

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
ADMINISTRATION OF THE SSJ'S ISSUE
TRUST

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Elizabeth A. Brown
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CASE NO.: 81470

IN THE MATTER OF THE
ADMINISTRATION OF THE SAMUEL S.
JAKSICK, JR., FAMILY TRUST

**District Court Case No.:
PR17-00445/PR17-00446**

TODD B. JAKSICK, Individually, as Co-
Trustee of the Samuel S. Jaksick Jr. Family
Trust, and as Trustee of the SSJ's Issue Trust;
MICHAEL S. KIMMEL, Individually and as
Co-Trustee of the Samuel S. Jaksick Jr. Family
Trust; KEVIN RILEY, Individually, as Former
Trustee of the Samuel S. Jaksick Jr. Family
Trust, and as Trustee of the Wendy A. Jaksick
2012 BHC Family Trust; and STANLEY
JAKSICK, Individually and as Co-Trustee of
the Samuel S. Jaksick Jr. Family Trust,

Appellants/Cross-Respondents,

vs.

WENDY JAKSICK,

Respondent/Cross-Appellant.

APPELLANT/CROSS-RESPONDENT
TODD B. JAKSICK'S APPENDIX TO OPENING BRIEF

Volume 4 of 22

Pages TJA000586-TJA000799

**CHRONOLOGICAL INDEX TO APPELLANT/CROSS-RESPONDENT
TODD B. JAKSICK'S APPENDIX TO OPENING BRIEF**

DOCUMENT	DATE FILED or ADMITTED	VOL. NO.	PAGE NO.
Petition for Confirmation of Trustee and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and other Trust Administration Matters (SSJ's Issue Trust)	8.2.17	1	TJA000001-000203
Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and For Approval of Accountings and Other Trust Administration Matters (Family Trust) (Separated)	8.2.17	2	TJA000204-000401
Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and For Approval of Accountings and Other Trust Administration Matters (Family Trust) (Separated)	8.2.17	3	TJA00402-00585
Respondent Wendy A. Jaksick's Opposition and Objection to Petition	10.10.17	4	TJA000586-000594

for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other Trust Administration Matters (Family Trust)			
Respondent Wendy A. Jaksick's Answer to Petition for Approval of Accounting and Other Trust Administration Matters (Family Trust)	10.10.17	4	TJA000595-000601
Respondent Wendy A. Jaksick's Answer to Petition for Approval of Accounting and Other Trust Administration Matters (Issue Trust)	10.10.17	4	TJA000602-000606
Respondent Wendy A. Jaksick's Opposition and Objection to Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other Trust Administration Matters (Issue Trust)	10.10.17	4	TJA000607-000614
Commissioner's Recommendation Referring Cases to Probate Judge	10.12.17	4	TJA000615-000617
Order Accepting Transfer	10.17.17	4	TJA000618-000620

Notice of Appearance (Todd B. Jaksick, individually)	11.3.17	4	TJA000621-000623
Association of Counsel	1.2.18	4	TJA000624-000625
Demand for Jury	1.3.18	4	TJA000626-000628
Order Granting Consolidation	1.5.18	4	TJA000629-000631
Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, for Removal of Trustees and Appointment of Independent Trustee(s), and for Declaratory Judgment and other Relief	1.19.18	4	TJA000632-000671
Association of Counsel	2.23.18	4	TJA000672-000692
Association of Counsel	2.23.18	4	TJA000693-000712
First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, for Removal of Trustee(s), and for Declaratory Judgment and Other Relief	2.23.18	4	TJA000713-000752
Order Associating Counsel	3.13.18	4	TJA000753-000754
Order Associating Counsel	3.13.18	4	TJA000755-000756
Notice of Entry of Order	3.13.18	4	TJA000757-000761
Notice of Entry of Order	3.13.18	4	TJA000762-000766
Todd B. Jaksick's Answer and Objections to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary	4.9.18	4	TJA000767-000779

Duties, For Removal of Trustees and Appointment of Independent Trustee(s) and For Declaratory Judgment and Other Relief			
Todd B. Jaksick's and Michael S. Kimmel's Answer to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustees, and for Declaratory Judgment and Other Relief	4.13.18	4	TJA000780-000795
Notice of Appearance	4.17.18	4	TJA000796-000799
Kevin Riley's Answer to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustee(s), and For Declaratory Judgment and Other Relief	4.17.18	5	TJA000800-000815
Errata to Todd B. Jaksick's and Michael S. Kimmel's Answer to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of	4.19.18	5	TJA000816-000819

Trustees and Appointment of Independent Trustees, and for Declaratory Judgment and Other Relief			
Errata to Kevin Riley's Answer to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustees, and for Declaratory Judgment and Other Relief	4.19.18	5	TJA000820-000823
Notice of Appearance	6.4.18	5	TJA000824-000827
Notice of Appearance	6.4.18	5	TJA000828-000831
Stanley S. Jaksick's Answer to First Amended Counter-petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustee(s), and for Declaratory Judgment and Other Relief	8.2.18	5	TJA000832-000844
Joinder to Stanley S. Jaksick's Answer to First Amended Counter-petition to Surcharge Trustees for Breach of Fiduciary Duties, For	8.7.18	5	TJA000845-000847

Removal of Trustees and Appointment of Independent Trustee(s), and for Declaratory Judgment and Other Relief			
Wendy Jaksick's Motion for Leave to Join Indispensable Parties	11.15.18	5	TJA000848-000855
Todd B. Jaksick's, Individually, Opposition to Wendy Jaksick's Motion for Leave to Join Indispensable Parties	12.6.18	5	TJA000856-000872
Opposition to Wendy Jaksick's Motion for Leave to Join Indispensable Parties	12.6.18	5	TJA000873-000876
Petitioner's Opposition to Wendy Jaksick's Motion for Leave to Join Indispensable Parties	12.6.18	5	TJA000877-000898
Wendy Jaksick's Omnibus Reply in Support of Motion for Leave to Join Indispensable Parties	12.17.18	5	TJA000899-000933
Request for Submission of Wendy A. Jaksick's Motion for Leave to Join Indispensable Parties	12.18.18	5	TJA000934-000936
Order Granting in Part and Denying in Part Motion for Leave to Join Indispensable Parties	1.16.19	5	TJA000937-000948
Pre-Trial Order Regarding Trial	1.22.19	5	TJA000949-000953

Scheduled			
Verdicts	3.4.19	5	TJA000954-000957
Motion for Order Awarding Costs and Attorneys' Fees for Todd Jaksick, Individually, Duck Lake Ranch, LLC, and Incline TSS, Ltd.	3.13.19	6	TJA000958-001157
Petitioner Wendy A. Jaksick's Opposition to Motion for Attorney Fees	3.25.19	6	TJA001158-001175
Reply in Support of Motion for Order Awarding Costs and Attorneys' Fees for Todd Jaksick, Individually, Duck Lake Ranch, LLC and Incline TSS, Ltd.	4.1.19	7	TJA001176-001185
Request for Submission of Motion for Order Awarding Costs and Attorneys' Fees	4.1.19	7	TJA001186-001189
Trial Transcript	5.13.19	7	TJA001190-001202
Order Addressing Evidence at Equitable Trial	5.20.19	7	TJA001203-001274
Stanley Jaksick's Written Closing Arguments	7.1.19	7	TJA001275-001281
Todd B. Jaksick's Closing Argument Brief	7.1.19	7	TJA001282-001362
Wendy Jaksick's Brief of Opening Arguments in the Equitable Claims	7.1.19	8	TJA001363-001470

Trial			
Petitioner's Trial Brief on Equitable Claims	7.1.19	8	TJA001471-001535
Todd B. Jaksick's Closing Argument Brief	7.31.19	9	TJA001536-001623
Petitioner's Reply to Wendy Jaksick's Trial Brief on Equitable Claims	7.31.19	9	TJA001624-001661
Wendy Jaksick's Brief of Closing Arguments in the Equitable Claims Trial	7.31.19	10	TJA001662-001757
Stanley Jaksick's Written Closing Reply Brief	7.31.19	11	TJA001758-001977
Order for Supplemental Briefing	2.6.20	12	TJA001978-001979
Todd Jaksick's Supplemental Brief in Response to the Court's February 6, 2020 Order for Supplemental Briefing	2.18.20	12	TJA001980-002043
Trustees' Supplemental Brief	2.18.20	12	TJA002044-002077
Supplemental Brief by Stanley Jaksick, Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust	2.18.20	12	TJA002078-002085
Wendy Jaksick's Supplemental Brief in the Equitable Claims Trial	2.25.20	12	TJA002086-002093
Order After Equitable Trial	3.12.20	12	TJA002094-002118
Notice of Entry of Order	3.17.20	12	TJA002119-002146

Memorandum of Costs	3.17.20	12	TJA002147-002164
Verified Memorandum of Costs	3.23.20	13	TJA002165-002189
Todd Jaksick's Motion to Strike Wendy Jaksick's Verified Memorandum of Costs or, in the Alternative, Motion to Retax Costs	3.25.20	13	TJA002190-002194
Motion to Strike Verified Memorandum of Costs	3.26.20	13	TJA002195-002215
Motion to Retax Costs and Joinder to Motions to Strike	3.26.20	13	TJA002216-002219
Judgment on Verdict and Order After Equitable Trial	4.1.20	13	TJA002220-002254
Notice of Entry of Judgment	4.1.20	13	TJA002255-002292
Petitioners' Verified Memorandum of Costs and Disbursements	4.2.20	14	TJA002293-002409
Memorandum of Costs and Disbursements	4.2.20	14	TJA002410-002430
Memorandum of Costs and Disbursements	4.2.20	14	TJA002431-002442
Joinder to Memorandum of Costs	4.6.20	14	TJA002443-002445
Wendy Jaksick's Response to Todd Jaksick's Motion to Strike Wendy Jaksick's Verified Memorandum of Costs, or in the Alternative, Motion to Retax Costs	4.8.20	14	TJA002446-002450
Motion for Attorneys' Fees and	4.9.20	15	TJA002451-002615

