURT: All right. So I'm about to enter an  
12 order. Mr. Resnick, do you wish to be heard?

13 MR. RESNICK: I do. I disagree with the sequence and  
14 the content of the events that Mr. Robertson said. At no time  
15 did my client request \$50,000 to pay Brad Frasier. She  
16 requested \$50,000, and we have writings to that effect, for  
17 living expenses. Where the conversation occurred that I was  
18 present on the phone with Mrs. Frasier he asked her do you want  
19 to pay Brad \$50,000, she said no way. In fact a few  
20 expletives. It was not in relation to the order. You want to  
21 pay Brad \$50,000. After the conversation, I didn't want to  
22 interrupt her during the conversation, after the conversation I  
23 explained to her why the trust was obligated. She then sent  
24 that letter to Premier. The \$50,000 she requested was not to  
25 pay Brad. She would not write a check to Brad for a dollar,

1 trust me.

2 THE COURT: All right. Be that as it may, it will be  
3 \$50,000 plus \$4,000 in attorneys' fees. At the time of the  
4 motion, or maybe there was the filings of, there was the  
5 representation of \$2,700 incurred and additional time to  
6 prepare for today and yesterday's telephone conference. It  
7 will be \$54,000 is payable, and you can find and cite the fees  
8 statute within 163 or 164, the key word is to prevent  
9 injustice, and that will be my order.

10 Mr. Resnick, I want to invite you to speak to an issue  
11 I'm thinking about, because I want to be informed, and I want  
12 to be right. People walk into this courtroom and most are  
13 agreed to a meeting, that's a risk of the occupation I get  
14 that, I'm okay with that, but I also want to be right. As I  
15 think about a petition to remove Premier, which I have  
16 essentially invited, I think about how you will be paid for  
17 that petition. I often remove trust corpus as an automatic  
18 payment source for trustees defending obligations against their  
19 trustee service because I don't want to have -- I want there to  
20 be a rational analysis of costs and benefits and a rational  
21 allocation. If Ms. Frasier moves to remove Premier, and I am  
22 satisfied that it would be a good fresh start, I think all of  
23 your fees should be compensated from trust accounts. If  
24 Ms. Frasier moves to remove Premier, and I'm not satisfied that  
25 it is necessary, or in Ms. Frasier's interest, and I deny that

1 motion, how shall you be paid?

2 MR. RESNICK: I won't. Judge, I will waive --

3 THE COURT: I really like your answer, but I'm not  
4 sure I want that answer.

5 MR. RESNICK: I will waive that fee. If I have to  
6 attend the hearing, I would like to be compensated. Prepare  
7 the pleading, if we don't prevail, I won't be paid. I will put  
8 my money where my mouth is.

9 THE COURT: I respect that, but I also believe  
10 attorneys should be paid from the payment resource. Let me  
11 think on that. I very much respect your response. It might  
12 not be an all or nothing proposition either. It may be if you  
13 are moving at the direction of a client you believe is  
14 capacitated and if it is you believe there is a good faith  
15 basis and ultimately I'm not persuaded, there could be some  
16 fees but maybe not six figure fees.

17 MR. RESNICK: I will totally defer to you. But what I  
18 am concerned about, Your Honor, is the amount of time we are  
19 spending trying to reconstruct this accounting.

20 THE COURT: If you demonstrate to me that Premier as a  
21 professional compensator trustee negligently performs its  
22 services or falls below the standard I expect from a  
23 professional compensated professional, I will move in a second  
24 and make decisions about Premier that will follow Premier for  
25 the rest of my career maybe. I just need to see that evidence.

1 MR. RESNICK: Accepted.

2 THE COURT: Mr. Millsap, you are standing.

3 MR. MILLSAP: Your Honor, if I may. I may be in the  
4 best position to speak to this, because I have had the  
5 opportunity to converse with Mr. Robertson more frequently and  
6 I believe something that Mr. Resnick, myself, and Mr. Robertson  
7 have contemplated would render that motion unnecessary. Part  
8 of what the parties have contemplated if Premier is able to  
9 file an accounting and work with Mrs. Frasier's counsel to  
10 provide us complete accounting as possible to the Court, then  
11 after the appropriate parties had an opportunity to object to  
12 said accounting, if the Court ratified the accounting, my  
13 understanding is that Premier would resign as corporate trustee  
14 in favor of a successor sole trustee.

15 THE COURT: I understand that, but the proposal is a  
16 company that I don't know in a state in which I have no  
17 authority.

18 MR. MILLSAP: Agreed, Your Honor, so I think the  
19 solution is subject to Your Honor's approval, a successor  
20 corporate trustee will be appointed. I think Your Honor raised  
21 excellent points today, based on the oversight necessary in  
22 unique circumstances such as this. So I think the moral of the  
23 story is if we are able to achieve resolution on these  
24 accounting issues, Premier will resign, and Your Honor will  
25 have authority over who is appointed as successor trustee.

1 THE COURT: So the unspoken take away is that is quite  
2 possible, and I have good experienced attorneys walk out of  
3 this courtroom, and the oversight doesn't out spend the money  
4 to push back against Premier, Premier will voluntarily resign,  
5 I need a successor trustee that I can call counsel on Thursday  
6 afternoon and say be here at noon on Friday. If you are not,  
7 I'm going to sign a check for a warrant for your arrest.  
8 That's what I need to do.

9 MR. RESNICK: Let's see if we can't locate a trustee  
10 that has offices in California and Nevada. She can make her  
11 visit to the local office, feel good about it, and you got  
12 jurisdiction.

13 MR. ROBERTSON: There is such a company, Your Honor,  
14 Whittier Trust here in town. And they have offices near  
15 Ms. Frasier, and I believe that we have even suggested that.

16 MR. RESNICK: I'll locate whatever the trustees are  
17 and look into it.

18 THE COURT: So what I have done today I shifted the  
19 burden, though, because as no longer serving as trustee and as  
20 serving as trustee, the burden to make the change is now upon  
21 you to satisfy Premier and this Court either through  
22 negotiations or through moving papers.

23 MR. MILLSAP: Understood, Your Honor.

24 MR. RESNICK: Your Honor, so what is your position  
25 with, just to clarify with Premier resigning on rendering an



1 accounting?

2 THE COURT: I have no interest in Premier staying or  
3 leaving. I have interest in asserting control over successor  
4 trusteeship, and I think I have an interest, a professional  
5 judicial interest in not having Ms. Frasier bear the burden of  
6 trusteeship.

7 MR. RESNICK: She has accepted that. So having said  
8 that just so I understand, if Premier resigns in favor of  
9 another trustee and you have jurisdiction over, that's  
10 acceptable to you? I'm thinking of the logistics.

11 THE COURT: I respect what you are doing because I'm  
12 pulling back so I'm not bound. Yes, generally, but with the  
13 judicial caveat that I can change my mind, but I'm not feeling  
14 to change my mind, and I'm feeling to say yes, but I just don't  
15 want to be bound today. Because what I probably will do is if  
16 there is a resignation and stipulated appointment, I will  
17 probably have that representative come into this room so he or  
18 she can hear me bark, and I can also establish how it is that  
19 payments will be made to Ms. Mulrain for Ms. Frasier's benefit.  
20 How can there be some confidence? Which may be easily given  
21 but how can there be no confidence that I don't have money just  
22 going away because she is ensconced by professionals. So what  
23 standard will drive those distributions. What rights do the  
24 trustee have to understand how that money is spent and so  
25 forth.

1 MR. RESNICK: Sounds great. Appreciate that.

2 MR. ROBERTSON: If I may be heard on that last point.

3 It's a great segue into a current situation, as Mr. Resnick  
4 indicated initially, there was just the \$50,000 to be paid to  
5 Mr. Frasier, Brad Frasier, now there has been a request for  
6 another \$50,000 on top of the first \$50,000. Premier is happy  
7 to write the check directly to Dr. Frasier as you indicated for  
8 \$50,000. We are happy to write the check to Dinny personally  
9 for the other \$50,000. You have already indicated that Premier  
10 doesn't have any obligation to look into the personal finances  
11 of the \$50,000 payment to Dr. Frasier. The question is should  
12 Premier issue another \$50,000 to Dinny Frasier or await the  
13 review that you are going to undertake in camera of the  
14 expenses today?

15 THE COURT: Well, Ms. Frasier is a wealthy woman who  
16 doesn't incur living expenses. How will those expenses be  
17 paid?

18 MR. ROBERTSON: We pay, Premier, the things that were  
19 indicated to you earlier, and I respect that Mr. Resnick this  
20 is the first I heard that Mr. Resnick's fees are about  
21 \$155,000. She had a little over \$200,000, so that explains the  
22 vast majority of it. He points out caregiving, utility bills,  
23 and legal fees. We pay all of her utility bills. We pay for  
24 all of her caregiving. I don't know what the money is being  
25 used for. We have no problem disbursing it as long as the

1 Court has no concerns about that.

2 THE COURT: Well, I don't know if I have concerns or  
3 not, because I admire Mr. Resnick's offer to provide that in  
4 camera review and I accept that offer, and I don't know what my  
5 concerns, if 90 percent of her money is going to her attorney  
6 and caregiver, I am concerned. If I have legitimate expenses  
7 that support this dear woman in this time of her life, I don't  
8 have concerns. I just don't know.

9 MR. ROBERTSON: Your Honor, if I may suggest, why  
10 don't we go ahead and distribute the additional \$50,000 to  
11 Dinny. It is her money.

12 THE COURT: Right.

13 MR. ROBERTSON: And if the Court is concerned after  
14 having reviewed the accounting, we can revisit that \$50,000  
15 payment, but in the meantime I don't think Premier, and Premier  
16 really doesn't want to withdraw or hold payment to her that she  
17 has requested.

18 THE COURT: I got that.

19 MR. ROBERTSON: Very good.

20 MR. RESNICK: If I can clarify one thing, Your Honor.  
21 As to caregiving, it's not Janie Mulrain, it's 24-hour in house  
22 residential care.

23 THE COURT: Which is about eight to \$10,000 a month.

24 MR. RESNICK: It's very expensive.

25 MR. ROBERTSON: That's being paid by the trust not

1 Dinny personally. We receive those bills and we pay.

2 THE COURT: How much a month?

3 MR. ROBERTSON: About \$10,000 a month.

4 MR. RESNICK: She goes out to dinner. Janie took her  
5 to a high school football game. She takes road trips to Palm  
6 Springs with her. She doesn't charge for that. You will see  
7 the accounting.

8 THE COURT: Okay, in the meantime now that the  
9 attorneys have heard me yesterday at 4:00 and today, I hope  
10 that you will understand my intention to preside over this  
11 case, and I will review how to -- go ahead and distribute that  
12 second \$50,000.

13 MR. ROBERTSON: Thank you, Your Honor.

14 THE COURT: At the end of the day this is a wealthy  
15 woman who is entitled to her money while she lives.

16 MR. ROBERTSON: Absolutely, Your Honor.

17 THE COURT: I need an order. Please prepare the order  
18 subject to Mr. Resnick and Mr Millsap's review and submit it in  
19 chambers. It does not have to capture what I said. We have a  
20 transcript for that, but the specific order as to the sole  
21 trusteeship and encapsulating the method for resolution that we  
22 might have altered.

23 MR. ROBERTSON: I will do my best to write it up and  
24 seek approval.

25 THE COURT: Which will include the \$54,000 to

1 Dr. Frasier and the \$50,000 to Dinny Frasier.

2 MR. ROBERTSON: Very good, Your Honor.

3 THE COURT: And include, please, this Court's specific  
4 instruction that any successor trustee have presence in  
5 Northern Nevada, and that it is this Court's intention if there  
6 is a change of trustee, to immediately be heard so we can sharp  
7 future trust administration.

8 MR. ROBERTSON: Very good, Your Honor. May I inquire  
9 of the court reporter, Your Honor, when we might be able to get  
10 a transcript to assist me in preparing an accurate order?

11 THE COURT: She will have it for you within the next  
12 14 days. Likely in the next three or four days. I will change  
13 that ten days, by the close of business next Friday, which is  
14 next Friday you will have a transcript. That will be Friday.

15 MR. ROBERTSON: If I could have a week to the  
16 following Friday to draft the order and seek approval, Your  
17 Honor?

18 THE COURT: It's a long time to prepare a brief order.  
19 It's a brief order.

20 MR. ROBERTSON: I don't foresee it taking a lot of  
21 time to prepare the order. I just want to try to work things  
22 out with Mr. Millsap and Mr. Resnick as much as possible before  
23 we submit it to you.

24 MR. HERNANDEZ: Just a logistical question. You  
25 ordered the fees paid to Dr. Frasier by next Tuesday.

1 THE COURT: At the close of business.

2 MR. HERNANDEZ: Okay, so all right so I'm not sure how  
3 we track that in the order, but I guess we will take the order  
4 from the bench.

5 THE COURT: If necessary, I will convert my oral  
6 pronouncement it will be paid by close of business on Tuesday,  
7 and that this Court will consider personal sanctions of \$500  
8 per day beginning next Wednesday if not paid.

9 MR. HERNANDEZ: Thank you, Your Honor.

10 THE COURT: I just can't sanction Mr. Millsap and  
11 Mr. Resnick right now yet. If they do not obstruct the  
12 payment, I won't sanction them personally.

13 MR. RESNICK: Your Honor, one point of clarification  
14 out of an abundance of caution. Your in camera review of, that  
15 is Jane Mulrain's accounting, receipts and disbursements. Her  
16 checkbook.