Costs – Kevin Riley			
Motion for Attorney’s Fees and Costs – Michael Kimmel	4.9.20	16	TJA002616-002769
Omnibus Opposition to Motions to Strike Wendy Jaksick’s Verified Memorandum of Costs filed by Trustees	4.9.20	16	TJA002770-002776
Motion for Attorney Fees and Costs for Todd Jaksick, Individually, for Trial on Equitable Claims	4.10.20	16	TJA002777-002833
Reply in Support of Motion to Strike Verified Memorandum of Costs	4.13.20	17	TJA002834-002841
Request for Submission	4.13.20	17	TJA002842-002845
Order Denying Wendy Jaksick’s Costs	4.21.20	17	TJA002846-002847
Notice of Entry of Order	4.21.20	17	TJA002848-002857
Memorandum of Attorney’s Fees by Stanley Jaksick, as Co-Trustee of the Family Trust	4.22.20	17	TJA002858-002910
Request for Submission	4.22.20	17	TJA002911-002913
Opposition to Motion for Attorney’s Fees and Costs of Michael Kimmel, Individually and as Co-Trustee	4.23.20	17	TJA002914-002930
Opposition to Motion for Attorney’s Fees and Costs of Kevin Riley,	4.23.20	17	TJA002931-002946

Individually and as Co-Trustee of the Family Trust and as Trustee of the BHC Family Trust			
Opposition to Motion for Order Awarding Costs and Attorney's Fees for Todd Jaksick, Individually on Equitable Claims	4.24.20	17	TJA002947-002985
Opposition and Motion to Strike Memorandum of Attorney's Fees by Stanley Jaksick as Co-Trustee of the Family Trust	4.27.20	17	TJA002986-002992
Motion to Alter or Amend the Judgment	4.28.20	17	TJA002993-003000
Trial Transcript	5.13.19	17	TJA001190-001202
Order Regarding Costs	4.30.20	18	TJA003044-003045
Motion to Alter or Amend Judgment, or Alternatively, Motion for New Trial	4.30.20	18	TJA003046-003113
Reply in Support of Motion for Attorney's Fees and Costs	5.1.20	18	TJA003114-003126
Request for Submission	5.1.20	18	TJA003127-003130
Reply to Opposition to Motion for Order Awarding Costs and Attorney's Fees for Todd Jaksick, Individually, For Trial on Equitable Claims	5.1.20	18	TJA003131-003147

Request for Submission	5.1.20	18	TJA003148-003151
Todd B. Jaksick's Opposition to Wendy Jaksick's Motion to Alter or Amend Judgment, or, Alternatively, Motion for a New Trial	5.8.20	18	TJA003152-003189
Limited Joinder to Todd B. Jaksick's Opposition to Wendy Jaksick's Motion to Alter or Amend Judgment, or, Alternatively, Motion for a New Trial	5.12.20	18	TJA003190-003196
Opposition to Alter or Amend the Judgment Award of Attorney's Fees to Wendy	5.12.20	18	TJA003197-003205
Supplemental Motion in Support of Award of Attorney's Fees to Wendy Jaksick's Attorneys	5.12.20	19	TJA003206-003324
Opposition to Todd B. Jaksick's Motion to Amend the Judgment	5.13.20	19	TJA003325-003339
Opposition to Wendy Jaksick's Motion to Alter or Amend Judgment, or in the Alternative, Motion for New Trial	5.13.20	19	TJA003340-003344
Reply to Wendy Jaksick's Amended Opposition and Motion to Strike Stanley Jaksick's Verified Memorandum of Attorney's Fees as	5.13.20	19	TJA003345-003348

Co-Trustee of the Family Trust			
Wendy Jaksick's Reply in Support of her Motion to Alter or Amend Judgment, or, Alternatively, Motion for New Trial	5.15.20	19	TJA003349-003357
Request for Submission	5.18.20	19	TJA003358-003365
Reply in Support of Motion to Alter or Amend Judgment	5.19.20	19	TJA003366-003372
Request for Submission	5.19.20	19	TJA003373-003376
Motion to Strike Wendy's Supplemental Motion in Support of Award of Attorney's Fees to Wendy Jaksick's Attorneys	5.19.20	19	TJA003377-003381
Reply in Support of Todd B. Jaksick's, Individually, Motion to Amend the Judgment	5.19.20	20	TJA003382-003452
Request for Submission	5.19.20	20	TJA003453-003456
Order Awarding Costs	5.19.20	20	TJA003457
Notice of Entry of Order	5.20.20	20	TJA003458-003461
Petitioner's Verified Memorandum of Attorney's Fees	5.21.20	21	TJA003462-003608
Todd B. Jaksick's Opposition to Wendy Jaksick's Supplemental Motion in Support of Award of Attorney's Fees	5.21.20	21	TJA003609-003617
Joinder to Todd B. Jaksick's	6.1.20	21	TJA003618-003621

Opposition to Wendy Jaksick's Supplemental Motion			
Opposition to Motion to Strike Wendy's Supplemental Motion in Support of Award of Attorney's Fees to Wendy Jaksick's Attorneys	6.1.20	21	TJA003622-003627
Reply in Support of Motion to Strike Wendy's Supplemental Motion in Support of Award of Attorney's Fees to Wendy Jaksick's Attorneys	6.8.20	21	TJA003628-003634
Request for Submission	6.8.20	21	TJA003635-003638
Order Resolving Submitted Matters	6.10.20	22	TJA003639-003646
Notice of Appeal	7.10.20	22	TJA003647-003650
Case Appeal Statement	7.10.20	22	TJA003651-003657
Notice of Appeal	7.10.20	22	TJA003658-003661
Case Appeal Statement	7.10.20	22	TJA003662-003669
Notice of Appeal	7.13.20	22	TJA003670-003677
Case Appeal Statement	7.13.20	22	TJA003678-003680
Notice of Cross Appeal	7.21.20	22	TJA003681-003777
Case Appeal Statement	7.21.20	22	TJA003778-003790
Amended Judgment	7.6.20	22	TJA003791-003811

ALPHABETICAL INDEX TO APPELLANT/CROSS-RESPONDENT
TODD B. JAKSICK'S APPENDIX TO OPENING BRIEF

DOCUMENT	DATE FILED or ADMITTED	VOL. NO.	PAGE NO.
Amended Judgment	7.6.20	22	TJA003791-003811
Association of Counsel	1.2.18	4	TJA000624-000625
Association of Counsel	2.23.18	4	TJA000672-000692
Association of Counsel	2.23.18	4	TJA000693-000712
Case Appeal Statement	7.10.20	22	TJA003651-003657
Case Appeal Statement	7.10.20	22	TJA003662-003669
Case Appeal Statement	7.13.20	22	TJA003678-003680
Case Appeal Statement	7.21.20	22	TJA003778-003790
Commissioner's Recommendation Referring Cases to Probate Judge	10.12.17	4	TJA000615-000617
Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, for Removal of Trustees and Appointment of Independent Trustee(s), and for Declaratory Judgment and other Relief	1.19.18	4	TJA000632-000671
Demand for Jury	1.3.18	4	TJA000626-000628
Errata to Kevin Riley's Answer to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of	4.19.18	5	TJA000820-000823

Trustees and Appointment of Independent Trustees, and for Declaratory Judgment and Other Relief			
Errata to Todd B. Jaksick's and Michael S. Kimmel's Answer to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustees, and for Declaratory Judgment and Other Relief	4.19.18	5	TJA000816-000819
First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, for Removal of Trustee(s), and for Declaratory Judgment and Other Relief	2.23.18	4	TJA000713-000752
Joinder to Memorandum of Costs	4.6.20	14	TJA002443-002445
Joinder to Stanley S. Jaksick's Answer to First Amended Counter-petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustee(s), and for Declaratory	8.7.18	5	TJA000845-000847

Judgment and Other Relief			
Joinder to Todd B. Jaksick's Opposition to Wendy Jaksick's Supplemental Motion	6.1.20	21	TJA003618-003621
Judgment on Verdict and Order After Equitable Trial	4.1.20	13	TJA002220-002254
Kevin Riley's Answer to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustee(s), and For Declaratory Judgment and Other Relief	4.17.18	5	TJA000800-000815
Limited Joinder to Todd B. Jaksick's Opposition to Wendy Jaksick's Motion to Alter or Amend Judgment, or, Alternatively, Motion for a New Trial	5.12.20	18	TJA003190-003196
Memorandum of Attorney's Fees by Stanley Jaksick, as Co-Trustee of the Family Trust	4.22.20	17	TJA002858-002910
Memorandum of Costs	3.17.20	12	TJA002147-002164
Memorandum of Costs and Disbursements	4.2.20	14	TJA002410-002430