17 THE COURT: Right. What I don't really need is the  
18 back up data. I'm looking for summary plans.

19 MR. RESNICK: Line item.

20 THE COURT: Yes.

21 MR. RESNICK: And as to the review, you want my  
22 billing statements? What do you prefer?

23 THE COURT: What I want at 10:41 is different than  
24 what I wanted at 9:00 o'clock, because you disclosed your  
25 estimated aggregate amount, you have offered the inspection and

1 it appears that a resolution may be near coming, and I don't  
2 want to microanalyze the fees that are paid if it appears that  
3 we are heading towards an open place in this litigation, so  
4 just line items redacting the narratives. I presume each of  
5 you, time charges has some narrative of what was incurred.

6 MR. RESNICK: Date, description of service, amount of  
7 time.

8 THE COURT: Just give me the dates of payments and the  
9 amounts of payments.

10 MR. RESNICK: Payments --

11 THE COURT: Sure. There was a date you received fees  
12 and there was an amount of fees that you received.

13 MR. RESNICK: Oh, just a record of the statement of  
14 accounting?

15 THE COURT: Yes.

16 MR. RESNICK: Good enough.

17 THE COURT: I don't think I need descriptions right  
18 now.

19 MR. RESNICK: Okay, thank you, Your Honor.

20 THE COURT: I can't think of anything else, all right.  
21 Thank you, counsel, nice to see you. Well done. Look forward  
22 to the next page in this chapter.

23 (Proceedings concluded.)

24

25

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

3

4           I, AMY JO TREVINO, an Official Reporter of the Second  
5 Judicial District Court of the State of Nevada, in and for  
6 Washoe County, DO HEREBY CERTIFY;

7           That I was present in Department 15, of the  
8 above-entitled Court on October 17, 2017, and took verbatim  
9 stenotype notes of the proceedings had upon the matter  
10 captioned within, and thereafter transcribed them into  
11 typewriting as herein appears;

12           That the foregoing transcript, consisting of pages 1  
13 through 48, is a full, true and correct transcription of my  
14 stenotype notes of said proceedings.

15           DATED: At Reno, Nevada, this 23rd day of October,  
16 2017.

17

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20

21                               /s/ Amy Jo Trevino  
22                               AMY JO TREVINO, CRR #825

23

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<b>\$</b>	<b>10:41</b> 46:23	<b>5:00</b> 8:2	<b>abundance</b> 46:14	<b>accrue</b> 8:4
<b>\$1,000</b> 12:12	<b>11</b> 34:24	<b>6</b>	<b>Academy</b> 4:3	<b>accruing</b> 17:1
<b>\$10,000</b> 43:23 44:3	<b>12:00</b> 13:10,13, 23	<b>6th</b> 6:1 8:14	<b>accept</b> 22:9 25:13 43:4	<b>accurate</b> 25:9 45:10
<b>\$100,000</b> 10:17 12:5	<b>13</b> 4:3,12	<b>8</b>	<b>acceptable</b> 41:10	<b>accusations</b> 15:15
<b>\$150</b> 16:25	<b>14</b> 45:12	<b>80</b> 14:15	<b>accepted</b> 39:1 41:7	<b>achieve</b> 39:23
<b>\$150,000</b> 19:8	<b>15</b> 17:20 31:10	<b>88-year-old</b> 21:23	<b>accepting</b> 8:17 24:24	<b>acted</b> 35:12
<b>\$155,000</b> 42:21	<b>163</b> 37:8	<b>9</b>	<b>access</b> 4:13	<b>acting</b> 4:23
<b>\$2,700</b> 37:5	<b>164</b> 37:8	<b>90</b> 43:5	<b>accommodated</b> 6:12	<b>actionable</b> 17:6
<b>\$200,000</b> 42:21	<b>165</b> 17:20	<b>99.9</b> 11:17 21:11	<b>accommodatio ns</b> 26:20	<b>actions</b> 18:11
<b>\$250,000</b> 18:6	<b>17</b> 3:1	<b>9:00</b> 46:24	<b>account</b> 6:18 10:4,17,24,25 12:7 19:16 31:22,24 32:5, 22,24 33:5,7, 10,18 34:12 36:10	<b>actually</b> 25:19
<b>\$3,000</b> 32:17	<b>18</b> 18:7	<b>9:30</b> 3:1	<b>accountant</b> 31:4	<b>add</b> 11:10 25:16
<b>\$4,000</b> 35:22 37:3	<b>1:00</b> 12:21 13:9,21	<b>9th</b> 3:20 4:16 26:24	<b>accountants</b> 19:3	<b>additional</b> 9:23 28:18 31:12 32:17 33:9 35:7 37:5 43:10
<b>\$50,000</b> 6:20 8:1 9:16,20 11:8 17:16 30:10 31:25 33:2,3,6,9,11, 15,18,25 34:2, 5 36:9,15,16, 19,21,24 37:3 42:4,6,8,9,11, 12 43:10,14 44:12 45:1	<b>2</b>	<b>A</b>	<b>accounting</b> 6:19 7:24 12:11,16 17:10 19:14,15,24 20:4,12 24:6,8, 9 29:13 31:11, 15 36:3 38:19 39:9,10,12,24 41:1 43:14 44:7 46:15 47:14	<b>address</b> 18:14
<b>\$500</b> 8:3 30:9 46:7	<b>2016</b> 14:21	<b>A.M.</b> 3:1	<b>accounts</b> 37:23	<b>adjudications</b> 6:7
<b>\$54,000</b> 37:7 44:25	<b>2017</b> 3:1	<b>abdicate</b> 7:8		<b>administration</b> 20:12 21:12 30:20 45:7
<b>\$800,000</b> 18:10	<b>24-hour</b> 43:21	<b>abilities</b> 22:12		<b>admire</b> 15:19 43:3
<b>1</b>	<b>250</b> 18:5	<b>ability</b> 29:6		<b>adopted</b> 7:9
<b>10:00</b> 13:10,13, 23	<b>3</b>	<b>able</b> 8:8 11:19 21:11 24:5 39:8,23 45:9		<b>adult</b> 4:4
	<b>44</b> 15:15	<b>absence</b> 5:22		<b>advance</b> 32:19
	<b>4:00</b> 3:15 44:9	<b>absent</b> 32:10		<b>adversarial</b> 24:22 25:10
	<b>5</b>	<b>absolutely</b> 16:4 33:15 44:16		<b>advice</b> 28:9
	<b>50</b> 16:20 20:2			<b>advised</b> 12:6

34:15	28:14 32:7	<b>alternative</b>	<b>anything</b> 11:10	<b>approving</b> 4:14
<b>advocacy</b> 22:7	33:4,7,16,21	7:13	12:25 16:17,23	<b>April</b> 21:25
<b>advocate</b> 28:9	34:3,11,16	<b>always</b> 7:7	18:23 23:13	<b>arbitrary</b> 5:13
<b>advocating</b>	<b>ahead</b> 43:10	15:11 30:5	27:14 47:20	<b>arbitration</b>
29:2	44:11	<b>amendment</b>	<b>anytime</b> 12:15	15:6
<b>affects</b> 14:14	<b>air</b> 23:10	16:14,16	<b>anyway</b> 19:6	<b>area</b> 10:9 29:16
<b>after</b> 10:4,16	<b>aired</b> 8:13	<b>America</b> 10:25	<b>apologize</b> 9:7	<b>argued</b> 6:17
16:12 19:25	<b>airport</b> 22:16	12:7 32:5	25:17,21	<b>argument</b>
26:24 33:24	<b>all</b> 9:9,19 13:7	<b>amount</b> 17:18	<b>Apparently</b>	11:15 29:2
36:21,22 39:11	16:18 17:21,24	23:25 19:7	10:24	<b>arguments</b>
43:13	20:18 22:1,11,	38:18 46:25	<b>appeals</b> 18:11	4:18 6:6,25
<b>afternoon</b> 40:6	18,21 28:4	47:6,12	<b>appear</b> 9:1	21:6,9
<b>again</b> 17:12	31:16,22 32:6	<b>amounts</b> 31:23	<b>appearance</b>	<b>around</b> 30:25
36:4	35:5,9 36:11	47:9	31:1	<b>arranged</b> 16:9
<b>against</b> 8:3	37:2,22 38:12	<b>Amy</b> 16:9,14	<b>appearances</b>	33:13
16:2 29:19	42:23,24 46:2	<b>analysis</b> 37:20	3:4 30:7	<b>arrangement</b>
32:21,23,24	47:20	<b>ancillary</b> 6:19	<b>appeared</b> 4:22	14:25
37:18 40:4	<b>allegations</b> 6:6	<b>angst</b> 15:22	25:23	<b>arrest</b> 40:7
<b>age</b> 23:1	<b>allege</b> 23:22	24:2	<b>appears</b> 5:24	<b>assert</b> 6:2
<b>aged</b> 31:15	<b>alleged</b> 5:18	<b>annually</b> 19:25	26:5 47:1,2	<b>asserted</b> 5:4
<b>agency</b> 17:3,6	23:24	<b>another</b> 15:8	<b>appoint</b> 15:8	<b>asserting</b> 41:3
<b>agent</b> 4:23	<b>allocation</b>	19:12 20:19	<b>appointed</b> 10:5	<b>asserts</b> 35:17
<b>ages</b> 15:24	37:21	21:14,16 32:6	39:20,25	<b>assessment</b>
<b>aggregate</b>	<b>allowed</b> 27:13	41:9 42:6,12	<b>appointing</b>	21:24
17:18,25 18:1	<b>allows</b> 35:19	<b>answering</b>	16:15	<b>assessments</b>
46:25	<b>almost</b> 22:2	20:10	<b>appointment</b>	7:2
<b>ago</b> 9:2 11:21	31:1	<b>antecedent</b>	41:16	<b>asset</b> 19:4,6
<b>agree</b> 8:25	<b>alone</b> 32:25	6:20	<b>appreciate</b>	<b>assigned</b> 3:7
10:22,25 24:5	<b>already</b> 36:10	<b>antecedes</b>	7:20 42:1	<b>assist</b> 45:10
27:15	42:9	5:22	<b>approached</b>	<b>assistance</b>
<b>agreed</b> 6:15	<b>also</b> 4:7,8	<b>anticipated</b> 9:4	14:23	15:25
7:3 25:13	10:12 23:9	25:9	<b>appropriate</b>	<b>associated</b>
37:13 39:18	27:20 31:12,21	<b>antidote</b> 6:4	24:7 35:23	29:21
<b>agreement</b>	37:14 38:9	<b>anxiety</b> 14:12,	39:11	<b>assumed</b> 9:6
3:22 8:22	41:18	13	<b>approval</b> 19:12	
10:23 11:24	<b>altered</b> 5:18	<b>anxious</b> 27:4	39:19 44:24	
26:18 27:1,14	44:22		45:16	

<b>attempt</b> 7:4	<b>availability</b> 4:11 6:12	<b>bear</b> 41:5	39:4 44:23	<b>brought</b> 11:14
<b>attempting</b> 5:7	<b>available</b> 13:9, 12	<b>became</b> 10:16 24:22	<b>better</b> 31:3	<b>Bruce</b> 14:22 15:12
<b>attend</b> 12:21 13:22 38:6	<b>avoid</b> 35:20	<b>become</b> 25:10	<b>between</b> 5:24 13:10,12,23 21:5,9 23:18 24:17 36:5	<b>bug</b> 21:19
<b>attendance</b> 31:15	<b>await</b> 42:12	<b>before</b> 7:1 9:20 12:15 16:11 18:19 23:15 45:22	<b>bill</b> 12:12,13 31:14	<b>building</b> 18:18, 23,24,25 19:2 26:2
<b>attending</b> 13:24 14:3	<b>award</b> 35:19	<b>began</b> 4:25	<b>billing</b> 17:22, 24 46:22	<b>buildings</b> 18:17
<b>attention</b> 11:14	<b>aware</b> 25:22 26:8	<b>beginning</b> 8:2 30:9 31:6 46:8	<b>bills</b> 17:1,11,17 35:2 42:22,23 44:1	<b>bunch</b> 20:1
<b>attenuated</b> 32:11	<b>away</b> 23:17 27:7 40:1 41:22	<b>behalf</b> 3:6,12 7:25 12:9 31:11	<b>bit</b> 26:22	<b>burden</b> 40:19, 20 41:5
<b>attest</b> 15:13	<b>awhile</b> 9:2	<b>being</b> 5:2 16:21 20:3 22:3 30:5 32:24 33:19 42:24 43:25	<b>bleeding</b> 26:11	<b>business</b> 20:2 21:9 24:21 28:21 45:13 46:1,6
<b>attorney</b> 4:2, 22,23,25 6:1 10:5 15:1 16:10 21:10 23:17 43:5	<b>B</b>	<b>believe</b> 8:18 9:15 11:1,2,25 12:6 15:15 16:3 18:2,4 38:9,13,14 39:6 40:15	<b>blood</b> 14:9,14	<b>buy</b> 19:5
<b>attorney's</b> 27:9	<b>back</b> 16:2,19 27:8 33:12 34:2,25 40:4 41:12 46:18	<b>believes</b> 26:10	<b>BNY</b> 21:3	<b>C</b>
<b>attorneys</b> 3:16, 17 4:3 6:15 7:3,7 8:2 17:25 18:13 21:9 26:9 29:2,4 32:15 38:10 40:2 44:9	<b>background</b> 22:11	<b>below</b> 38:22	<b>boggles</b> 15:16	<b>calculation</b> 18:15
<b>attorneys'</b> 7:8 32:17 37:3	<b>bad</b> 32:12,19 35:13	<b>bench</b> 4:3 6:3 7:11,12 46:4	<b>born</b> 22:24	<b>calendar</b> 13:3
<b>audio</b> 13:11	<b>bank</b> 10:24 12:6,7,9 32:4, 22,23	<b>beneficiary</b> 31:16,14	<b>both</b> 17:5 22:22 30:15	<b>California</b> 12:14 14:11 17:7,8 20:20, 21,22 21:1 30:15 40:10
<b>audit</b> 12:19	<b>Barbara</b> 23:5	<b>benefit</b> 20:14 29:15 41:19	<b>bound</b> 41:12, 15	<b>call</b> 3:18 7:3 11:10 34:14 40:5
<b>August</b> 6:9	<b>bark</b> 41:18	<b>benefits</b> 37:20	<b>Brad</b> 6:14 15:5 31:25 34:2 36:15,19,21,25 42:5	<b>called</b> 4:10 14:21 22:5
<b>author</b> 14:3	<b>Barnet</b> 3:8	<b>beside</b> 15:16	<b>Bradley</b> 9:16 32:3,15	<b>came</b> 18:20 25:18 27:8
<b>authority</b> 39:17,25	<b>base</b> 20:8	<b>best</b> 12:23 13:11,13,22 14:17 21:21	<b>brief</b> 11:20 25:4 45:18,19	<b>camera</b> 12:11, 17 31:5,10 42:13 43:4
<b>authorizes</b> 3:22,24	<b>based</b> 20:12 23:22 26:16 33:25 39:21		<b>bring</b> 5:14 7:12 9:9,15 21:17	
<b>automatic</b> 37:17	<b>basis</b> 6:9 38:15		<b>bringing</b> 8:16 9:10 21:20	
	<b>battling</b> 14:12		<b>Brooks</b> 16:10	