Memorandum of Costs and Disbursements	4.2.20	14	TJA002431-002442
Motion for Attorney Fees and Costs for Todd Jaksick, Individually, for Trial on Equitable Claims	4.10.20	16	TJA002777-002833
Motion for Attorney's Fees and Costs – Michael Kimmel	4.9.20	16	TJA002616-002769
Motion for Attorneys' Fees and Costs – Kevin Riley	4.9.20	15	TJA002451-002615
Motion for Order Awarding Costs and Attorneys' Fees for Todd Jaksick, Individually, Duck Lake Ranch, LLC, and Incline TSS, Ltd.	3.13.19	6	TJA000958-001157
Motion to Alter or Amend Judgment, or Alternatively, Motion for New Trial	4.30.20	18	TJA003046-003113
Motion to Alter or Amend the Judgment	4.28.20	17	TJA002993-003000
Motion to Retax Costs and Joinder to Motions to Strike	3.26.20	13	TJA002216-002219
Motion to Strike Verified Memorandum of Costs	3.26.20	13	TJA002195-002215
Motion to Strike Wendy's Supplemental Motion in Support	5.19.20	19	TJA003377-003381

of Award of Attorney's Fees to Wendy Jaksick's Attorneys			
Notice of Appeal	7.10.20	22	TJA003647-003650
Notice of Appeal	7.10.20	22	TJA003658-003661
Notice of Appeal	7.13.20	22	TJA003670-003677
Notice of Appearance	6.4.18	5	TJA000824-000827
Notice of Appearance	6.4.18	5	TJA000828-000831
Notice of Appearance	4.17.18	4	TJA000796-000799
Notice of Appearance (Todd B. Jaksick, individually)	11.3.17	4	TJA000621-000623
Notice of Cross Appeal	7.21.20	22	TJA003681-003777
Notice of Entry of Judgment	4.1.20	13	TJA002255-002292
Notice of Entry of Order	3.13.18	4	TJA000757-000761
Notice of Entry of Order	3.13.18	4	TJA000762-000766
Notice of Entry of Order	3.17.20	12	TJA002119-002146
Notice of Entry of Order	4.21.20	17	TJA002848-002857
Notice of Entry of Order	5.20.20	20	TJA003458-003461
Omnibus Opposition to Motions to Strike Wendy Jaksick's Verified Memorandum of Costs filed by Trustees	4.9.20	16	TJA002770-002776
Opposition and Motion to Strike Memorandum of Attorney's Fees by Stanley Jaksick as Co-Trustee of the Family Trust	4.27.20	17	TJA002986-002992
Opposition to Alter or Amend the	5.12.20	18	TJA003197-003205

Judgment Award of Attorney's Fees to Wendy			
Opposition to Motion for Attorney's Fees and Costs of Kevin Riley, Individually and as Co-Trustee of the Family Trust and as Trustee of the BHC Family Trust	4.23.20	17	TJA002931-002946
Opposition to Motion for Attorney's Fees and Costs of Michael Kimmel, Individually and as Co-Trustee	4.23.20	17	TJA002914-002930
Opposition to Motion for Order Awarding Costs and Attorney's Fees for Todd Jaksick, Individually on Equitable Claims	4.24.20	17	TJA002947-002985
Opposition to Motion to Strike Wendy's Supplemental Motion in Support of Award of Attorney's Fees to Wendy Jaksick's Attorneys	6.1.20	21	TJA003622-003627
Opposition to Todd B. Jaksick's Motion to Amend the Judgment	5.13.20	19	TJA003325-003339
Opposition to Wendy Jaksick's Motion for Leave to Join Indispensable Parties	12.6.18	5	TJA000873-000876

Opposition to Wendy Jaksick's Motion to Alter or Amend Judgment, or in the Alternative, Motion for New Trial	5.13.20	19	TJA003340-003344
Order Accepting Transfer	10.17.17	4	TJA000618-000620
Order Addressing Evidence at Equitable Trial	5.20.19	7	TJA001203-001274
Order After Equitable Trial	3.12.20	12	TJA002094-002118
Order Associating Counsel	3.13.18	4	TJA000753-000754
Order Associating Counsel	3.13.18	4	TJA000755-000756
Order Awarding Costs	5.19.20	20	TJA003457
Order Denying Wendy Jaksick's Costs	4.21.20	17	TJA002846-002847
Order for Supplemental Briefing	2.6.20	12	TJA001978-001979
Order Granting Consolidation	1.5.18	4	TJA000629-000631
Order Granting in Part and Denying in Part Motion for Leave to Join Indispensable Parties	1.16.19	5	TJA000937-000948
Order Regarding Costs	4.30.20	18	TJA003044-003045
Order Resolving Submitted Matters	6.10.20	22	TJA003639-003646
Petition for Confirmation of Trustee and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and other Trust Administration	8.2.17	1	TJA000001-000203

Matters (SSJ's Issue Trust)			
Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and For Approval of Accountings and Other Trust Administration Matters (Family Trust) (Separated)	8.2.17	2	TJA000204-000401
Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and For Approval of Accountings and Other Trust Administration Matters (Family Trust) (Separated)	8.2.17	3	TJA00402-00585
Petitioner Wendy A. Jaksick's Opposition to Motion for Attorney Fees	3.25.19	6	TJA001158-001175
Petitioner's Opposition to Wendy Jaksick's Motion for Leave to Join Indispensable Parties	12.6.18	5	TJA000877-000898
Petitioner's Reply to Wendy Jaksick's Trial Brief on Equitable Claims	7.31.19	9	TJA001624-001661
Petitioner's Trial Brief on Equitable Claims	7.1.19	8	TJA001471-001535

Petitioner's Verified Memorandum of Attorney's Fees	5.21.20	21	TJA003462-003608
Petitioners' Verified Memorandum of Costs and Disbursements	4.2.20	14	TJA002293-002409
Pre-Trial Order Regarding Trial Scheduled	1.22.19	5	TJA000949-000953
Reply in Support of Motion for Attorney's Fees and Costs	5.1.20	18	TJA003114-003126
Reply in Support of Motion for Order Awarding Costs and Attorneys' Fees for Todd Jaksick, Individually, Duck Lake Ranch, LLC and Incline TSS, Ltd.	4.1.19	7	TJA001176-001185
Reply in Support of Motion to Alter or Amend Judgment	5.19.20	19	TJA003366-003372
Reply in Support of Motion to Strike Verified Memorandum of Costs	4.13.20	17	TJA002834-002841
Reply in Support of Motion to Strike Wendy's Supplemental Motion in Support of Award of Attorney's Fees to Wendy Jaksick's Attorneys	6.8.20	21	TJA003628-003634
Reply in Support of Todd B. Jaksick's, Individually, Motion to	5.19.20	20	TJA003382-003452

Amend the Judgment			
Reply to Opposition to Motion for Order Awarding Costs and Attorney's Fees for Todd Jaksick, Individually, For Trial on Equitable Claims	5.1.20	18	TJA003131-003147
Reply to Wendy Jaksick's Amended Opposition and Motion to Strike Stanley Jaksick's Verified Memorandum of Attorney's Fees as Co-Trustee of the Family Trust	5.13.20	19	TJA003345-003348
Request for Submission	4.13.20	17	TJA002842-002845
Request for Submission	4.22.20	17	TJA002911-002913
Request for Submission	5.1.20	18	TJA003127-003130
Request for Submission	5.1.20	18	TJA003148-003151
Request for Submission	5.18.20	19	TJA003358-003365
Request for Submission	5.19.20	19	TJA003373-003376
Request for Submission	5.19.20	20	TJA003453-003456
Request for Submission	6.8.20	21	TJA003635-003638
Request for Submission of Motion for Order Awarding Costs and Attorneys' Fees	4.1.19	7	TJA001186-001189
Request for Submission of Wendy A. Jaksick's Motion for Leave to Join Indispensable Parties	12.18.18	5	TJA000934-000936

Respondent Wendy A. Jaksick's Answer to Petition for Approval of Accounting and Other Trust Administration Matters (Family Trust)	10.10.17	4	TJA000595-000601
Respondent Wendy A. Jaksick's Answer to Petition for Approval of Accounting and Other Trust Administration Matters (Issue Trust)	10.10.17	4	TJA000602-000606
Respondent Wendy A. Jaksick's Opposition and Objection to Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other Trust Administration Matters (Family Trust)	10.10.17	4	TJA000586-000594
Respondent Wendy A. Jaksick's Opposition and Objection to Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other Trust Administration Matters (Issue Trust)	10.10.17	4	TJA000607-000614

Stanley Jaksick's Written Closing Arguments	7.1.19	7	TJA001275-001281
Stanley Jaksick's Written Closing Reply Brief	7.31.19	11	TJA001758-001977
Stanley S. Jaksick's Answer to First Amended Counter-petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustee(s), and for Declaratory Judgment and Other Relief	8.2.18	5	TJA000832-000844
Supplemental Brief by Stanley Jaksick, Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust	2.18.20	12	TJA002078-002085
Supplemental Motion in Support of Award of Attorney's Fees to Wendy Jaksick's Attorneys	5.12.20	19	TJA003206-003324
Todd B. Jaksick's and Michael S. Kimmel's Answer to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustees, and for Declaratory Judgment and Other	4.13.18	4	TJA000780-000795

Relief			
Todd B. Jaksick's Answer and Objections to First Amended Counter-Petition to Surcharge Trustees for Breach of Fiduciary Duties, For Removal of Trustees and Appointment of Independent Trustee(s) and For Declaratory Judgment and Other Relief	4.9.18	4	TJA000767-000779
Todd B. Jaksick's Closing Argument Brief	7.1.19	7	TJA001282-001362
Todd B. Jaksick's Closing Argument Brief	7.31.19	9	TJA001536-001623
Todd B. Jaksick's Opposition to Wendy Jaksick's Motion to Alter or Amend Judgment, or, Alternatively, Motion for a New Trial	5.8.20	18	TJA003152-003189
Todd B. Jaksick's Opposition to Wendy Jaksick's Supplemental Motion in Support of Award of Attorney's Fees	5.21.20	21	TJA003609-003617
Todd B. Jaksick's, Individually, Opposition to Wendy Jaksick's Motion for Leave to Join Indispensable Parties	12.6.18	5	TJA000856-000872