46:14	18:12	<b>circumstantial</b> 3:23	<b>comes</b> 32:5	4:8
<b>can't</b> 15:15 19:4 20:11 27:7 40:9 46:10 47:20	<b>challenge</b> 32:9	<b>cite</b> 37:7	<b>comfortable</b> 19:17	<b>concern</b> 28:7 32:14
<b>cannot</b> 13:13 20:8	<b>challenging</b> 23:16	<b>cited</b> 32:11	<b>coming</b> 17:21 21:18 26:7 47:1	<b>concerned</b> 4:16,21 5:8,16 7:19 9:23 26:7, 13 27:25 28:6 36:5 38:18 43:6,13
<b>capacitated</b> 29:11 38:14	<b>chambers</b> 44:19	<b>civil</b> 17:5	<b>comments</b> 8:19	<b>concerns</b> 5:5 10:1,19 12:3 26:8 28:2,8 43:1,2,5,8
<b>capacity</b> 4:6,8, 19 5:16,21 15:21 21:12 22:1 24:3	<b>change</b> 11:13 19:18,21 23:19,20 24:10,13 40:20 41:13,14 45:6, 12	<b>clarification</b> 46:13	<b>commercial</b> 22:17 23:10	<b>concluded</b> 47:23
<b>capture</b> 44:19	<b>changing</b> 24:16	<b>clarify</b> 40:25 43:20	<b>common</b> 3:25	<b>conclusion</b> 3:16
<b>car</b> 23:4	<b>chapter</b> 47:22	<b>clear</b> 11:13	<b>communicate</b> 29:7	<b>condition</b> 16:12
<b>card</b> 28:21	<b>charge</b> 15:7 27:10 35:3,4,8 44:6	<b>Clearly</b> 32:18	<b>communicatio ns</b> 11:19,22	<b>conduct</b> 3:22 16:3,18 17:6 23:22,24
<b>care</b> 14:8 22:25 43:22	<b>charged</b> 15:4 17:19 34:9	<b>client</b> 4:14 20:6,7,11 23:19 25:25 27:25 36:15 38:13	<b>company</b> 7:18 30:1,11,14 39:16 40:13	<b>conference</b> 3:15 7:3 9:12 11:10 21:22 33:13,14,24 37:6
<b>career</b> 38:25	<b>charges</b> 7:12 31:22 47:5	<b>clients</b> 4:6	<b>compensated</b> 16:21 37:23 38:6,23	<b>confidence</b> 5:21 41:20,21
<b>careful</b> 35:15	<b>check</b> 9:21 11:1,2 18:13 33:6,7 36:25 40:7 42:7,8	<b>close</b> 5:21 45:13 46:1,6	<b>compensation</b> 31:14	<b>confidentiality</b> 11:24 27:14 33:16
<b>carefully</b> 5:11, 15	<b>checkbook</b> 46:16	<b>closed</b> 12:7	<b>compensator</b> 38:21	<b>confirm</b> 7:17 32:8
<b>caregiver</b> 15:12 43:6	<b>child</b> 19:21	<b>co-owners</b> 19:1	<b>competence</b> 23:23	<b>conflicting</b> 4:18
<b>caregiving</b> 17:11 42:22,24 43:21	<b>children</b> 14:23 16:3 22:24	<b>co-trustee</b> 3:9 4:25 29:6,7,8 30:22	<b>competency</b> 36:6	<b>confused</b> 32:6
<b>case</b> 3:3,7 18:9,21 24:11 44:11	<b>choices</b> 4:15	<b>co-trustees</b> 5:24	<b>complete</b> 31:10 39:10	<b>conglomeration</b> 20:4
<b>cause</b> 23:22	<b>chosen</b> 5:13	<b>cognition</b> 5:16	<b>completely</b> 22:24	
<b>caused</b> 25:20	<b>circumstances</b> 35:6 39:22	<b>cognitive</b> 4:7	<b>comply</b> 24:16	
<b>caution</b> 46:14		<b>colleague</b> 14:21	<b>composition</b> 14:19	
<b>caveat</b> 41:13		<b>college</b> 28:11	<b>compromises</b>	
<b>certified</b> 4:2		<b>come</b> 10:23 12:15 13:19 26:12 27:9,10 41:17		
<b>certiorari</b>				

<b>connected</b> 36:3	<b>contract</b> 22:1 32:11	<b>couple</b> 11:3 23:5 26:17	<b>Courtney</b> 24:19	<b>dear</b> 4:17 43:7
<b>cons</b> 28:10	<b>contrary</b> 26:15	<b>course</b> 17:20 28:21,23	<b>courtroom</b> 29:3 37:12 40:3	<b>decided</b> 34:1
<b>conscience</b> 21:18 23:11	<b>control</b> 6:2 8:16 30:1,8 32:22,23 41:3	<b>court</b> 3:3,14,20 5:10,11,15,23 6:2,5,8,11,12, 16,21 7:7,19, 22 8:1,8,11,13, 17 21 9:6 13	<b>crazy</b> 16:20 18:8	<b>decision</b> 16:4 20:5 28:11 29:11 30:24
<b>consider</b> 46:7	<b>conversation</b> 25:2 36:17,21, 22	<b>creating</b> 4:17 25:21	<b>created</b> 4:11 25:21	<b>decisions</b> 5:2 7:9 8:20 38:24
<b>consideration</b> 14:18	<b>converse</b> 39:5	<b>creeping</b> 26:9	<b>creating</b> 4:17	<b>declaration</b> 13:20 14:2 24:23
<b>considering</b> 3:25	<b>convert</b> 6:6 9:11 46:5	<b>criminal</b> 12:21 13:20 17:6	<b>current</b> 9:13 42:3	<b>declarations</b> 20:15 24:24
<b>consistent</b> 6:10	<b>corporate</b> 15:8 19:13 20:19 21:4,15 29:22 39:13,20	<b>D</b>		<b>defecation</b> 10:13
<b>constantly</b> 14:12	<b>corpus</b> 37:17	<b>daily-nightly</b> 14:15		<b>defending</b> 37:18
<b>consult</b> 11:2	<b>correct</b> 18:4 28:25	<b>data</b> 46:18		<b>defer</b> 38:17
<b>consumer</b> 6:19	<b>correspondenc</b> e 12:8	<b>date</b> 6:5 13:8 14:5 17:23 47:6,11		<b>deferred</b> 17:14
<b>contacted</b> 25:4	<b>costs</b> 4:15 37:20	<b>dates</b> 6:12 47:8		<b>demonstrate</b> 38:20
<b>contemplated</b> 39:7,8	<b>counsel</b> 3:10 4:1,18 5:20 6:16,17 7:19 8:6 9:5,25 10:6 12:4 14:4 21:6 24:11,13,16,21 25:25 26:20 30:3,6,8 32:2 39:9 40:5	<b>daughter</b> 15:23,25 16:1, 2		<b>denied</b> 27:6
<b>contemplates</b> 17:5	<b>counsel's</b> 9:7 24:17	<b>David</b> 3:5		<b>deny</b> 7:17 37:25
<b>content</b> 27:24 36:14	<b>count</b> 35:11	<b>day</b> 3:25 7:1 13:8 27:11 30:9 44:14 46:8		<b>department</b> 7:21 20:2
<b>contentions</b> 26:1	<b>County</b> 3:1 29:16	<b>days</b> 11:3 22:15 31:10 45:12,13		<b>dependence</b> 23:2
<b>contents</b> 11:19		<b>deals</b> 12:17		<b>dependent</b> 22:24
<b>contested</b> 4:5 10:9,10 13:3				<b>deposited</b> 17:17 32:6
<b>continually</b> 20:10				<b>description</b> 17:23 47:6
<b>continuance</b> 6:9 22:13				<b>descriptions</b> 47:17
<b>continuing</b> 22:19				<b>designated</b> 6:5
<b>continuum</b> 4:8 23:2				

<b>desires</b> 24:18 30:24	<b>directions</b> 4:19	<b>distribute</b> 43:10 44:11	<b>duties</b> 35:6	<b>empathy</b> 22:5
<b>desk</b> 25:18	<b>directly</b> 14:13 42:7	<b>distributing</b> 36:6	<b>duty</b> 9:23	<b>employment</b> 16:8
<b>despite</b> 5:22 28:21	<b>disagree</b> 20:1 26:1 36:13	<b>distributions</b> 41:23	<b>E</b>	<b>encapsulating</b> 44:21
<b>detained</b> 16:5	<b>disbursement</b> 31:19	<b>distrusting</b> 16:1	<b>e-mail-a-thon</b> 16:19	<b>end</b> 9:24 10:7 26:14 44:14
<b>detect</b> 5:1	<b>disbursements</b> 19:16 20:9 31:13 46:15	<b>divulge</b> 11:22	<b>e-mails</b> 16:19	<b>ended</b> 32:24
<b>determines</b> 21:13	<b>disbursing</b> 42:25	<b>docketed</b> 7:21	<b>each</b> 32:10 47:4	<b>ending</b> 20:8
<b>develop</b> 22:25	<b>disclose</b> 11:19 17:9 24:15 27:14	<b>document</b> 33:11	<b>earlier</b> 29:20 42:19	<b>endless</b> 6:4
<b>devoted</b> 6:21	<b>disclosed</b> 28:15,20 46:24	<b>documents</b> 7:23	<b>easier</b> 23:6	<b>enforce</b> 6:15
<b>difference</b> 21:5 23:18	<b>disconnect</b> 24:17	<b>dollar</b> 19:8 36:25	<b>easily</b> 41:20	<b>enforceability</b> 3:21
<b>different</b> 23:21 24:1,4 31:3 46:23	<b>discusses</b> 12:12	<b>dollars</b> 18:3 26:10	<b>economic</b> 4:9	<b>Engagement</b> 15:3
<b>difficult</b> 3:15	<b>discussion</b> 32:20	<b>done</b> 13:18 35:5 40:18 47:21	<b>edict</b> 13:16	<b>enlighten</b> 27:19 28:19
<b>diminished</b> 15:21	<b>discussions</b> 6:10 9:13	<b>double</b> 20:13	<b>educated</b> 28:11	<b>enormous</b> 19:7
<b>dinner</b> 44:4	<b>disinherited</b> 16:14	<b>doubt</b> 7:5	<b>effect</b> 12:8 24:23 25:20 36:16	<b>enough</b> 17:15 47:16
<b>Dinny</b> 3:8 11:6 12:13 13:24 14:8,9,22,24 17:16 19:11 32:23 33:2,9, 23 42:8,12 43:11 44:1 45:1	<b>disinherits</b> 16:16	<b>draft</b> 45:16	<b>eight</b> 43:23	<b>ensconced</b> 41:22
<b>Dinny's</b> 19:16	<b>displeasure</b> 7:6	<b>drafted</b> 5:11	<b>either</b> 15:12 29:19 38:12 40:21	<b>enter</b> 36:11
<b>direct</b> 11:13 18:11	<b>dispute</b> 4:16 7:21 18:17,18 19:7,8 26:2	<b>drive</b> 21:12 22:14 41:23	<b>elder</b> 4:2,3	<b>entire</b> 13:15 27:10
<b>directed</b> 5:2	<b>disputed</b> 8:19	<b>driving</b> 20:5	<b>elderly</b> 4:6 22:6,7,23 23:19	<b>entirely</b> 24:1
<b>directing</b> 4:14 5:8,10	<b>distinguishing</b> 21:9	<b>due</b> 19:25	<b>else's</b> 24:18	<b>entitled</b> 32:7 44:15
<b>direction</b> 13:16 23:21 38:13		<b>dumped</b> 19:25	<b>embarrassed</b> 17:23	<b>entries</b> 35:3
		<b>during</b> 11:22 16:8 20:11 33:13 36:22	<b>emeritus</b> 17:7	<b>equal</b> 19:1
			<b>emotionally</b> 14:17	<b>errors</b> 20:19
				<b>especially</b> 26:8
				<b>essentially</b> 37:16

<b>establish</b> 41:18	12:17 27:11 36:17 42:14,16 43:6	<b>factual</b> 11:15	<b>fiduciaries</b> 10:11,12	16,21 31:7 42:6,20
<b>estimate</b> 34:13	<b>expensive</b> 43:24	<b>failure</b> 23:23	<b>fiduciary</b> 4:23 10:5,17 12:14 35:5	<b>five</b> 12:2 21:11 28:24 35:10
<b>estimated</b> 46:25	<b>experience</b> 4:9 17:8	<b>fair</b> 10:6	<b>figure</b> 34:5 38:16	<b>flew</b> 27:21
<b>ethics</b> 7:14	<b>experienced</b> 4:6 40:2	<b>faith</b> 32:12,19 35:13 38:14	<b>file</b> 34:14 39:9	<b>fly</b> 14:12,17 30:11
<b>even</b> 9:25 10:25 36:9 40:15	<b>expertise</b> 17:7 19:20 28:8	<b>falls</b> 38:22	<b>filed</b> 6:14,23 14:2 32:21,23, 24	<b>follow</b> 38:24
<b>events</b> 26:17 36:14	<b>explain</b> 9:12 20:11	<b>familia</b> 5:22	<b>filing</b> 32:20 34:21	<b>following</b> 45:16
<b>every</b> 3:25 7:11	<b>explained</b> 33:24 36:23	<b>familiar</b> 5:23	<b>filings</b> 37:4	<b>follows</b> 5:15
<b>everything</b> 17:12 20:20,22	<b>explains</b> 42:21	<b>far</b> 12:5 35:1,5	<b>fill</b> 4:11	<b>football</b> 44:5
<b>evidence</b> 4:20 6:25 9:24 10:1 21:6 29:4 38:25	<b>explanation</b> 10:14 29:12	<b>Farmers</b> 21:2	<b>filling</b> 25:5	<b>foresee</b> 45:20
<b>exactly</b> 29:1 30:2 35:18	<b>expletives</b> 36:20	<b>fault</b> 23:1	<b>final</b> 4:17	<b>form</b> 5:1 7:24
<b>example</b> 30:8	<b>explore</b> 10:16	<b>favor</b> 16:14 21:14 39:14 41:8	<b>finality</b> 7:10 26:18	<b>forms</b> 23:1
<b>excellent</b> 12:14 39:21	<b>expose</b> 27:18	<b>fee</b> 38:5	<b>finally</b> 9:3 19:24 27:12	<b>Fortunately</b> 26:3
<b>except</b> 13:9	<b>expressed</b> 7:6 14:4 32:14	<b>feedback</b> 19:3	<b>finances</b> 42:10	<b>forward</b> 25:20 47:21
<b>excess</b> 18:5	<b>extent</b> 7:22	<b>feel</b> 19:16 21:8 26:20 30:5 40:11	<b>financially</b> 15:14	<b>foul</b> 25:14
<b>excluded</b> 5:17	<b>external</b> 5:17	<b>feeling</b> 41:13, 14	<b>find</b> 12:2,18,24 30:7 37:7	<b>found</b> 6:6
<b>Excuse</b> 11:9	<b>F</b>	<b>feels</b> 23:9 24:2	<b>finder</b> 3:22,24	<b>four</b> 15:5,11 45:12
<b>exhibits</b> 6:22	<b>facility</b> 12:20 16:11	<b>fees</b> 6:15,17,18 8:2 17:11,18 18:1,4,16 19:14,15 26:9, 12:27,9 32:3,8, 9,12,17 35:19 36:1 37:3,7,23 38:16 42:20,23 45:25 47:2,11, 12	<b>finding</b> 3:24 19:12 31:9 32:12 35:17	<b>frail</b> 21:23
<b>exist</b> 10:25	<b>fact</b> 3:22 13:1 35:21 36:19	<b>fell</b> 16:12	<b>fine</b> 14:7	<b>Frasier</b> 3:8 4:20,21 5:6,8 6:14 7:15 8:9, 16,21,24 9:1,9, 17 11:7,20 12:1,13 14:9, 12 16:7,9 17:19 18:25 19:2,5,20 20:15 21:7 26:6,23 27:4,8, 15 28:20 29:5, 7,10 31:11,25 33:3,11,15
<b>expands</b> 4:10	<b>facts</b> 3:23,25 4:7 6:6 8:19 21:10 29:3 30:23	<b>few</b> 11:21 36:19	<b>fire</b> 13:16	
<b>expect</b> 38:22			<b>firm</b> 6:4 17:19 25:7,12	
<b>expected</b> 5:9			<b>first</b> 8:5 23:13 29:20 30:13,	
<b>expense</b> 30:18, 19				
<b>expenses</b>				

35:21 36:15,18 37:21,24 40:15 41:5 42:5,7,11, 12,15 45:1,25	<b>gerontologist</b> 21:24	9:14	<b>heard</b> 4:18 8:6 32:2,16 36:12 42:2,20 44:9 45:6	43:9,20 44:13, 16 45:2,8,9,17 46:9,13 47:19
<b>Frasier's</b> 4:19 5:2,16,18 6:17, 19 7:25 8:19 9:5 10:4,17,22, 24 13:16 14:8 18:22 30:24 37:25 39:9 41:19	<b>get-go</b> 23:12	<b>guides</b> 8:11		<b>Honor's</b> 39:19
<b>Frazier</b> 3:13	<b>getting</b> 19:7	<b>H</b>	<b>hearing</b> 3:20 4:16 5:6 6:4, 13,22 7:1,5 8:23 9:7,12 13:15 17:22 19:24 21:17 24:20 29:1 38:6	<b>hope</b> 44:9
<b>free</b> 31:17	<b>give</b> 12:11,16 13:25 19:1,14 21:23 22:13 23:3 27:10 33:9 47:8	<b>hac</b> 7:18	<b>here</b> 8:10,18 10:6,18 12:1, 23 13:19 14:4 21:19,20 22:3 24:19 26:7 27:9 30:5,11 32:19 34:16 35:12 40:6,14	<b>hopefully</b> 24:5
<b>frequently</b> 39:5	<b>given</b> 5:23 10:5 18:24 19:4 21:24 41:20	<b>Haga</b> 21:20 23:6,9	<b>help</b> 15:1 28:19	<b>hour</b> 11:20,21 16:25 28:21,23
<b>fresh</b> 37:22	<b>giving</b> 11:6	<b>half</b> 11:21 18:3, 24 19:1,5,6 26:9 28:21,23	<b>helpful</b> 27:24	<b>hours</b> 34:18,22 35:11
<b>Friday</b> 13:7 40:6 45:13,14, 16	<b>gladly</b> 9:18	<b>handful</b> 29:18	<b>here</b> 8:10,18 10:6,18 12:1, 23 13:19 14:4 21:19,20 22:3 24:19 26:7 27:9 30:5,11 32:19 34:16 35:12 40:6,14	<b>house</b> 14:24 17:11 43:21
<b>friendship</b> 5:22	<b>godsend</b> 17:2	<b>handling</b> 19:16	<b>Hernandez</b> 3:12 25:16 45:24 46:2,9	<b>however</b> 29:10
<b>front</b> 25:1 28:22,23	<b>goes</b> 44:4	<b>handwritten</b> 33:10,23	<b>herself</b> 4:20	<b>human</b> 22:5
<b>frustrated</b> 32:4	<b>Gonda</b> 3:7 29:20	<b>haphazardly</b> 5:13	<b>hey</b> 11:5	<b>hundred</b> 6:22
<b>frustration</b> 7:6	<b>gone</b> 18:15	<b>happen</b> 26:10, 11,13,21	<b>high</b> 44:5	<b>I</b>
<b>full</b> 4:6	<b>good</b> 3:5 10:14 21:22 22:3 37:22 38:14 40:2,11 43:19 45:2,8 47:16	<b>happened</b> 9:20 27:18 33:5	<b>hold</b> 43:16	<b>identified</b> 29:13 32:9
<b>fullest</b> 7:22	<b>granted</b> 13:12 26:25 27:1	<b>happening</b> 15:16 19:17 25:19 28:2	<b>honor</b> 8:7,15, 25 9:18 10:15 11:12,18 12:5 13:6 15:18 18:7,14 25:14, 16 26:18 27:3, 20 28:17,25 32:18 34:6,11 35:10,25 38:18 39:3,18,20,24 40:13,23,24	<b>illustrate</b> 15:23
<b>funds</b> 4:11	<b>great</b> 6:4 30:18 42:1,3	<b>happy</b> 11:4,8 17:2 26:19 42:6,8	<b>hold</b> 43:16	<b>imagine</b> 27:4
<b>further</b> 3:24	<b>greater</b> 23:1 30:8	<b>hard</b> 18:21		<b>immediately</b> 10:4 45:6
<b>future</b> 45:7	<b>grounded</b> 30:23	<b>hating</b> 16:11 10:20 14:11 28:21 41:5,7 43:14		<b>impeccable</b> 10:11
<b>G</b>	<b>guardianship</b> 4:4 10:10 18:9	<b>Hay</b> 23:8		<b>impending</b> 15:22
<b>game</b> 44:5	<b>guess</b> 29:14 46:3	<b>heading</b> 47:3		<b>important</b> 29:13
<b>General</b> 12:19, 22	<b>guidance</b> 8:13	<b>hear</b> 27:5 41:18		<b>impossible</b> 22:9
<b>generally</b> 32:10 41:12				<b>inclinations</b> 7:12,13,15



<b>inclined</b> 7:22 8:1,23	<b>influencing</b> 15:10	45:5	18:17 39:24	<b>kind</b> 19:2 36:2
<b>include</b> 5:20 6:23 18:10 31:12 44:25 45:3	<b>informed</b> 37:11	<b>interacted</b> 29:17	<b>item</b> 46:19	<b>knew</b> 11:6 22:8
<b>included</b> 6:11	<b>infrastructure</b> 21:16	<b>interest</b> 14:17 21:21 30:15 37:25 41:2,3,4, 5	<b>items</b> 47:4	<b>knowing</b> 7:10 36:7
<b>includes</b> 34:22	<b>infuse</b> 28:3	<b>interested</b> 3:13 24:9 25:5	<b>J</b>	<b>known</b> 24:12
<b>including</b> 6:22 18:1	<b>initials</b> 12:13	<b>interrupt</b> 36:22	<b>JAMS</b> 15:6 18:20	<b>knows</b> 6:5 7:5
<b>increased</b> 5:5, 7	<b>injured</b> 21:18	<b>into</b> 3:18,23 5:18 6:6,18 9:12,21 11:7 15:24 19:2 24:11 25:25 31:16 32:6 37:12 40:17 41:17 42:3,10	<b>Jane</b> 12:9 46:15	<b>L</b>
<b>incredibly</b> 26:7	<b>innuendo</b> 15:9	<b>introduced</b> 5:17 6:25	<b>Janie</b> 10:4 15:12 19:15 31:8 43:21 44:4	<b>lack</b> 19:19,20
<b>incrementally</b> 23:1	<b>inquire</b> 45:8	<b>investing</b> 5:21	<b>Johnson</b> 3:6	<b>large</b> 4:13 10:3,7,15 18:16 36:6
<b>incur</b> 27:9 34:4 42:16	<b>inspection</b> 31:22 46:25	<b>invite</b> 11:16 28:12 32:16 37:10	<b>join</b> 7:3	<b>largest</b> 21:3
<b>incurred</b> 18:10 30:18,19 31:22 32:3 37:5 47:5	<b>Inspector</b> 12:19,22	<b>invited</b> 3:17 37:16	<b>judge</b> 4:12 7:11 21:10 22:22 38:2	<b>Las</b> 27:21
<b>independent</b> 30:24	<b>instead</b> 29:12	<b>involved</b> 18:7, 17,19 21:15 25:11	<b>judgment</b> 24:17	<b>last</b> 9:2,24 10:7 11:14 13:2,7, 10 15:25 18:5 24:19 26:17 31:16 33:22 42:2
<b>indicated</b> 5:12 14:1 25:6 42:4, 7,9,19	<b>institutions</b> 21:3	<b>involvement</b> 14:19 15:13 28:4	<b>judicial</b> 6:2 9:22 41:5,13	<b>late</b> 20:13 33:22
<b>indicating</b> 4:7	<b>instruct</b> 29:3	<b>isolation</b> 5:1, 20	<b>July</b> 6:1 8:14	<b>later</b> 11:5 32:1
<b>indication</b> 35:12	<b>instruction</b> 45:4	<b>issue</b> 3:21 19:23 23:15 26:3 32:7 37:10 42:12	<b>juries</b> 29:3	<b>law</b> 3:22,24 4:2,3,10 7:23 17:5 24:12 35:14 36:5
<b>indirect</b> 3:23	<b>instructions</b> 8:12	<b>issues</b> 4:4	<b>jurisdiction</b> 20:23 40:12 41:9	<b>lawyer</b> 22:22
<b>individually</b> 8:3	<b>instrument</b> 4:24		<b>jury</b> 29:4	<b>lawyers</b> 4:13
<b>inferences</b> 24:15	<b>instruments</b> 17:3		<b>K</b>	<b>learned</b> 7:1,4 9:24 10:7 29:19 30:13
<b>influence</b> 15:14	<b>intelligent</b> 28:12		<b>kept</b> 11:6 27:7	<b>learning</b> 5:6
<b>influences</b> 5:17	<b>intended</b> 6:2		<b>key</b> 37:8	<b>least</b> 15:11 18:19
	<b>intent</b> 5:13		<b>kids</b> 16:14,17 23:13,14	
	<b>intention</b> 44:10			