Todd Jaksick's Motion to Strike Wendy Jaksick's Verified Memorandum of Costs or, in the Alternative, Motion to Retax Costs	3.25.20	13	TJA002190-002194
Todd B. Jaksick's Motion to Amend Judgment	4.29.20	18	TJA003001-003043
Todd Jaksick's Supplemental Brief in Response to the Court's February 6, 2020 Order for Supplemental Briefing	2.18.20	12	TJA001980-002043
Trial Transcript	5.13.19	7	TJA001190-001202
Trustees' Supplemental Brief	2.18.20	12	TJA002044-002077
Verdicts	3.4.19	5	TJA000954-000957
Verified Memorandum of Costs	3.23.20	13	TJA002165-002189
Wendy Jaksick's Brief of Closing Arguments in the Equitable Claims Trial	7.31.19	10	TJA001662-001757
Wendy Jaksick's Brief of Opening Arguments in the Equitable Claims Trial	7.1.19	8	TJA001363-001470
Wendy Jaksick's Motion for Leave to Join Indispensable Parties	11.15.18	5	TJA000848-000855
Wendy Jaksick's Omnibus Reply in Support of Motion for Leave to	12.17.18	5	TJA000899-000933

Join Indispensable Parties			
Wendy Jaksick's Reply in Support of her Motion to Alter or Amend Judgment, or, Alternatively, Motion for New Trial	5.15.20	19	TJA003349-003357
Wendy Jaksick's Response to Todd Jaksick's Motion to Strike Wendy Jaksick's Verified Memorandum of Costs, or in the Alternative, Motion to Retax Costs	4.8.20	14	TJA002446-002450
Wendy Jaksick's Supplemental Brief in the Equitable Claims Trial	2.25.20	12	TJA002086-002093

Dated this 13th day of April, 2021.

ROBISON, SHARP, SULLIVAN & BRUST
A Professional Corporation
71 Washington Street
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/s/ Therese M. Shanks, Esq.
KENT R. ROBISON (SBN #1167)
THERESE M. SHANKS (SBN #12890)
Attorneys for Appellant/Cross-Respondent
Todd B. Jaksick, in his individual capacity

CERTIFICATE OF SERVICE

I certify that on the 13th day of April, 2021, I served a copy of **APPELLANT/CROSS-RESPONDENT TODD B. JAKSICK'S APPENDIX TO OPENING BRIEF- VOL. 4**, upon all counsel of record:

☐ BY MAIL: I placed a true copy thereof enclosed in a sealed envelope addressed as follows:

☐ BY FACSIMILE: I transmitted a copy of the foregoing document this date via telecopier to the facsimile number shown below:

X BY ELECTRONIC SERVICE: by electronically filing and serving the foregoing document with the Nevada Supreme Court's electronic filing system:

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DATED this 13th day of April, 2021.

Christine O'Brien
Employee of Robison, Sharp, Sullivan
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10
11 **SECOND JUDICIAL DISTRICT COURT**

12 **WASHOE COUNTY, NEVADA**

13 In the Matter of the Administration of the
14 Samuel S. Jaksick, Jr. Family Trust,

CASE NO.: PR17-0446
DEPT. NO. ____

15
16 **RESPONDENT WENDY A. JAKSICK'S OPPOSITION AND OBJECTION TO**
17 **PETITION FOR CONFIRMATION OF TRUSTEES AND ADMISSION OF TRUST**
18 **TO THE JURISDICTION OF THE COURT, AND FOR APPROVAL OF**
19 **ACCOUNTINGS AND OTHER TRUST ADMINISTRATIVE MATTERS**

20 Respondent Wendy A. Jaksick ("Wendy" or "Respondent"), by and through her attorneys
21 of record, the law firm of Fox Rothschild LLP, files her *Opposition and Objection* to the *Petition*
22 *for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for*
23 *Approval of Accountings and Other Trust Administration Matters* (the "Petition") filed on
24 August 2, 2017 by Todd B. Jaksick ("Todd") and Michael S. Kimmel ("Michael"), as Co-
25 Trustees of The Samuel S. Jaksick, Jr. Family Trust (collectively, the "Co-Trustees" or the
26 "Petitioners"). This *Opposition and Objection* is made and based on the pleadings and papers
27 filed herein and any argument of counsel that may be permitted at a hearing in this matter.
28 Except as expressly admitted, Wendy denies each and every allegation in the *Petition*.

DATED this 10th day of October, 2017.

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

Attorneys for Respondent Wendy A. Jaksick

RELIEF REQUESTED

1
2 1. Wendy requests the Court sustain her opposition and objections, refuse to approve
3 the purported "Trust Accountings" and refuse to ratify and approve and release the Co-Trustees
4 from any liability for actions taken pursuant to the purported "Agreements & Consents" until
5 deficiencies in the purported "Trust Accountings" and disputes concerning the purported "Trust
6 Accountings" and the purported "Agreements & Consents" are resolve and the liability, if any, of
7 the Co-Trustees is determined. Wendy also requests the Court order the Co-Trustees to amend their
8 purported "Trust Accountings" to include all statutorily required information and support and to
9 comply with their duties of full disclosure to the Trust beneficiaries.
10

INTRODUCTION

11
12 2. Samuel S. Jaksick, Jr. ("Samuel" or the "Grantor") executed The Samuel S. Jaksick,
13 Jr. Family Trust Agreement (As Restated) (the "Restated Trust Agreement") establishing The
14 Samuel S. Jaksick, Jr. Family Trust (the "Trust") on June 29, 2006.
15

16 3. Grantor was designated by the terms of the Trust to serve as the initial Trustee. If at
17 any time Grantor failed to serve as Trustee and failed to appoint a successor trustee, the terms of the
18 Trust provided that Stanley Jaksick ("Stanley"), Todd Jaksick ("Todd") and another designated
19 person were to serve as Co-Trustees.
20

21 4. On December 10, 2012, Grantor purportedly executed the Second Amendment to
22 the Samuel S. Jaksick, Jr. Family Trust Agreement Restated Pursuant to the Third Amendment
23 Dated June 29, 2006 (the "Second Amendment"). Wendy disputes the validity of the Second
24 Amendment because Samuel S. Jaksick ("Samuel" or the "Grantor") did not execute the document
25 or Grantor executed the document at a time when he did not possess the requisite mental capacity to
26 do so or executed the document as a result of undue influence. Because Wendy disputes the validity
27 of the Second Amendment, Wendy denies all allegations in the Petition that confirm, assume,
28

1 involve or rely on the validity of the Second Amendment.

2 5. Grantor died on April 21, 2013. At that time, Grantor's three (3) children, Stanly,
3 Todd and Wendy became the primary beneficiaries of the Trust with equal one-third interests.

4 6. At some point, Todd, Stanley and Michael S. Kimmel ("Michael") began serving as
5 Co-Trustees of the Trust.
6

7 7. During the Co-Trustees' administration of the Trust, the Co-Trustees refused to keep
8 Wendy informed and failed to fully disclose to her concerning the assets and property of the Trust,
9 their administration of the Trust and the transactions they were conducting on behalf of the Trust.
10 Co-Trustees used their positions to control and utilize the assets and property of the Trust for their
11 personal benefit at the expense of Trust, Wendy and Wendy's interest in the Trust.

12 8. On August 2, 2017, the Co-Trustees Todd and Michael filed this *Petition* seeking the
13 Court's approval of: (a) three (3) annual accountings for their administration of the Trust during the
14 period April 21, 2013 through March 31, 2016, (b) an accounting for the separate share of the Trust
15 administered for Wendy, (c) ratification, approval and release of the Co-Trustees for certain
16 agreements and actions of Co-Trustees, and (d) for other relief.
17

18 9. Wendy was forced to file this *Opposition* because Co-Trustees' "Trust Accountings"
19 do not comply with the statutory requirements, Wendy disputes the Second Amendment and other
20 documents relied on in the *Petition*, Wendy disputes the actions of the Co-Trustees or does not have
21 sufficient information necessary for Wendy to understand and take a position concerning actions of
22 the Co-Trustees and their administration of the Trust. Accordingly, Wendy requests that the Co-
23 Trustees be ordered to amend their "Trust Accountings" to include all statutorily required
24 information and support and to provide full disclosure to Wendy concerning their administration.
25

26 **TRUST ACCOUNTING**

27 10. Pursuant to NRS 165.135, a trust accounting, by statute, is required to contain the
28

1 following information:

2 **1. An Account must include:**

3 **a. A statement indicating the accounting period;**

4 **b. With respect to the trust principal:**

5 **i. The trust principal held at the beginning of the accounting period,**
6 **and in what form held, and the approximate market value thereof**
7 **at the beginning of the accounting period;**

8 **ii. Additions to the trust principal during the accounting period,**
9 **with the dates and sources of acquisition;**

10 **iii. Investments collected, sold or charged off during the accounting**
11 **period;**

12 **iv. Investments made during the accounting period, with the date,**
13 **source and cost of each investment;**

14 **v. Any deductions from the trust principal during the accounting**
15 **period, with the date and purpose of each deduction; and**

16 **vi. The trust principal, invested or uninvested, on hand at the end of**
17 **the accounting period, reflecting the approximate market value**
18 **thereof at that time;**

19 **c. With respect to trust income, the trust income:**

20 **i. On hand at the beginning of the accounting period, and in what**
21 **form held;**

22 **ii. Received during the accounting period, when and from what**
23 **source;**

24 **iii. Paid out during the accounting period, when, to whom and for**
25 **what purpose; and**

26 **iv. On hand at the end of the accounting period and how invested;**

27 **d. A statement of unpaid claims with the reason for failure to pay**
28 **them; and**

e. A brief summary of the account, which must include:

i. The beginning value of the trust estate:

a. For the first accounting, the beginning
value of the trust estate shall consist of the
total of all original assets contained in the
beginning inventory.

b. For accountings other than the first
account, the beginning value of the trust
estate for the applicable accounting period
must be the ending value of the prior
accounting.