<b>leaving</b> 41:3	<b>litigation</b> 4:10, 11,12,13,15,19 5:9,10,14 6:3,4 7:10 10:10 15:5 47:3	<b>maintenance</b> 17:11	25:1 37:4 38:16,25	9 28:6,19 29:10 38:11 44:22 45:9
<b>left</b> 4:16 13:8 25:5 26:14	<b>little</b> 26:22 34:10 42:21	<b>majority</b> 42:22	<b>mean</b> 15:15	<b>Miller</b> 3:6 24:19 25:4,11
<b>legal</b> 15:13 17:11,18 19:14 28:8 42:23	<b>lives</b> 23:20 31:16 44:15	<b>make</b> 8:20 11:15 14:13 22:15 26:11, 12,19,20 28:1, 18 32:13 35:17,24 38:24 40:10,20	<b>means</b> 30:2	<b>million</b> 18:3 26:10
<b>legitimate</b> 43:6	<b>living</b> 36:17 42:16	<b>makes</b> 23:5 24:15 28:11 30:24	<b>meantime</b> 43:15 44:8	<b>Millsap</b> 3:10 7:5 8:4 9:8 24:11 25:3 30:9 39:2,3,18 40:23 45:22 46:10
<b>lengthy</b> 35:19	<b>local</b> 3:10 5:20 14:4 24:11,21 29:25 30:5,8 40:11	<b>making</b> 20:5	<b>medical</b> 18:16, 18,23,24,25 19:2 26:2,6	<b>Millsap's</b> 44:18
<b>less</b> 30:24	<b>locate</b> 40:9,16	<b>maligned</b> 21:8	<b>medically</b> 14:17 21:18	<b>mind</b> 7:13 12:1 15:16 41:13,14
<b>let</b> 29:14 38:10	<b>logistical</b> 45:24	<b>manage</b> 6:2	<b>medication</b> 16:13	<b>mine</b> 14:22
<b>letter</b> 13:24 14:3,5 15:3 21:20 36:24	<b>logistics</b> 41:10	<b>manifested</b> 25:11	<b>medicine</b> 14:10	<b>minute</b> 11:14
<b>letters</b> 21:25 34:14	<b>long</b> 15:23 42:25 45:18	<b>many</b> 7:18 15:21 22:23	<b>meet</b> 11:20 27:7 28:10	<b>minutes</b> 12:2 21:11
<b>level</b> 14:14	<b>longer</b> 29:11 30:21 40:19	<b>marriage</b> 14:10	<b>meeting</b> 11:23 12:22 23:13 26:23 27:12, 13,15,18,23,24 37:13	<b>misapplied</b> 20:14
<b>liberty</b> 11:19	<b>looked</b> 32:25 34:11	<b>masters</b> 28:12	<b>Mellon</b> 21:3	<b>misconduct</b> 19:19
<b>licensed</b> 12:14 14:10	<b>looking</b> 11:7 46:18	<b>matter</b> 13:3 14:18 18:21	<b>memory</b> 29:19	<b>misconstrued</b> 28:1,16
<b>life</b> 4:18 5:18 15:23 16:1 43:7	<b>loop</b> 19:3	<b>matters</b> 4:5	<b>mentioned</b> 26:25	<b>misled</b> 9:15
<b>like</b> 7:18 11:21 15:1 18:14 20:15,16,17 21:1 22:15,23 26:15,22 27:5 33:12 38:3,6	<b>lot</b> 15:9 35:3 45:20	<b>may</b> 3:18,20 4:16 5:24 7:20 8:5 10:14 13:25 16:18 20:1 21:22,25 24:9 25:10 26:15,24 28:1 30:14,22,25 31:12,19 37:2 38:12 39:3 41:20 42:2 43:9 45:8 47:1	<b>Merchants</b> 21:2	<b>missing</b> 11:6 35:14
<b>likely</b> 7:9 31:19 45:12	<b>M</b>	<b>maybe</b> 15:10 22:14 24:7	<b>met</b> 15:3 16:11	<b>misuses</b> 17:6
<b>line</b> 19:9 46:19 47:4	<b>made</b> 7:4 9:2 11:16 15:20 24:10 33:10 34:7,8 41:19		<b>method</b> 44:21	<b>mix</b> 25:17
<b>liquidate</b> 11:3 32:1	<b>maintain</b> 23:20		<b>microanalyze</b> 47:2	<b>money</b> 4:14 11:6 17:15,16 32:7 33:20 34:4,8 35:6,7, 14,22 36:3,6,7, 8 38:8 40:3 41:21,24 42:24
<b>listing</b> 20:13			<b>middle</b> 33:22	
<b>litigants</b> 4:6			<b>might</b> 5:3 22:8,	

43:5,11 44:15	14:13,16 25:16	<b>needs</b> 14:15	38:12	<b>offered</b> 12:16
<b>month</b> 43:23	26:1 28:3 34:4,	15:24 26:10,	<b>notice</b> 25:18	46:25
44:2,3	8 38:11 44:2	11,12,13,18	<b>number</b> 3:3	<b>office</b> 15:11
<b>months</b> 15:6	45:22	35:21	20:13	21:2 40:11
17:20 18:7,19	<b>muddling</b>	<b>Negligence</b>	<b>nurturing</b>	<b>officer</b> 11:25
26:17	18:13	23:25	22:25	13:25 15:1
<b>moral</b> 39:22	<b>Mulrain</b> 10:4	<b>negligently</b>	<b>O</b>	20:17 25:3
<b>morally</b> 10:11	12:10 16:21	38:21		27:20
<b>more</b> 18:3	31:9,12,17	<b>negotiations</b>		<b>offices</b> 40:10,
22:15 26:22	41:19 43:21	40:22		14
30:7 34:18	<b>Mulrain's</b>	<b>neighbor</b> 14:22	<b>object</b> 39:11	<b>often</b> 23:20
39:5	19:15 31:23	<b>Nevada</b> 3:1,22,	<b>objections</b>	24:15 37:17
<b>morning</b> 3:5,16	46:15	24 17:4,5	24:8	<b>old</b> 14:15
28:5	<b>multimillion</b>	20:25 30:12,15	<b>obligated</b>	<b>one</b> 5:24 6:4
<b>morning's</b> 7:5	19:8	40:10 45:5	36:23	14:23 15:4,20
<b>most</b> 10:9	<b>N</b>	<b>never</b> 9:14	<b>obligation</b> 36:8	17:3 18:20
37:12		16:11 20:3	42:10	21:10 25:24
<b>Mostly</b> 34:15	<b>name</b> 18:25	23:24 29:16	<b>obligations</b>	26:19 28:18
<b>mother</b> 15:23,	28:22 31:6,7	<b>new</b> 6:24 10:1,	37:18	29:16 30:25
24 26:7,12	<b>narrative</b> 47:5	18	<b>observations</b>	32:5,6 33:16
<b>mother's</b> 16:1	<b>narratives</b> 47:4	<b>newborns</b>	3:17,18	43:20 46:13
<b>motion</b> 6:14	<b>National</b> 4:2	22:24	<b>observed</b> 4:12	<b>ongoing</b> 6:10
10:22 30:23	<b>nationally</b> 4:2	<b>news</b> 10:18	<b>obstruct</b> 46:11	15:21
32:20,21,23	<b>nature</b> 10:2	<b>next</b> 32:2	<b>Obviously</b>	<b>only</b> 5:7 13:12
37:4 38:1 39:7	22:7	45:11,12,13,	12:17 15:9	15:8,13 16:15
<b>mountain</b>	<b>near</b> 40:14	14,25 46:8	<b>occasions</b>	27:10,13 29:16
13:14	47:1	47:22	15:3	<b>open</b> 7:13 13:8
<b>mouth</b> 38:8	<b>nearby</b> 21:3	<b>nice</b> 47:21	<b>occupation</b>	47:3
<b>move</b> 13:13,18	<b>necessary</b>	<b>night</b> 13:10	37:13	<b>opened</b> 12:8
29:10 30:22	12:15 16:7	<b>noise</b> 22:11	<b>occurred</b> 11:22	<b>opinion</b> 11:25
38:23	19:19 31:2,18	<b>noon</b> 40:6	36:17	<b>opportunity</b>
<b>moves</b> 37:21,	37:25 39:21	<b>Northern</b> 30:12	<b>occurring</b> 7:2	19:11 21:2
24	46:5	45:5	<b>OCTOBER</b> 3:1	23:3 39:5,11
<b>moving</b> 5:6	<b>need</b> 9:1,19,20	<b>note</b> 14:11	<b>off</b> 13:3	<b>opposed</b> 14:11
6:23,24 38:13	14:3 22:25	<b>nothing</b> 13:18	<b>offer</b> 12:9 43:3,	<b>opposite</b> 35:13
40:22	38:25 40:5,8	17:12 19:17	4	<b>opposition</b>
<b>much</b> 4:9	44:17 46:17	23:14 26:14		10:21 34:14,
	47:17	28:15 29:4,23		21,24 35:1,4,
				11,25 36:2

<b>Opus</b> 12:7 32:5	29:22	<b>party</b> 3:13 6:23 32:10	<b>perfect</b> 33:10	<b>pleading</b> 38:7
<b>oral</b> 46:5			<b>performed</b> 18:15	<b>pleadings</b> 17:21 20:16 28:6
<b>orally</b> 3:17	<b>P</b>	<b>past</b> 25:8 26:16 28:2	<b>performs</b> 38:21	<b>pleasure</b> 22:16
<b>order</b> 5:11,14 6:1,11 7:22 8:1,23 13:22 14:2 22:8 24:10 25:22 26:4,25 29:25 30:21 31:5 36:12,20 37:9 44:17,20 45:10,16,18, 19,21 46:3	<b>pages</b> 6:22 20:13	<b>patients</b> 13:7	<b>period</b> 11:20	<b>pled</b> 28:16
<b>ordered</b> 6:16 31:20 45:25	<b>paid</b> 6:18,20 8:1 10:23 11:1 16:23,25 26:5 30:10 31:23,25 32:8,10 33:3 34:12 37:16 38:1,7,10 42:4, 17 43:25 45:25 46:6,8 47:2	<b>Patrick</b> 3:10	<b>perjury</b> 19:15	<b>plus</b> 20:18 37:3
<b>ordering</b> 22:8, 10	<b>pain</b> 14:14	<b>pattern</b> 5:18	<b>personal</b> 5:19 10:24 12:17 31:1 33:5 42:10 46:7	<b>point</b> 27:12 33:1,2,19 35:24 42:2 46:13
<b>orders</b> 8:9 20:21,25	<b>Palm</b> 44:5	<b>patterns</b> 6:20 24:14	<b>personally</b> 11:20 25:7 33:4 36:8 42:8 44:1 46:12	<b>points</b> 39:21 42:22
<b>out-of-state</b> 7:17,20	<b>paper</b> 20:1 28:22	<b>pay</b> 6:17 11:8 12:12 17:17 18:22 27:11 30:9 32:15 33:2,3,15,17, 18,25 34:2 36:1,8,9,15,19, 21,25 42:18,23 44:1	<b>persuade</b> 5:9	<b>portion</b> 18:16 35:2
<b>outcome</b> 8:22	<b>papers</b> 5:6 40:22	<b>payable</b> 34:5 37:7	<b>persuaded</b> 30:17 38:15	<b>position</b> 18:22 24:23 26:14,16 39:4 40:24
<b>outrageous</b> 32:15	<b>paperwork</b> 20:4	<b>paying</b> 31:15 33:19	<b>persuasive</b> 7:13	<b>possibility</b> 25:11
<b>over</b> 3:20 4:4,5 12:12 15:14 17:20 18:6,10 20:23 22:18 30:1,8 39:25 41:3,9 42:21 44:10	<b>Parkinson's</b> 4:10	<b>payment</b> 6:15 9:16 17:14 34:7,8 36:1 37:18 38:10 42:11 43:15,16 46:12	<b>petition</b> 18:11 23:21 37:15,17	<b>possible</b> 5:1 7:23 8:21 14:16 25:10 39:10 40:2 45:22
<b>over-all</b> 14:14	<b>parody</b> 15:23	<b>payments</b> 20:13,14 41:19 47:8,9,10	<b>petitions</b> 18:11	<b>post-</b> 5:5
<b>oversight</b> 5:4 17:5 19:19 39:21 40:3	<b>parse</b> 22:10	<b>penalty</b> 19:14	<b>phone</b> 5:12 36:18	<b>post-hearing</b> 23:17
<b>own</b> 9:6 13:19 14:20 27:11	<b>part</b> 12:21 25:17 30:6 31:21 39:7	<b>penny</b> 16:22 33:17,19	<b>physician</b> 13:25 14:9	<b>power</b> 4:23 10:5
<b>ownership</b>	<b>participant</b> 29:18	<b>people</b> 15:11 23:19 31:15 37:12	<b>physician's</b> 14:3	<b>PR16-00128</b> 3:3
	<b>participated</b> 3:14	<b>percent</b> 11:17 21:11 43:5	<b>picked</b> 30:5	<b>practice</b> 4:1 6:24 10:9 14:10 15:15 20:3 27:11 29:17
	<b>particularly</b> 30:17		<b>pierce</b> 22:11	<b>predicate</b>
	<b>parties</b> 6:16 24:9 39:8,11		<b>place</b> 3:17 6:6 7:18 15:24 16:4 47:3	
			<b>plans</b> 46:18	
			<b>play</b> 25:14	

29:13 <b>predicated</b> 13:15 <b>predictable</b> 15:21 <b>preeminent</b> 21:24 <b>prefer</b> 21:1 46:22 <b>preferably</b> 20:20 <b>preferred</b> 22:18 <b>prehearing</b> 7:15 <b>Premier</b> 3:6 5:4,7 7:18 8:7, 10,17 9:19,20, 21,22 10:20 11:2 12:6,8 13:16 14:25 15:7 16:5,6,9, 15 18:1 19:1, 12,19,24 20:10,11,15,25 23:17,19,21,22 24:2,3,22 25:8, 13 27:4,12,20 29:8,9,10,14, 17,18,19,21, 23,24,25 30:13,17,22,23 31:3 32:14,19, 21,22,25 33:1, 6,8,19 34:15 35:6,7,12 36:4, 24 37:15,21,24 38:20,24 39:8, 13,24 40:4,21, 25 41:2,8 42:6, 9,12,18 43:15	<b>Premier's</b> 17:21 19:21 22:19 <b>prepare</b> 6:21 37:6 38:6 44:17 45:18,21 <b>prepared</b> 13:5 25:19 <b>prepares</b> 7:11 <b>preparing</b> 45:10 <b>preponderant</b> 3:23 <b>presence</b> 26:24 30:15 45:4 <b>present</b> 4:25 5:9 8:17 9:25 16:8 24:6 36:18 <b>presentation</b> 15:20 25:12 <b>presentations</b> 28:5 <b>presented</b> 6:11 7:10 <b>presents</b> 24:12 <b>preservation</b> 11:11 <b>preserved</b> 3:19 <b>preside</b> 4:5 44:10 <b>presided</b> 3:20 4:4 <b>pressure</b> 14:14 <b>presume</b> 7:7 47:4	<b>prevail</b> 38:7 <b>prevent</b> 37:8 <b>Previous</b> 20:16 <b>previously</b> 8:13 16:6,10 <b>pride</b> 36:3 <b>primary</b> 14:8 <b>principle</b> 4:10 <b>principles</b> 6:24 <b>prior</b> 20:3 25:18 26:2 <b>prison</b> 10:12 <b>private</b> 4:1,22, 25 10:11,12,16 29:17 <b>pro</b> 7:18 30:3,6 <b>probable</b> 5:2 <b>probably</b> 34:17 41:15,17 <b>probate</b> 4:5 <b>problem</b> 17:22 21:19 42:25 <b>problems</b> 25:21 <b>proceedings</b> 47:23 <b>professional</b> 5:19 12:13 24:17 26:6 38:21,23 41:4 <b>professionalis</b> <b>m</b> 19:20 <b>professionals</b> 41:22 <b>professor</b>	12:20 <b>projecting</b> 28:7 <b>projection</b> 11:17 <b>pronouncemen</b> <b>t</b> 46:6 <b>proof</b> 29:12,14, 24 <b>proper</b> 26:20 <b>proposal</b> 19:10 39:15 <b>proposition</b> 38:12 <b>propriety</b> 32:3 <b>pros</b> 28:10 <b>protective</b> 22:7 26:25 27:1 28:14 <b>provide</b> 31:10 39:10 43:3 <b>provides</b> 15:25 <b>provision</b> 35:19 <b>pulling</b> 41:12 <b>purported</b> 13:16 <b>purpose</b> 27:16 28:14 <b>purposes</b> 22:14 <b>push</b> 40:4 <b>pushing</b> 16:2 <b>put</b> 25:24 33:9 38:7	<b>Q</b> <b>question</b> 12:1 42:11 45:24 <b>questions</b> 15:18 20:9,10 <b>quibbling</b> 25:25 <b>quickly</b> 26:5 <b>quite</b> 35:13 40:1 <b>Quote</b> 5:15 <b>R</b> <b>raised</b> 39:20 <b>raises</b> 10:1 <b>ratified</b> 39:12 <b>rational</b> 37:20 <b>read</b> 5:15 6:22 14:6 <b>reading</b> 5:5 6:1,3 32:4 <b>ready</b> 8:5,8,10 12:24 24:20 <b>really</b> 13:6 19:23 21:19 32:4,13 38:3 43:16 46:17 <b>reason</b> 24:20, 25 30:10 31:16 32:24 <b>reasonable</b> 31:18 <b>reasons</b> 17:3 27:5
--	---	--	--	---

<b>recall</b> 16:13	<b>relationship</b> 5:23 7:16 15:24 25:10 30:12	<b>represent</b> 12:10 14:1 24:25	<b>resistance</b> 17:9	<b>respected</b> 28:5
<b>receipts</b> 46:15			<b>resisted</b> 9:3,10	<b>respond</b> 13:21
<b>receive</b> 16:17 34:14 44:1	<b>relationships</b> 5:19 15:22	<b>representation</b> 22:9 25:9,13 28:18 34:1 37:5	<b>resisting</b> 33:20	<b>responding</b> 17:21
<b>received</b> 4:20 19:24 33:10,22 35:22 47:11,12	<b>relevant</b> 30:25	<b>representation</b> s 21:7	<b>Resnick</b> 3:8,11 5:3 8:4 9:9 11:9,23 12:5 13:4,17 14:6,8 16:8,22,25	<b>response</b> 27:8 38:11
<b>recent</b> 5:20	<b>reliance</b> 8:22	<b>representative</b> 41:17	17:10,15,20 18:2,4,8,19 19:10,11,23 20:7,24 21:13 22:13,20 23:3, 9,24 24:5,19 27:23,25 28:9, 16,25 29:15 30:4 31:8,21 33:24 36:12,13 37:10 38:2,5, 17 39:1,6 40:9, 16,24 41:7 42:1,3,19 43:20,24 44:4, 18 45:22 46:11,13,19,21 47:6,10,13,16, 19	<b>responsibilities</b> 7:8 15:9
<b>recite</b> 35:18	<b>relief</b> 35:21	<b>represented</b> 16:10 20:4 25:8		<b>responsibility</b> 15:4
<b>recommendations</b> 20:6	<b>reluctance</b> 6:8	<b>reputation</b> 12:14 30:12		<b>responsiveness</b> s 30:7
<b>reconcile</b> 13:1	<b>remarks</b> 3:16	<b>request</b> 7:17 31:12,18 33:1, 2,23 36:15 42:5		<b>rest</b> 38:25
<b>reconstruct</b> 38:19	<b>Reminds</b> 18:9	<b>requested</b> 7:3 23:17 26:25 27:1,6,21 32:8 36:16,24 43:17		<b>result</b> 21:18
<b>record</b> 3:18 11:11 25:24 47:13	<b>removal</b> 30:18	<b>require</b> 30:5		<b>reveals</b> 22:7
<b>recreational</b> 23:5	<b>remove</b> 7:15 15:7 16:5,7 23:21 24:3 29:10 30:22,23 37:15,17,21,24	<b>required</b> 33:7		<b>review</b> 11:11 12:11 24:6 31:5,10,19,22 42:13 43:4 44:11,18 46:14,21
<b>recurring</b> 15:20	<b>removed</b> 5:24 24:21 29:7,24 30:17	<b>research</b> 35:5, 8	<b>Resnick's</b> 25:8 26:24 42:20 43:3	<b>reviewed</b> 17:12 43:14
<b>redacting</b> 47:4	<b>removing</b> 19:12	<b>residential</b> 43:22	<b>resolution</b> 39:23 44:21 47:1	<b>revisit</b> 43:14
<b>reference</b> 24:10 30:4	<b>render</b> 39:7	<b>resign</b> 19:13 21:14 39:13,24 40:4	<b>resolve</b> 18:16, 18	<b>revolving</b> 5:19
<b>refusing</b> 4:24	<b>rendered</b> 20:9	<b>resignation</b> 41:16	<b>resolved</b> 19:7, 9 26:3,4	<b>Richard</b> 27:21
<b>regarding</b> 26:2	<b>rendering</b> 40:25	<b>resigning</b> 40:25	<b>resource</b> 38:10	<b>rights</b> 41:23
<b>regardless</b> 10:21	<b>Reno</b> 14:12,17	<b>resigns</b> 41:8	<b>respect</b> 8:9 15:19 38:9,11 41:11 42:19	<b>risk</b> 22:10 37:13
<b>Regrettably</b> 4:8	<b>repay</b> 33:4			<b>risky</b> 17:4
<b>rehab</b> 16:11	<b>repeat</b> 11:16			<b>road</b> 44:5
<b>related</b> 14:9 15:12	<b>repeatedly</b> 27:6			<b>robe</b> 22:5
<b>relates</b> 35:20	<b>replace</b> 29:25			<b>Robertson</b> 3:5, 6 8:3,7,15,25 9:18 10:3,14 11:12,18 12:9
<b>relation</b> 36:20	<b>reply</b> 6:23			
	<b>reporter</b> 45:9			

18:6,14 20:17 26:23,24 27:3, 17 28:17 32:18 34:6,10,15,20, 23,25 35:24 36:4,14 39:5,6 40:13 42:2,18 43:9,13,19,25 44:3,13,16,23 45:2,8,15,20	<b>satisfied</b> 37:22,24 <b>satisfy</b> 40:21 <b>saw</b> 16:18 18:5 <b>say</b> 9:14 11:5, 24 15:6 22:6 29:4,14 34:17 35:3,10,25 40:6 41:14	<b>selected</b> 16:6 <b>send</b> 33:11,14, 20 34:1 35:7 <b>sense</b> 3:25 5:14 21:23 33:10 <b>senseless</b> 5:14 <b>sensitivity</b> 4:7 <b>sent</b> 36:23	<b>several</b> 6:22 <b>shameful</b> 4:12 16:4 <b>share</b> 17:2 <b>shares</b> 26:8 <b>sharp</b> 23:12 45:6 <b>sheet</b> 28:22 <b>shifted</b> 40:18 <b>should</b> 6:17,18 9:9,15,21 10:22,25 11:8 14:6 18:23,24 28:10 29:24 30:17 31:17 35:7 37:23 38:10 42:11 <b>shouldn't</b> 18:22 36:6 <b>show</b> 17:13 <b>showing</b> 17:22 <b>shudder</b> 31:13 <b>side</b> 15:14 <b>sign</b> 9:5,11 11:23 27:13, 19,22 29:24 40:7 <b>signals</b> 15:21 <b>signature</b> 10:13 <b>signed</b> 6:9 9:4 13:2,5 15:4 20:16 27:20,22 <b>signing</b> 16:13 22:8 <b>simple</b> 32:6	<b>simply</b> 7:8 11:7 33:8 <b>Since</b> 33:22 <b>sir</b> 23:3 <b>situation</b> 25:21 28:19 32:25 34:16 35:14 36:10 42:3 <b>situs</b> 29:22 <b>six</b> 4:4 15:10 18:19 35:10 38:16 <b>size</b> 29:23 <b>slightly</b> 18:10 <b>slip</b> 10:18 <b>sole</b> 19:13 20:19 29:9 39:14 44:20 <b>solution</b> 39:19 <b>somebody</b> 11:5 24:17 30:13 <b>somehow</b> 21:21 25:1 <b>something</b> 11:21 22:2 25:18 28:20 39:6 <b>sometime</b> 7:2 24:7 <b>sophistication</b> 28:3 <b>sorry</b> 33:1,23 <b>sort</b> 23:5 <b>sought</b> 8:11 <b>Sounds</b> 42:1
<b>Robertson's</b> 26:1 <b>role</b> 7:20 <b>room</b> 41:17 <b>routine</b> 14:16 <b>rule</b> 32:10 <b>rules</b> 8:18 <b>ruling</b> 29:19 <b>running</b> 20:2 <b>Ryan</b> 3:7	<b>saying</b> 10:19 14:23 22:23 23:18 29:15 <b>says</b> 10:23 11:7 21:21,25 33:23 36:5 <b>school</b> 44:5 <b>Scott</b> 3:12 <b>scrutiny</b> 5:3 <b>season</b> 4:17 16:1 31:16 <b>second</b> 15:7 38:23 44:12 <b>secondhand</b> 16:16 <b>securities</b> 11:4 32:1 <b>security</b> 22:16 <b>seek</b> 44:24 45:16 <b>seeking</b> 30:18 <b>seem</b> 26:15 <b>seemed</b> 27:2 <b>seen</b> 15:10 16:18 17:1,10 20:3 29:17 <b>segue</b> 42:3	<b>September</b> 7:2 14:21 21:25 <b>sequence</b> 36:13 <b>serious</b> 10:1 <b>seriously</b> 14:16 <b>serve</b> 29:5,9 <b>served</b> 31:3 <b>service</b> 5:25 37:19 47:6 <b>services</b> 31:11, 18 38:22 <b>serving</b> 40:19, 20 <b>set</b> 6:13 21:16 29:1 <b>settle</b> 18:21 <b>settled</b> 15:7 <b>settlement</b> 3:21 6:10 9:13 10:23 26:4 33:20 <b>settling</b> 15:5 <b>settlor</b> 29:9 <b>seven</b> 20:3	<b>shifted</b> 40:18 <b>should</b> 6:17,18 9:9,15,21 10:22,25 11:8 14:6 18:23,24 28:10 29:24 30:17 31:17 35:7 37:23 38:10 42:11 <b>shouldn't</b> 18:22 36:6 <b>show</b> 17:13 <b>showing</b> 17:22 <b>shudder</b> 31:13 <b>side</b> 15:14 <b>sign</b> 9:5,11 11:23 27:13, 19,22 29:24 40:7 <b>signals</b> 15:21 <b>signature</b> 10:13 <b>signed</b> 6:9 9:4 13:2,5 15:4 20:16 27:20,22 <b>signing</b> 16:13 22:8 <b>simple</b> 32:6	<b>simply</b> 7:8 11:7 33:8 <b>Since</b> 33:22 <b>sir</b> 23:3 <b>situation</b> 25:21 28:19 32:25 34:16 35:14 36:10 42:3 <b>situs</b> 29:22 <b>six</b> 4:4 15:10 18:19 35:10 38:16 <b>size</b> 29:23 <b>slightly</b> 18:10 <b>slip</b> 10:18 <b>sole</b> 19:13 20:19 29:9 39:14 44:20 <b>solution</b> 39:19 <b>somebody</b> 11:5 24:17 30:13 <b>somehow</b> 21:21 25:1 <b>something</b> 11:21 22:2 25:18 28:20 39:6 <b>sometime</b> 7:2 24:7 <b>sophistication</b> 28:3 <b>sorry</b> 33:1,23 <b>sort</b> 23:5 <b>sought</b> 8:11 <b>Sounds</b> 42:1