- ii. The total of all receipts received during the accounting period, excluding capital items.
- iii. The total of all gains on sales or other disposition of assets, if any, during the accounting period.
- iv. The total of disbursements and distributions during the accounting period.
- v. The total of all losses on sales or other disposition of assets, if any, during the accounting period.
- vi. The total value of the trust assets remaining on hand at the end of the accounting period.

2.A summary of the account pursuant to paragraph (e) of subsection 1 must be in substantially the following form:

...

3.In lieu of segregating the report on income and principal pursuant to subsection 1, the trustee may combine income and principal activity in the account so long as the combined report on income and principal does not materially impeded a beneficiary's ability to evaluate the charges to or credits against the beneficiary's interest.

11. The purported "Trust Accountings" included in the *Petition* do not satisfy the statutory requirements, and, as result, the Co-Trustees have failed their obligations under Nevada law. Additionally, Wendy alleges that it is impossible to evaluate and/or fully understand the Trust assets and Trust administration without the records and information relied on to prepare the purported "Trust Accountings."

OBJECTION TO PURPORTED TRUST ACCOUNTINGS

Legal Objection

Purported "Trust Accountings" – Do Not Meet Statutory Requirements

12. The purported "Trust Accountings" filed by the Co-Trustees do not contain information regarding the receipts and disbursements and other transactions and/or there is no support offered for the receipts and disbursements, particularly, no support including, but not limited to, vouchers, receipts, invoices, attorney's fees affidavits, and verifications of funds, from any independent source(s) of the receipts and disbursements.

13. There purported "Trust Accountings" fail to include an adequate description of each

1 asset and the name and location of the depository where each of the assets are kept.

2 14. The purported "Trust Accountings" are inadequate because they offer no
3 explanation and attach no support or verification from a third party source(s) as to any of the
4 information contained therein, namely, there is no support or verification for any of the expenses,
5 disbursements and investments.
6

7 Purported "Trust Accountings" - Incomplete

8 15. The purported "Trust Accountings" filed by the Co-Trustees are not complete
9 because they do not provide a full and definite understanding of the Trust property and the Trust
10 administration, which the beneficiaries of the Trust are entitled to by law.

11 16. The Co-Trustees filed their purported "Trust Accountings" containing only
12 numerical information regarding the assets, disbursements, income, investments, etc. There is no
13 back-up/verification information from any independent third party source(s) for any of the income,
14 disbursements, expenses, investments and property on hand and, without same, the purported "Trust
15 Accountings" is grossly incomplete and inadequate.
16

17 17. The purported "Trust Accountings" do not attach any supporting documents
18 including, but not limited to, vouchers, receipts, invoices, attorney's fees invoices/affidavits, and
19 verifications of funds. The entire purported "Trust Accountings" were generated by Co-Trustees
20 and include no independent verification and totally lacks explanation of any kind.
21

22 18. As are result of these errors and deficiencies, the purported "Trust Accountings" fail
23 on their face and the Court should order the purported "Trust Accountings" be amended to include
24 the statutorily required information to make a complete and valid accounting.

25 Purported "Trust Accountings" – Failure to Fully Disclose

26 19. From the time the Co-Trustees began administering the Trust, Wendy has received
27 very little disclosure of information concerning the Trust, the Trust property and the administration
28

1 of the Trust. This is true despite repeated efforts to contact and communicate with the Co-Trustees
2 and/or their attorneys, who owed Wendy and all of the beneficiaries of the Trust a duty of full
3 disclosure. Based on this history and with the incomplete information Wendy does have concerning
4 the Trust, the Trust property and the administration, it is impossible for Wendy evaluate and/or fully
5 understand the purported "Trust Accountings."

6
7 Purported "Trust Accountings" – Disputed Second Amendment

8 20. As stated above, Wendy disputes the validity of the Second Amendment because
9 Grantor did not execute the Second Amendment or Grantor executed the document at a time when
10 he did not possess the requisite mental capacity to do so or executed the document as a result of
11 undue influence. Because Wendy disputes the validity of the Second Amendment, Wendy objects
12 to and disputes the "Trust Accountings" to the extent they confirm, assume, involve or rely on the
13 validity of the Second Amendment.
14

15 CONCLUSION

16 21. Based on the foregoing, Wendy respectfully requests that the Court refuse to
17 approve the purported "Trust Accountings" and refuse to ratify and approve and release the Co-
18 Trustees from any liability for actions taken in pursuant to the purported "Agreements & Consents"
19 until deficiencies in the purported "Trust Accountings" and disputes concerning the purported
20 "Trust Accountings" and the purported "Agreements & Consents" are resolve and the liability, if
21 any, of the Co-Trustees is determined. Wendy further requests the Court order the Co-Trustees to
22 amend their purported "Trust Accountings" to include all statutorily required information and
23

24 ///

25 ///

26 ///

27 ///

28

1 support and to comply with their duties of full disclosure to the Trust beneficiaries.

2
3 **AFFIRMATION STATEMENT**

Pursuant to NRS 239B.030

4 The undersigned does hereby affirm that Resondent Wendy A. Jaksick's Opposition and
5 Objection to Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of
6 the Court and for Approval of Accountings and Other Trust Administrative Matters filed by
7 Wendy A. Jaksick in the above-captioned matter does not contain the social security number of
8 any person.

9 DATED this 10th day of October, 2017.

10 **FOX ROTHSCHILD LLP**

11 /s/ Mark J. Connot

12 MARK J. CONNOT (10010)
13 1980 Festival Plaza Drive, #700
14 Las Vegas, Nevada 89135

15 *and*

16 **SPENCER LAW, P.C.**

17 R. Kevin Spencer (*PHV to be filed*)
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28 *Attorneys for Respondent Wendy A. Jaksick*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 10th day of October, 2017, I caused the above and foregoing document entitled **RESPONDENT WENDY A. JAKSICK'S OPPOSITION AND OBJECTION TO PETITION FOR CONFIRMATION OF TRUSTEES AND ADMISSION OF TRUST TO THE JURISDICTION OF THE COURT, AND FOR APPROVAL OF ACCOUNTINGS AND OTHER TRUST ADMINISTRATIVE MATTE** to be served as follows:

- service was made upon each of the parties, listed below, via electronic service through the Second Judicial District Court's Odyssey E-File and Serve system.
- by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- pursuant to EDCR 7.26, to be sent via facsimile;
- to be hand-delivered; and/or
- via email.
-

to the attorney(s)/party(ies) listed below at the address and/or facsimile number indicated below:

Todd B. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Luke Jaksick c/o Wendy A. Jaksick P.O. Box 2345 Allen, Texas 75013
Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511
Alexi Smith 11 Bahama Court Mansfield, Texas 76063	Regan Jaksick Sydney Jaksick Sawyer Jaksick c/o Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 8952
Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519 <i>Attorneys for Petitioners</i>	Michael S. Kimmel, as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust c/o Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519
Phil Kreitlein Kreitlein Law Group 470 E. Plumb Lane, #310 Reno, Nevada 89502 <i>Attorneys for Stan Jaksick and Michael S. Kimmel</i>	Kent R. Robison Robison, Belaustegui, Sharpe & Lowe 71 Washington Street Reno, Nevada 89503 <i>Attorneys for Todd B. Jaksick and Michael S. Kimmel</i>

/s/ Jacqueline Magee

An Employee of Fox Rothschild LLP

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10 **SECOND JUDICIAL DISTRICT COURT**

11 **WASHOE COUNTY, NEVADA**

12 In the Matter of the Administration of the
13 Samuel S. Jaksick, Jr. Family Trust,

CASE NO.: PR17-00446
DEPT. NO. ____

14 **RESPONDENT WENDY A.**
15 **JAKSICK'S ANSWER TO**
16 **PETITION FOR APPROVAL OF**
17 **ACCOUNTINGS AND OTHER**
18 **TRUST ADMINISTRATION**
19 **MATTERS**

20 Wendy A. Jaksick ("Wendy" or "Respondent"), by and through her attorneys of record, the law
21 firm of Fox Rothschild LLP, submits the following Answer and affirmative defenses. Except as expressly
22 admitted, Wendy denies each and every allegation in the *Petition for Confirmation of Trustees and*
23 *Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other Trust*
24 *Administration Matters* (the "Petition"), which was filed on August 2, 2017 by Todd B. Jaksick ("Todd")
25 and Michael S. Kimmel ("Michael"), as Co-Trustees of The Samuel S. Jaksick, Jr. Family Trust
26 (collectively, the "Co-Trustees" or the "Petitioners"):

27 1. Wendy admits the allegations in Paragraph 1 of the Petition concerning The Samuel S.
28 Jaksick, Jr. Family Trust Agreement (As Restated) (the "Restated Trust Agreement"), but denies the
allegations concerning the purported Second Amendment To The Samuel S. Jaksick, Jr. Family Trust
Agreement Restatement (the "Second Amendment"). Wendy disputes the validity of the Second
Amendment because Samuel S. Jaksick ("Samuel" or the "Grantor") did not execute the document or
Grantor executed the document at a time when he did not possess the requisite mental capacity to do so or
executed the document as a result of undue influence. Because Wendy disputes the validity of the Second
Amendment, Wendy denies all allegations in the Petition that confirm, assume, involve or rely on the
validity of the Second Amendment.

2. Wendy admits the allegations in the first two sentences of Paragraph 2 of the Petition.
Because Wendy disputes the validity of the Second Amendment, Wendy denies all allegations in

1 Paragraph 2 that confirm, assume, involve or rely on the validity of the Second Amendment. As to the
2 remaining allegations of Paragraph 2, Wendy is without sufficient knowledge of information upon which
3 to form a belief as to the truth of those allegations, and therefore denies same.

4 3. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
5 allegations in Paragraph 3 that confirm, assume, involve or rely on the validity of the Second
6 Amendment. Wendy denies all allegations referring to or relying upon the accountings or the
7 “accountings below”. As to the remaining allegations of Paragraph 3, Wendy is without sufficient
8 knowledge of information upon which to form a belief as to the truth of those allegations, and therefore
9 denies same.

10 4. Answering Paragraph 4 of the Petition, Wendy is without sufficient knowledge or
11 information upon which to form a belief as to the truth of those allegations, and therefore denies same.

12 5. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
13 allegations in Paragraph 5 that confirm, assume, involve or rely on the validity of the Second
14 Amendment. To the extent the allegations in Paragraph of the Petition seek to interpret documents, and
15 without conceding anything in relation to the validity or invalidity of the Second Amendment, Wendy
16 submits that the documents speak for themselves and denies Petitioners’ interpretation of them. To this
17 extent this Paragraph requires a response, Wendy denies each and every allegation contained therein.

18 6. Wendy denies the allegations in Paragraph 6 because they solely rely upon the Second
19 Amendment and Wendy disputes its validity. Because Wendy disputes the validity of the Second
20 Amendment, Wendy denies all allegations in Paragraph 6 that confirm, assume, involve or rely on the
21 validity of the Second Amendment. To the extent the allegations in Paragraph of the Petition seek to
22 interpret documents, and without conceding anything in relation to the validity or invalidity of the Second
23 Amendment, Wendy submits that the documents speak for themselves and denies Petitioners’
24 interpretation of them. To this extent this Paragraph requires a response, Wendy denies each and every
25 allegation contained therein.

26 7. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
27 allegations in Paragraph 7 that confirm, assume, involve or rely on the validity of the Second
28 Amendment. To the extent the allegations in Paragraph of the Petition seek to interpret documents,
Wendy submits that the documents speak for themselves. To this extent this Paragraph requires a
response, Wendy denies each and every allegation contained therein.

8. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
allegations in Paragraph 8 that confirm, assume, involve or rely on the validity of the Second
Amendment. To the extent the allegations in Paragraph of the Petition seek to interpret documents,
Wendy submits that the documents speak for themselves. To this extent this Paragraph requires a
response, Wendy denies each and every allegation contained therein.

1 9. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
2 allegations in Paragraph 8 that confirm, assume, involve or rely on the validity of the Second
3 Amendment. Otherwise, Wendy denies the allegations of Paragraph 9 of the Petition or is without
4 sufficient knowledge or information upon which to form a belief as to the truth of those allegations, and
therefore denies same.

5 10. Wendy admits the allegation in Paragraph 10 that the Grantor was a Nevada resident at
6 the time of his death. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
7 allegations in Paragraph 8 that confirm, assume, involve or rely on the validity of the Second
8 Amendment. Wendy denies that all the Co-Trustees were duly and properly appointed or should be
9 confirmed. Otherwise, Wendy is without sufficient knowledge or information upon which to form a belief
as to the trust of the allegations in Paragraph 10, and therefore denies same.

10 11. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
11 allegations in Paragraph 11 that confirm, assume, involve or rely on the validity of the Second
12 Amendment. Otherwise, Wendy is without sufficient knowledge or information upon which to form a
belief as to the trust of the allegations in Paragraph 10, and therefore denies same.

13 12. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
14 allegations in Paragraph 12 that confirm, assume, involve or rely on the validity of the Second
15 Amendment. To the extent the allegations in Paragraph of the Petition seek to interpret documents, and
16 without conceding anything in relation to the validity or invalidity of the Second Amendment, Wendy
17 submits that the documents speak for themselves and denies Petitioners' interpretation of them. To this
extent this Paragraph requires a response, Wendy denies each and every allegation contained therein.

18 13. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
19 allegations in Paragraph 13 that confirm, assume, involve or rely on the validity of the Second
20 Amendment. Wendy denies the allegations of Paragraph 13 of the Petition or is without sufficient
21 knowledge or information upon which to form a belief as to the truth of those allegations, and therefore
22 denies same. Wendy denies that any formal accounting has ever been prepared or prepared correctly and
23 delivered to her. Wendy alleges that the purported "Trust Accountings" fail to comply with NRS
24 §165.135 and fail of fully and accurately disclose the property of the Trust and the administration of such
25 Trust property. Additionally, Wendy alleges that it is impossible to evaluate and/or fully understand the
26 Trust assets and Trust administration without the records, supporting documentation and information
27 relied on to prepare the purported "Trust Accountings," which are patently inadequate. Wendy denies that
28 the "Trust Accountings should be approved in their current form.

 14. Because Wendy disputes and denies the validity of the Second Amendment, Wendy
denies all allegations in Paragraph 14 that confirm, assume, involve or rely on the validity of the Second
Amendment. Wendy denies the allegations of Paragraph 14 of the Petition or is without sufficient

1 knowledge or information upon which to form a belief as to the truth of those allegations, and therefore
2 denies same. Additionally, Wendy specifically disputes the validity of some or all of the following
3 documents referenced in Paragraph 14 of the Petition: (i) the Agreement and Consent to Proposed Action
4 dated July 16, 2013, attached to the Petition as Exhibit "9"; (ii) the Agreement and Consent to Proposed
5 Action dated July 24, 2013, attached to the Petition as Exhibit "10"; (iii) the Agreement and Consent to
6 Proposed Action dated August 14, 2013, attached to the Petition as Exhibit "11"; (iv) the Agreement and
7 Consent to Proposed Action dated August 26, 2013, attached to the Petition as Exhibit "12"; (v) the
8 Agreement and Consent to Proposed Action dated January 31, 2014, attached to the Petition as Exhibit
9 "13"; (vi) the Agreement and Consent to Proposed Action dated April 14, 2014, attached to the Petition as
10 Exhibit "14"; (vii) the Agreement and Consent to Proposed Action dated August 28, 2014, attached to the
11 Petition as Exhibit "15"; and the Agreement and Consent to Proposed Action dated September 25, 2014,
12 attached to the Petition as Exhibit "16". Additionally, Wendy disputes the validity of some or all of the
13 documents attached with the Exhibits referenced in Paragraph 14 of the Petition.

14 15. Because Wendy disputes and denies the validity of the Second Amendment, Wendy
15 denies all allegations in Paragraph 15 that confirm, assume, involve or rely on the validity of the Second
16 Amendment. Wendy admits the allegations in the first sentence of Paragraph 15 of the Petition. Wendy
17 further admits that a copy of the Creditor Claim she submitted is included in Exhibit "17" of the Petition.
18 Wendy denies the allegations regarding the reasons any distributions were made or any purported
19 obligation allegedly satisfied by any of them. As to the remaining allegations of Paragraph 15, Wendy
20 denies the allegations or is without sufficient knowledge of information upon which to form a belief as to
21 the truth of those allegations, and therefore denies same. Additionally, Wendy disputes and denies the
22 validity of some or all of the documents included in Exhibit "18" of the Petition.

23 16. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
24 allegations in Paragraph 16 that confirm, assume, involve or rely on the validity of the Second
25 Amendment. Wendy denies the allegations regarding the reasons any distributions were made or any
26 purported obligation allegedly satisfied by any of them. Wendy denies the allegations of Paragraph 16 of
27 the Petition or is without sufficient knowledge or information upon which to form a belief as to the truth
28 of those allegations, and therefore denies same.

17. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
allegations in Paragraph 17 that confirm, assume, involve or rely on the validity of the Second
Amendment. Wendy denies the allegations and relief sought in Paragraph 17 of the Petition.

18. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
allegations in Paragraph 18 that confirm, assume, involve or rely on the validity of the Second
Amendment. Wendy denies the allegations regarding the reasons any distributions were made or any
purported obligation allegedly satisfied by any of them. As to the remaining allegations of Paragraph 18,

1 Wendy is without sufficient knowledge of information upon which to form a belief as to the truth of those
2 allegations, and therefore denies same.

3 19. Paragraph 19 of the Petition consists of legal conclusions that do not require a response.
4 However, to the extent this paragraph requires a response, Wendy denies each and every allegation.

5 20. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
6 allegations in Paragraph 20 that confirm, assume, involve or rely on the validity of the Second
7 Amendment. Paragraph 20 of the Petition consists of legal conclusions that do not require a response.
8 However, to the extent this paragraph requires a response, Wendy denies each and every allegation.

9 21. Because Wendy disputes the validity of the Second Amendment, Wendy denies all
10 allegations in Paragraph 21 that confirm, assume, involve or rely on the validity of the Second
11 Amendment. Paragraph 21 of the Petition consists of legal conclusions that do not require a response.
12 However, to the extent this paragraph requires a response, Wendy denies each and every allegation.

13 22. The reminder of the Petition constitutes Petitioners' request for relief to which no
14 responsive pleading is necessary. To the extent a responsive pleading is required, Wendy denies that
15 Petitioners are entitled to the relief sought.