<b>source</b> 34:7 37:18	<b>started</b> 32:4	<b>subject</b> 19:12 39:19 44:18	43:7	<b>tenure</b> 20:11
<b>space</b> 4:11	<b>starting</b> 20:8	<b>submit</b> 31:21 44:18 45:23	<b>supported</b> 35:25	<b>terminate</b> 5:7
<b>spacially</b> 5:21	<b>state</b> 14:10 39:16	<b>subsequent</b> 7:1	<b>supposed</b> 10:23 13:22 33:4,18 34:2	<b>testamentary</b> 22:1
<b>Spar</b> 7:2 12:18 21:23	<b>statement</b> 28:19 47:13	<b>Subsequently</b> 6:14	<b>Supreme</b> 18:12	<b>testify</b> 12:15 24:20
<b>Spar's</b> 6:12	<b>statements</b> 27:25 28:6 46:22	<b>subset</b> 24:12	<b>surrounded</b> 4:22	<b>testimony</b> 22:14
<b>speak</b> 4:24 10:22 27:4 33:12 37:10 39:4	<b>States</b> 18:12	<b>substantial</b> 32:12 35:2,4	<b>suspect</b> 8:5 35:22	<b>than</b> 8:19 18:3 23:21 24:2 32:1 34:18 46:23
<b>specific</b> 17:23 44:20 45:3	<b>stating</b> 16:2	<b>substantive</b> 30:6	<b>Swartz</b> 14:22 15:13	<b>their</b> 16:3,18 18:4 23:20 31:16 37:18
<b>specifically</b> 6:11	<b>statistical</b> 11:16	<b>substitution</b> 5:20	<b>T</b>	<b>themselves</b> 7:23
<b>spend</b> 40:3	<b>status</b> 9:12,13	<b>successor</b> 30:16 39:14, 19,25 40:5 41:3 45:4	<b>take</b> 13:2 22:15 40:1 46:3	<b>therefore</b> 6:8
<b>spending</b> 6:19 19:8 38:19	<b>statute</b> 32:10 35:17,18 37:8	<b>such</b> 39:22 40:13	<b>taken</b> 16:22 26:16	<b>thing</b> 8:10 24:1 25:24 43:20
<b>spent</b> 7:24 18:1 19:6 35:1 41:24	<b>statutes</b> 32:11	<b>suffers</b> 8:21	<b>takes</b> 7:11 44:5	<b>things</b> 14:23 27:18 42:18 45:21
<b>spoken</b> 20:7	<b>staying</b> 41:2	<b>suggest</b> 43:9	<b>taking</b> 26:15 45:20	<b>thinking</b> 37:11 41:10
<b>spot</b> 12:19	<b>still</b> 13:4,6	<b>suggested</b> 40:15	<b>talk</b> 13:12 22:2, 20 23:11 28:13 30:3	<b>thinks</b> 21:7
<b>spring</b> 10:6	<b>stipulate</b> 7:4	<b>suggesting</b> 21:13 24:8	<b>talked</b> 13:23 23:6	<b>thought</b> 5:1 11:12
<b>Springs</b> 44:6	<b>stipulated</b> 6:11 41:16	<b>suggestion</b> 9:2	<b>teacher</b> 28:12	<b>three</b> 15:5,11 16:3 21:24 22:15 34:18,22 35:22 45:12
<b>stabilized</b> 14:16	<b>stipulation</b> 7:9 9:4,7,11 13:2,5 25:17,19,22	<b>suggests</b> 8:9	<b>telephone</b> 3:14,18 13:12 33:13,14,24 34:13 37:6	<b>through</b> 4:2 18:15 22:10, 11,16,25 35:9 40:21,22
<b>stairs</b> 16:12	<b>stop</b> 22:15 26:11,12	<b>Sullivan</b> 32:8, 11 35:17	<b>tells</b> 21:10 22:21 35:14	<b>Thursday</b> 9:2,4 40:5
<b>stand</b> 8:18	<b>stops</b> 23:4,5	<b>sum</b> 26:4	<b>ten</b> 45:13	
<b>standard</b> 38:22 41:23	<b>story</b> 39:23	<b>summary</b> 46:18	<b>tends</b> 10:19	
<b>standards</b> 24:4	<b>stress</b> 22:17	<b>sums</b> 4:13 36:6		
<b>standing</b> 39:2	<b>strongly</b> 23:9	<b>support</b> 10:19		
<b>stands</b> 8:7	<b>struggling</b> 23:19			
<b>start</b> 37:22	<b>stuck</b> 9:22 35:13 36:4			



<b>ticket</b> 13:4	<b>track</b> 46:3	<b>trustee</b> 3:7	<b>understand</b>	<b>until</b> 9:1 12:18, 24 25:22
<b>tickets</b> 12:23	<b>transactions</b>	5:24 7:16,20	13:17 14:2	24 25:22
<b>time</b> 6:5 9:8	17:9	15:8 19:13	16:6,9 19:18	<b>untoward</b>
19:7 22:14	<b>transcript</b>	20:18,19,20,25	20:8,24 21:22	17:12
24:7 29:20	44:20 45:10,14	21:4,15 29:8,9	22:2,12,21	<b>unusual</b> 19:17
30:13 34:9	<b>transferring</b>	30:16 37:19	32:14 33:17	27:2
35:1,3 36:14	30:19	38:21 39:13,	35:16 39:15	<b>unworkable</b>
37:3,5 38:18	<b>transparency</b>	14,20,25 40:5,	41:8,24 44:10	5:23 7:17 29:5
43:7 45:18,21	17:4	9,19,20 41:9,	<b>understandabl</b>	<b>upending</b>
47:5,7	TRANSCRIPT OF PROCEEDINGS - 10/17/2017	24 45:4,6	<b>y</b> 11:13	15:22
<b>times</b> 15:10	<b>travel</b> 22:17	<b>trustees</b> 37:18	<b>understanding</b>	<b>upset</b> 11:13
28:24 29:18	23:4,10 27:11	40:16	4:14 7:24 28:4	<b>use</b> 3:24
<b>today</b> 6:13 8:2,	30:25	<b>trusteeship</b>	39:13	<b>used</b> 28:1,6
16,18,22 9:17	<b>Travis</b> 16:10	35:20 41:4,6	<b>understands</b>	42:25
11:3 12:1	<b>trial</b> 6:5 29:18	44:21	7:19	<b>utility</b> 17:10
25:20 31:25	<b>tried</b> 12:23	<b>try</b> 45:21	<b>Understood</b>	42:22,23
37:6 39:21	13:10 18:21	<b>trying</b> 16:4,5	8:15 40:23	
40:18 41:15	<b>trip</b> 14:13	18:18 34:4	<b>undertake</b>	
42:14 44:9	22:16	38:19	42:13	<b>V</b>
<b>today's</b> 6:21	<b>trips</b> 44:5	<b>Tuesday</b> 32:2	<b>undoubtedly</b>	
8:23	<b>troubled</b> 7:7	45:25 46:6	3:15	<b>vacate</b> 7:4 8:23
<b>together</b> 3:23	<b>troubles</b> 17:8	<b>two</b> 10:16 15:3	<b>unduly</b> 15:10	9:6
<b>told</b> 16:5 24:25	<b>troubling</b>	19:25 21:3	<b>unfair</b> 8:24	<b>Valerie</b> 31:6
35:16	23:18 24:13	22:15 24:3	<b>unhappy</b>	<b>validated</b> 12:3
<b>tomorrow</b> 8:3	<b>truly</b> 26:4	29:2 34:18,22	14:24,25	<b>value</b> 6:5 21:6
30:9	<b>trust</b> 3:7 4:5	<b>U</b>	<b>unique</b> 39:22	31:14
<b>took</b> 44:4	6:16 7:16,18,	<b>U.S.</b> 12:23	<b>United</b> 18:12	<b>vast</b> 42:22
<b>top</b> 42:6	23 8:7,9 15:1	<b>UCLA</b> 12:19	<b>unjust</b> 8:22	<b>Vegas</b> 27:21
<b>torn</b> 11:5	18:25 19:4,6	<b>ultimately</b> 27:6	<b>unless</b> 12:12	30:14
<b>total</b> 34:18,21	20:2,12,16,23	38:15	<b>unnecessary</b>	<b>vice</b> 7:18 30:3,
35:11	21:1,2,12 22:4	<b>unaccounted</b>	31:1 39:7	6
<b>totally</b> 38:17	25:8,13 27:20	35:7	<b>unprofessional</b>	<b>video</b> 21:22
<b>towards</b> 26:9	29:8 30:1,11,	<b>under</b> 4:23	23:22,24	<b>views</b> 23:20
47:3	14,20 31:4,13,	7:23 19:14	<b>unreasonablen</b>	<b>violated</b> 6:24
<b>town</b> 40:14	19 34:9 35:9,	34:2 35:6,17	<b>ess</b> 32:13	<b>virtue</b> 7:10
<b>traceable</b>	18 36:23 37:1,	<b>underneath</b>	<b>unseen</b> 17:8	<b>visit</b> 40:11
19:21	17,23 40:14	22:5	<b>unspoken</b> 40:1	
	43:25 45:7			
	<b>trust's</b> 18:23			

<b>visual</b> 13:11	<b>wealthy</b> 42:15 44:14	39:20,24 40:4 41:15,16,19,23 42:16 44:6,10, 11,23,25 45:11,12,14 46:3,5,6,7	42:15 43:7 44:15	6 44:9
<b>void</b> 25:5	<b>Wednesday</b> 9:2,3 32:1 46:8		<b>wonderful</b> 10:11	<b>yesterday's</b> 11:10 37:6
<b>voluntarily</b> 40:4	<b>week</b> 9:24 10:8 13:2 29:20 32:2 33:22 45:15	<b>Williamson</b> 3:6	<b>word</b> 37:8	<b>yet</b> 6:20 46:11
<hr/> <b>W</b> <hr/>	<b>weeks</b> 10:16 11:21	<b>willing</b> 8:8 9:11 12:11 17:13 19:13 32:13 35:16	<b>words</b> 5:12 13:19	<b>yourself</b> 13:24
<b>waiting</b> 13:6	<b>welcome</b> 24:11	<b>willingness</b> 29:6	<b>work</b> 22:6 39:9 45:21	
<b>waive</b> 38:2,5	<b>well-being</b> 14:15	<b>wish</b> 8:6 11:10 32:2,16 35:18 36:12	<b>working</b> 31:14, 17	
<b>walk</b> 37:12 40:2	<b>well-settled</b> 6:24	<b>wishes</b> 21:16 23:19 29:11	<b>worse</b> 14:13	
<b>Wallace</b> 25:6, 12	<b>wherein</b> 3:21 4:10	<b>withdraw</b> 43:16	<b>writ</b> 18:11	
<b>want</b> 11:5,22 12:16 16:17 21:17 22:2,17 23:3,10,12 24:2,22 25:11, 24 27:8 30:4, 10 33:14,17 34:17 35:11 36:18,20,21 37:10,11,14,19 38:4 41:15 43:16 45:21 46:21,23 47:2	<b>whether</b> 4:21 6:18 16:13 31:2,3 32:5,17 34:5 35:7	<b>withdrawal</b> 10:3,7,15,18 25:6	<b>write</b> 9:21 11:1, 2 33:6 36:25 42:7,8 44:23	
<b>wanted</b> 5:3 13:6,8 24:20 36:1,9 46:24	<b>while</b> 16:11 26:15 44:15	<b>withdrawing</b> 25:7	<b>writing</b> 22:6	
<b>wants</b> 8:10 19:21 20:17 22:12 31:2	<b>Whittier</b> 40:14	<b>withdrew</b> 10:17	<b>writings</b> 36:16	
<b>Ward</b> 27:21	<b>whittling</b> 27:7	<b>within</b> 12:2 15:5 21:10 31:10 37:8 45:11	<b>written</b> 28:22 33:7	
<b>warrant</b> 40:7	<b>will</b> 3:17 7:7 8:4 9:22 12:15 14:13 17:13 21:11,14,15,17 22:20 23:6 24:5 25:4 26:4, 5 27:10,11,12 30:16,18,19 31:9,21,23,25 34:2 35:3 37:2, 7,9,16 38:2,5, 7,17,23,24	<b>without</b> 4:14, 25 11:7 25:18 29:12 30:4 31:14 36:7	<b>wrong</b> 18:5 33:24	
<b>Washoe</b> 3:1 29:16		<b>witness</b> 8:5	<b>wrongly</b> 9:5,6	
<b>way</b> 26:19 29:21 30:25 36:19		<b>witnesses</b> 8:16	<b>wrote</b> 14:20 33:12	
		<b>woman</b> 4:17 21:23 28:12	<hr/> <b>Y</b> <hr/>	
			<b>year</b> 3:21 18:10 21:25	
			<b>years</b> 4:3,4,12 14:15,22 15:15 16:20 19:25 20:2,3	
			<b>yesterday</b> 3:15 5:12 6:21 12:18,24 14:4,	