16 23. All allegations that have not been specifically admitted are hereby denied.

17 **AFFIRMATIVE DEFENSES**

18 **First Affirmative Defense**

19 The Petition fails to state a claim upon which relief can be granted.

20 **Second Affirmative Defense**

21 All or part of the Petition is barred by the applicable statutory periods of limitation.

22 **Third Affirmative Defense**

23 All or part of Petitioners' claims are barred because of Petitioners' failure to disclose.

24 **Fourth Affirmative Defense**

25 All or part of Petitioners' claims are barred because of Petitioners' lack of authority.

26 **Fifth Affirmative Defense**

27 All or part of Petitioners' claims are barred because Petitioners acted in bad faith.

28 **Sixth Affirmative Defense**

All or part of Petitioners' claims are barred by the doctrine of unclean hands.

Seventh Affirmative Defense

All or part of Petitioners' claims are barred because of fraud.

Eighth Affirmative Defense

All or part of Petitioners' claims are barred because of duress.

Ninth Affirmative Defense

Wendy reserves the right to amend its Answer to allege additional affirmative defenses and voluntarily withdraw any affirmative defense.

WHEREFORE, Wendy requests judgment against Petitioners as follows:

1. That all relief sought by the Petitioners in their Petition be denied and Petitioners take nothing by virtue of their Petition;
2. For an award of reasonable attorney's fees and costs of suit; and
3. For such other and further relief as the Court may deem just and proper.

DATED this 10th day of October, 2017.

AFFIRMATION STATEMENT

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the Answer to Petition for Approval of Accountings and Other Trust Administration Matters filed by Wendy A. Jaksick in the above-captioned matter does not contain the social security number of any person.

DATED this 10th day of October, 2017.

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

and

SPENCER LAW, P.C.

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Attorneys for Respondent Wendy A. Jaksick

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 10th day of October, 2017, I caused the above and foregoing document entitled **RESPONDENT WENDY A. JAKSICK's ANSWER TO PETITION FOR APPROVAL OF ACCOUNTINGS AND OTHER TRUST ADMINISTRATION MATTERS** to be served as follows:

- α service was made upon each of the parties, listed below, via electronic service through the Second Judicial District Court's Odyssey E-File and Serve system.
- ✗ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- pursuant to EDCR 7.26, to be sent via facsimile;
- to be hand-delivered; and/or
- via email.

to the attorney(s)/party(ies) listed below at the address and/or facsimile number indicated below:

Todd B. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Luke Jaksick c/o Wendy A. Jaksick P.O. Box 2345 Allen, Texas 75013
Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511
Alexi Smith 11 Bahama Court Mansfield, Texas 76063	Regan Jaksick Sydney Jaksick Sawyer Jaksick c/o Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 8952
Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519 <i>Attorneys for Petitioners</i>	Michael S. Kimmel, as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust c/o Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519
Phil Kreitlein Kreitlein Law Group 470 E. Plumb Lane, #310 Reno, Nevada 89502 <i>Attorneys for Stan Jaksick and Michael S. Kimmel</i>	Kent R. Robison Robison, Belaustegui, Sharpe & Lowe 71 Washington Street Reno, Nevada 89503 <i>Attorneys for Todd B. Jaksick and Michael S. Kimmel</i>

/s/ Jacqueline Magee

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9 *Attorneys for Respondent Wendy A. Jaksick*

10 **SECOND JUDICIAL DISTRICT COURT**

11 **WASHOE COUNTY, NEVADA**

12 In the Matter of the Administration of the
13 SSJ's Issue Trust,

CASE NO.: PR17-00445
DEPT. NO. __

14 **RESPONDENT WENDY A.**
15 **JAKSICK'S ANSWER TO**
16 **PETITION FOR APPROVAL OF**
17 **ACCOUNTINGS AND OTHER**
18 **TRUST ADMINISTRATION**
19 **MATTERS**

20 Respondent Wendy A. Jaksick ("Respondent"), by and through her attorneys of record, the law
21 firm of Fox Rothschild LLP, submits the following Answer and affirmative defenses. Except as expressly
22 admitted, Respondent denies each and every allegation in the *Petition for Confirmation of Trustee and*
23 *Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other Trust*
24 *Administration Matters* (the "Petition"), which was filed on August 2, 2017 by Todd B. Jaksick, as
25 Trustee of the SSJ's Issue Trust ("Todd", "Trustee" or "Petitioner"):

26 1. Respondent admits the allegations in Paragraph 1 of the Petition concerning SSJ's Issue
27 Trust (the "Trust"), except Wendy disputes and denies the validity all of the exhibits which purport to
28 contain a description of the properties or purports to contain an accurate description of the properties and
the diagrams of same attached to the Trust agreement. Respondent is without sufficient knowledge of
information upon which to form a belief as to the truth of the allegation that Todd has served as the sole
Trustee of the Trust from its establishment in 2007 through the current time, and therefore denies same.

2. Respondent admits the allegations in the first two sentences of Paragraph 2 of the
Petition. Wendy denies all allegations referring to or relying upon the accountings or the "accountings
below". As to the remaining allegations of Paragraph 2, Respondent denies the allegations or is without
sufficient knowledge of information upon which to form a belief as to the truth of those allegations, and
therefore denies same.

1 3. To the extent the allegations in Paragraph of the Petition seek to interpret documents,
2 Wendy submits that the documents speak for themselves and denies Petitioners' interpretation of them.
3 Respondent denies the allegations in the last sentence of Paragraph 3 of the Petition or is without
4 sufficient knowledge of information upon which to form a belief as to the truth of such allegations, and
therefore denies same.

5 4. Respondent admits the allegation in Paragraph 4 of the Petition that the Grantor was a
6 Nevada resident at the time of his death. Wendy denies that all the Trustee was duly and properly
7 appointed or should be confirmed. Otherwise, Respondent is without sufficient knowledge or information
8 upon which to form a belief as to the trust of the allegations in Paragraph 4, and therefore denies same.

9 5. Respondent is without sufficient knowledge or information upon which to form a belief
10 as to the trust of the allegations in Paragraph 5, and therefore denies same.

11 6. To the extent the allegations in Paragraph of the Petition seek to interpret documents,
12 Wendy submits that the documents speak for themselves and denies Petitioners' interpretation of them.
13 To this extent this Paragraph requires a response, Respondent denies each and every allegation contained
14 therein.

15 7. Respondent denies the allegations of Paragraph 7 of the Petition or is without sufficient
16 knowledge or information upon which to form a belief as to the truth of those allegations, and therefore
17 denies same. Wendy denies the allegations of Paragraph 7 of the Petition or is without sufficient
18 knowledge or information upon which to form a belief as to the truth of those allegations, and therefore
19 denies same. Wendy denies that any formal accounting has ever been prepared or prepared correctly and
20 delivered to her. Wendy alleges that the purported "Trust Accountings" fail to comply with NRS
21 §165.135 and fail of fully and accurately disclose the property of the Trust and the administration of such
Trust property. Additionally, Wendy alleges that it is impossible to evaluate and/or fully understand the
22 Trust assets and Trust administration without the records, supporting documentation and information
23 relied on to prepare the purported "Trust Accountings," which are patently inadequate. Wendy denies that
24 the "Trust Accountings should be approved in their current form.

25 8. Respondent denies the allegations of Paragraph 8 of the Petition or is without sufficient
26 knowledge or information upon which to form a belief as to the truth of those allegations, and therefore
27 denies same. Additionally, Respondent specifically disputes the validity of the following documents
28 referenced in Paragraph 8 of the Petition: (i) the Agreement and Consent to Proposed Action dated June 5,
2013, attached to the Petition as Exhibit "7"; (ii) the Agreement and Consent to Proposed Action dated
August 28, 2014, attached to the Petition as Exhibit "8"; (iii) the Agreement and Consent to Proposed
Action dated August September 25, 2014, attached to the Petition as Exhibit "9"; and (iv) the Agreement
and Consent to Proposed Action dated November 13, 2015, attached to the Petition as Exhibit "10".

1 Additionally, Respondent disputes the validity of some or all of the documents attached with the Exhibits
2 referenced in Paragraph 8 of the Petition.

3 9. Paragraph 9 of the Petition consists of legal conclusions that do not require a response.
4 However, to the extent this paragraph requires a response, Respondent denies each and every allegation.

5 10. Paragraph 10 of the Petition consists of legal conclusions that do not require a response.
6 To the extent the allegations in Paragraph 10 of the Petition seek to interpret the Trust, Respondent
7 submits that the Trust speaks for itself. However, to the extent this paragraph requires a response,
8 Respondent denies each and every allegation.

9 11. Paragraph 11 of the Petition consists of legal conclusions that do not require a response.
10 However, to the extent this paragraph requires a response, Respondent denies each and every allegation.

11 12. The reminder of the Petition constitutes Petitioners' request for relief to which no
12 responsive pleading is necessary. To the extent a responsive pleading is required, Respondent denies that
13 Petitioners are entitled to the relief sought.

14 13. All allegations that have not been specifically admitted are hereby denied.

15 **AFFIRMATIVE DEFENSES**

16 **First Affirmative Defense**

17 The Petition fails to state a claim upon which relief can be granted.

18 **Second Affirmative Defense**

19 All or part of the Petition is barred by the applicable statutory periods of limitation.

20 **Third Affirmative Defense**

21 All or part of Petitioner's claims are barred because of Petitioner's failure to disclose.

22 **Fourth Affirmative Defense**

23 All or part of Petitioner's claims are barred because Petitioner acted in bad faith.

24 **Fifth Affirmative Defense**

25 All or part of Petitioner's claims are barred by the doctrine of unclean hands.

26 **Sixth Affirmative Defense**

27 All or part of Petitioner's claims are barred because of fraud.

28 **Seventh Affirmative Defense**

All or part of Petitioner's claims are barred because of duress.