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**IN THE SECOND JUDICIAL DISTRICT COURT**

**IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA**

In the Matter of the

JORDAN DANA FRASIER FAMILY TRUST

Case No. PR16-00128

Dept. No. 15 [PR]

**ORDER**

A hearing was held on October 17, 2017, wherein the Court considered multiple matters. Present at the hearing were G. David Robertson, Esq. appearing on behalf of Premier Trust, Barnet Resnick, Esq. and Patrick R. Millsap, Esq. appearing on behalf of Dinny Frasier in her personal capacity, and Scott Hernandez appearing as counsel for Bradley Frasier. The Court having reviewed the pleadings and papers on file herein and having further considered the oral argument of the parties, and good cause appearing therefor,

IT IS HEREBY ORDERED, as follows:

1. In response to Premier Trust's Second Supplemental Petition for Instructions, and based upon other factors considered by the Court, Ms. Dinny Frasier is hereby removed as Co-Trustee of the Jordan Dana Frasier Family Trust and any of the Trusts created thereunder (the "Trusts").

ORDER  
PAGE 1

1           2.     Premier Trust will remain Corporate Trustee of the Trusts until  
2 further order of this Court.

3           3.     This Court shall continue to retain ongoing jurisdiction and oversight  
4 regarding the Trusts.

5           4.     By November 1, 2017, Barnet Resnick, Esq. shall present the Court an  
6 *in camera* ledger of his attorney's fees showing the dates he received payment from  
7 Ms. Frasier and the amount of the payment.

8           5.     By November 1, 2017, Ms. Janie Mulrain, who has been represented to  
9 the Court is a private fiduciary to Ms. Frasier, shall present the Court *in camera* an  
10 accounting of her fees and a listing of all expenses paid by Ms. Mulrain on behalf of  
11 Ms. Frasier since Ms. Mulrain became her private fiduciary.

12          6.     Dr. Bradley Frasier's Motion to Enforce Settlement Agreement to  
13 require payment of \$50,000.00 is GRANTED.

14          7.     Premier Trust shall distribute \$54,000.00 to Dr. Frasier no later than  
15 Tuesday October 24, 2017 at 5:00 p.m. Pacific Daylight Time; \$50,000 as payment  
16 pursuant to the Settlement Agreement and \$4,000 as compensation for attorneys'  
17 fees and costs incurred by Dr. Frasier.

18          8.     Premier Trust shall further distribute \$50,000.00 from the Trusts to  
19 Ms. Frasier pursuant to her request for funds. To the extent that any portion of  
20 said amount is used for payment of attorneys' fees, the Court reserves the right to  
21 review the appropriateness of those fees at a later date.

22          9.     Ms. Frasier may petition the Court for removal of Premier Trust as  
23 Corporate Trustee of the Trusts upon appropriate legal or factual grounds.

24          10.    If Premier Trust is removed or resigns as Corporate Trustee of the  
25 Trusts, this Court's approval of the successor corporate trustee of the Trusts shall  
26 be required, and no appointment of a successor corporate trustee of the Trusts shall  
27 be effective without this Court's review and approval.  
28

11. Any successor corporate trustee nominated to replace Premier Trust shall have an office and personnel presence in Reno, Nevada in order to enable the Court to maintain its continued oversight with respect to the Trusts.

Dated this 11<sup>th</sup> day of Dec., 2017.

D. A. Hany  
District Judge

ORDER  
PAGE 3

VERIFICATION

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF ORANGE            )

Under penalty of perjury, DINNY FRASIER declares that she is the Petitioner named in the foregoing PETITION FOR FINAL ACCOUNTING OF THE TRUST, FOR REMOVAL OF PREMIER TRUST AS SOLE TRUSTEE OF THE TRUST, AND FOR APPOINTMENT OF A SOLE SUCCESSOR TRUSTEE OF THE TRUST APPROVED BY THE COURT ("Petition"), and that she is a beneficiary of the Jordan Dana Frasier Family Trust and the Trusts created thereunder. Dinny Frasier further declares that she knows the contents of the Petition; that the Petition is true of her own knowledge, except as to those matters stated on information and belief, and that as to such matters she believes is to be true.

DATED this 14<sup>th</sup> day of June 2018.

  
\_\_\_\_\_  
DINNY FRASIER

**CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC**

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

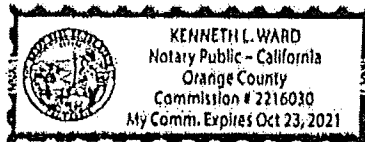
STATE OF CALIFORNIA       )  
  )     SS.  
COUNTY OF ORANGE       )

On June 14, 2018, before me KENNETH L. WARD, a Notary Public, personally appeared DINNY FRASIER, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: \_\_\_\_\_





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

Telephone: 866.204.7902  
Fax: 916.855.5646  
ftb.ca.gov/inc

## Request for Tax Return

FILED  
Electronically  
PR16-00128  
2018-06-18 09:10:46 AM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 6732426 : yvilloria



Notice Number: 01-2660381-042617

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### To Get Forms

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

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

#### Mail

Request forms by mail to:  
**TAX FORMS REQUEST UNIT  
FRANCHISE TAX BOARD  
PO BOX 307  
SACRAMENTO CA 95741-0307**  
(For form requests only. Do not mail Reply to FTB  
form or supporting documents to this address.)





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

# Notice of Proposed Assessment

Notice Date: 06/26/2017

Code Number: 18  
NPA Number: 17-06146780  
Revenue Code: 2003800

Notice Number: 01-7799312-062617

RECEIVED JUN 30 2017  
RECEIVED JUN 30 2017

Filing a tax return may  
reduce your tax obligation.

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

On 04/26/2017, we sent you a notice stating that we had no record of your 2015 California personal income tax return. We asked you to do one of the following by 05/31/2017

- File a 2015 California personal income tax return.
- Send us a copy of your previously filed California personal income tax return.
- Explain why you do not have a requirement to file a 2015 California personal income tax return.

We have no record of receiving your tax return or information indicating that you do not have a filing requirement. We based this *Notice of Proposed Assessment* on your available income information.

**This is a proposed assessment. It is not a tax bill.**

**Filing a tax return may reduce your tax liability and ensure that you receive full credit for tax withheld by employers, and any other credits, exemptions, and deductions that you have a right to claim.**

Your Income (as estimated)	\$	236,787.60
Standard/Itemized Deduction	-	4,044.00 *
Taxable Income	\$	232,743.60

See Income Reference Sheet  
(page 3) for a breakdown.

Your Tax		19,122.00
Less Total Exemption Credits	-	.00 *
Mental Health Services Tax	+	.00
Tax Before Payments/Credits	\$	19,122.00
Less Withholding Credits Reported to FTB	-	.00
Less Other Available Payments and Credits	-	8,079.00
Your Proposed Tax Liability	\$	11,043.00

Delinquent Filing Penalty	+	2,760.75
Demand to File Penalty	+	.00
Interest to: 06/26/2017	+	569.96
Filing Enforcement Fee	+	.00
Total Tax, Penalties, Interest, and Fee	\$	14,373.71

This proposed assessment becomes due and payable on **August 25, 2017**, unless we receive your tax return or your protest of this proposed assessment.

You must file a tax return if you have a California filing requirement, even if you pay the amount shown above. If you believe this notice is incorrect, follow the enclosed Protest Procedure. Mail your protest by **August 25, 2017**. We may provide the information contained in this notice to the Internal Revenue Service.

Current bankruptcy law allows us to propose an assessment of tax while you are in bankruptcy. The normal administrative remedies are still available to address the underlying tax issue.

\* We based the Standard Deduction and Exemption credits indicated above on a single individual with no dependents. We will revise any difference in filing status, additional deductions, exemptions, or credits when you file your required tax return.



FILED  
Electronically  
PR 16-0628  
2016-06-18 10:46 AM  
FBI - PHOENIX



1 RA 227



1 **CODE: 3980**

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 Premier Trust, Inc.*

11  
12  
13 **IN THE SECOND JUDICIAL DISTRICT COURT**  
14 **IN AND FOR THE COUNTY OF WASHOE, STATE OF NEVADA**

15 In the Matter of the

Case No. PR16-00128

16 JORDAN DANA FRASIER FAMILY TRUST

Dept. No. 15 [PR]

17 **STIPULATION AND ORDER**

18 This Stipulation and Order is entered into by DINNY G. FRASIER ("Mrs. Frasier"), both  
19 individually and as beneficiary and trustor under the Jordan Dana Frasier Family Trust and the Tax  
20 Exempt Trust created under the Jordan Dana Frasier Family Trust (*collectively*, "Frasier Trusts"),  
21 and PREMIER TRUST, INC. ("Premier"), as Trustee of the Frasier Trusts, (*collectively*,  
22 "Parties"), by and through their respective attorneys of record.

23 WHEREAS, Mrs. Frasier filed the Petition for Final Accounting of the Trust, for  
24 Removal of Premier Trust as Sole Trustee of the Trust, and for Appointment of a Sole Successor  
25 Trustee of the Trust Approved by the Court ("Frasier Petition");

26 WHEREAS, the hearing on the Frasier Petition is set in this Court for August 17, 2018,  
27 9:00 a.m., in Department 15[PR] ("Hearing");

28 WHEREAS, Premier intends to file a petition to withdraw as trustee, to appoint  
replacement trustee, to approve accounting of the Frasier Trusts ending June 30, 2018 and to ratify  
all actions of Premier as Trustee ("Premier's Petition") by August 3, 2018;

WHEREAS, Mrs. Frasier intends to withdraw the Frasier Petition on or before August 6,  
2018 in reliance upon Premier's agreement herein to timely file Premier's Petition;

1 WHEREAS, the Parties desire that Premier's Petition be heard at Hearing on August 17,  
2 2018, 9:00 a.m., in this Court, Department 15[PR].

3 THEREFORE, IT IS HEREBY STIPULATED by and between the Parties, in the spirit  
4 of courtesy and cooperation, as follows:

5 1. Premier agrees to file Premier's Petition and accountings by August 3, 2018;

6 2. In reliance thereon, Mrs. Frasier agrees to file the attached notice of withdrawal of  
7 the Frasier Petition on August 6, 2018;

8 3. Premier agrees to resign as Trustee in favor of any new Trustee that the Court  
9 deems appropriate, and Premier will not object to any such new Trustee, including, but not  
10 limited to, the Whittier Trust Company;

11 4. Mrs. Frasier will not object to Premier's request to withdraw as Trustee, or to the  
12 Court's ratification of Premier's known actions, but Mrs. Frasier reserves the right to object to  
13 Premier's accountings, including, but not limited to, expenditures made by Premier as part of its  
14 administration, and to any expenditures and attorneys' fees and fiduciary's fees (whether or not  
15 included in the accountings) that have been paid or accrued which Mrs. Frasier believes should  
16 be, or should have been, paid by the party(ies) subject to proof and as the Court determines;

17 5. Mrs. Frasier agrees to withdraw the Frasier Petition by August 6, 2018 conditioned  
18 upon the timely filing and service of Premier's Petition by August 3, 2018; and

19 6. The Parties agree to Premier's Petition being heard in this Court on August 17,  
20 2018, 9:00 a.m., Department 15[PR].

21  
22 SO STIPULATED.

23  
24 ***SIGNATURES ON FOLLOWING PAGE***

1 DATED: August 3, 2018

WALLACE & MILLSAP

2  
3 By:

  
PATRICK MILLSAP

Local Counsel for Dinny G. Frasier,  
Individually and as beneficiary and trustor of  
the Frasier Trusts

4  
5  
6 DATED: August 3, 2018

ROBERTSON, JOHNSON,  
MILLER & WILLIAMSON

7  
8  
9 By:

  
G. DAVID ROBERTSON

Counsel for Premier Trust, Inc., as Trustee

10  
11 **ORDER**

12 Based on the foregoing Stipulation, the Court hereby Orders that upon the filing and  
13 service of Premier's Petition by August 3, 2018, and the withdrawal of the Frasier Petition by  
14 August 6, 2018, the Frasier Petition shall be taken off the Court's calendar, and, instead, Premier's  
15 Petition shall be heard on August 17, 2018, 9:00 AM, in Department 15[PR] of this Court. Proper  
16 notice shall be given to all appropriate parties regarding the Hearing.

17 DATED: August 7, 2018

18  
19   
DISTRICT COURT JUDGE