Eighth Affirmative Defense

Respondent reserves the right to amend its Answer to allege additional affirmative defenses and
voluntarily withdraw any affirmative defense.

WHEREFORE, Respondent requests judgment against Petitioners as follows:

1. That all relief sought by the Petitioner in the Petition be denied and Petitioner take
nothing by virtue of his Petition;

2. For an award of reasonable attorney's fees and costs of suit; and
3. For such other ad further relief as the Court may deem just and proper.

AFFIRMATION STATEMENT

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the Answer to Petition for Approval of Accountings and Other Trust Administration Matters filed by Wendy A. Jaksick in the above-captioned matter does not contain the social security number of any person.

DATED this 10th day of October, 2017.

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

and

SPENCER LAW, P.C.

R. Kevin Spencer (*PHV to be filed*)
Texas Bar Card No. 00786254
Zachary E. Johnson (*PHV to be filed*)
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brendan@spencerlawpc.com

Attorneys for Respondent Wendy A. Jaksick

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 10th day of October, 2017, I caused the above and foregoing document entitled **RESPONDENT WENDY A. JAKSICK's ANSWER TO PETITION FOR APPROVAL OF ACCOUNTINGS AND OTHER TRUST ADMINISTRATION MATTERS** to be served as follows:

- ✕ service was made upon each of the parties, listed below, via electronic service through the Second Judicial District Court's Odyssey E-File and Serve system.
- ✕ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- pursuant to EDCR 7.26, to be sent via facsimile;
- to be hand-delivered; and/or
- via email.

to the attorney(s)/party(ies) listed below at the address and/or facsimile number indicated below:

Todd B. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Luke Jaksick c/o Wendy A. Jaksick P.O. Box 2345 Allen, Texas 75013
Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511
Alexi Smith 11 Bahama Court Mansfield, Texas 76063	Regan Jaksick Sydney Jaksick Sawyer Jaksick c/o Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 8952
Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519 <i>Attorneys for Petitioners</i>	Michael S. Kimmel, as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust c/o Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519
Phil Kreitlein Kreitlein Law Group 470 E. Plumb Lane, #310 Reno, Nevada 89502 <i>Attorneys for Stan Jaksick and Michael S. Kimmel</i>	Kent R. Robison Robison, Belaustegui, Sharpe & Lowe 71 Washington Street Reno, Nevada 89503 <i>Attorneys for Todd B. Jaksick and Michael S. Kimmel</i>

/s/ Jacqueline Magee

An Employee of Fox Rothschild LLP

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SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

In the Matter of the Administration of the
SSJ's Issue Trust,

CASE NO.: PR17-00445
DEPT. NO. ____

**RESPONDENT WENDY A. JAKSICK'S OPPOSITION AND OBJECTION TO
PETITION FOR CONFIRMATION OF TRUSTEES AND ADMISSION OF TRUST
TO THE JURISDICTION OF THE COURT, AND FOR APPROVAL OF
ACCOUNTINGS AND OTHER TRUST ADMINISTRATIVE MATTERS**

Respondent Wendy A. Jaksick ("Wendy" or "Respondent"), by and through her attorneys of record, the law firm of Fox Rothschild LLP, files her *Opposition and Objection* to the *Petition for Confirmation of Trustee and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other Trust Administration Matters* (the "Petition") filed on August 2, 2017 by Todd B. Jaksick, as Trustee of The SSJ's Issue Trust ("Todd" or "Trustee" or the "Petitioner"). This *Opposition and Objection* is made and based on the pleadings and papers filed herein and any argument of counsel that may be permitted at a hearing in this matter. Except as expressly admitted, Wendy denies each and every allegation in the *Petition*.

DATED this 10th day of October, 2017.

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135
Attorneys for Respondent Wendy A. Jaksick

RELIEF REQUESTED

1. Wendy requests the Court sustain her opposition and objections, refuse to approve

1 the purported "Trust Accountings" and refuse to ratify and approve and release the Trustee from
2 any liability for actions taken pursuant to the purported "Agreements & Consents" until
3 deficiencies in the purported "Trust Accountings" and disputes concerning the purported "Trust
4 Accountings" and the purported "Agreements & Consents" are resolved and the liability, if any, of
5 the Trustee is determined. Wendy also requests the Court order the Trustee to amend the
6 purported "Trust Accountings" to include all statutorily required information and support and to
7 comply with his duties of full disclosure to the Trust beneficiaries.
8

9 **INTRODUCTION**

10 2. Samuel S. Jaksick, Jr. ("Samuel" or the "Grantor") executed The SSJ's Issue
11 Trust Agreement (the "Trust Agreement") establishing The SSJ's Issue Trust (the "Trust") on
12 February 21, 2007. Wendy disputes the validity of the documents attached to the version of the
13 Trust Agreement attached to the *Petition*, which purport to contain a description of the properties
14 or purports to contain an accurate description of the properties and the diagrams of same attached
15 to the Trust agreement.
16

17 3. Todd was designated by the terms of the Trust to serve as the initial Trustee.

18 4. Grantor died on April 21, 2013.

19 5. During Trustee's administration of the Trust, Trustees refused to keep Wendy
20 informed and failed to fully disclose to her concerning the assets and property of the Trust, his
21 administration of the Trust and the transactions he was conducting on behalf of the Trust.
22 Trustee used his position to control and utilize the assets and property of the Trust for his
23 personal benefit at the expense of Trust, Wendy and Wendy's interest in the Trust.
24

25 6. On August 2, 2017, the Trustee filed this *Petition* seeking the Court's approval of:
26 (a) four (4) annual accountings for his administration of the Trust during the period April 21,
27 2013 through December 31, 2016, (b) ratification, approval and release of the Trustee for certain
28

TRUST ACCOUNTING

1. An Account must include:

a. A statement indicating the accounting period;

b. With respect to the trust principal:

- i. The trust principal held at the beginning of the accounting period, and in what form held, and the approximate market value thereof at the beginning of the accounting period;
- ii. Additions to the trust principal during the accounting period, with the dates and sources of acquisition;
- iii. Investments collected, sold or charged off during the accounting period;
- iv. Investments made during the accounting period, with the date, source and cost of each investment;
- v. Any deductions from the trust principal during the accounting period, with the date and purpose of each deduction; and
- vi. The trust principal, invested or uninvested, on hand at the end of the accounting period, reflecting the approximate market value thereof at that time;

c. With respect to trust income, the trust income:

- i. On hand at the beginning of the accounting period, and in what form held;
 - ii. Received during the accounting period, when and from what source;
 - iii. Paid out during the accounting period, when, to whom and for what purpose; and
 - iv. On hand at the end of the accounting period and how invested;
- d. A statement of unpaid claims with the reason for failure to pay them; and
- e. A brief summary of the account, which must include:
 - i. The beginning value of the trust estate:
 - a. For the first accounting, the beginning value of the trust estate shall consist of the total of all original assets contained in the beginning inventory.
 - b. For accountings other than the first account, the beginning value of the trust estate for the applicable accounting period must be the ending value of the prior accounting.
 - ii. The total of all receipts received during the accounting period, excluding capital items.
 - iii. The total of all gains on sales or other disposition of assets, if any, during the accounting period.
 - iv. The total of disbursements and distributions during the accounting period.
 - v. The total of all losses on sales or other disposition of assets, if any, during the accounting period.
 - vi. The total value of the trust assets remaining on hand at the end of the accounting period.
2. A summary of the account pursuant to paragraph (e) of subsection 1 must be in substantially the following form:

...
3. In lieu of segregating the report on income and principal pursuant to subsection 1, the trustee may combine income and principal activity in the account so long as the combined report on income and principal does not materially impeded a beneficiary's ability to evaluate the charges to or credits against the beneficiary's interest.

9. The purported "Trust Accountings" included in the *Petition* do not satisfy the statutory requirements, and, as result, Trustee has failed his obligations under Nevada law. Additionally, Wendy alleges that it is impossible to evaluate and/or fully understand the Trust

1 assets and Trust administration without the records and information relied on to prepare the
2 purported "Trust Accountings."

3 **OBJECTION TO PURPORTED TRUST ACCOUNTINGS**

4 **Legal Objection**

5 **Purported "Trust Accountings" – Do Not Meet Statutory Requirements**

6
7 10. The purported "Trust Accountings" filed by the Trustee do not contain
8 information regarding the receipts and disbursements and other transactions and/or there is no
9 support offered for the receipts and disbursements, particularly, no support including, but not
10 limited to, vouchers, receipts, invoices, attorney's fees affidavits, and verifications of funds, from
11 any independent source(s) of the receipts and disbursements.

12
13 11. There purported "Trust Accountings" fail to include an adequate description of
14 each asset and the name and location of the depository where each of the assets are kept.

15
16 12. The purported "Trust Accountings" are inadequate because they offer no
17 explanation and attach no support or verification from a third party source(s) as to any of the
18 information contained therein, namely, there is no support or verification for any of the expenses,
19 disbursements and investments.

20 **Purported "Trust Accountings" - Incomplete**

21
22 13. The purported "Trust Accountings" filed by Trustee are not complete because
23 they do not provide a full and definite understanding of the Trust property and the Trust
administration, which the beneficiaries of the Trust are entitled to by law.

24
25 14. The Trustee filed his purported "Trust Accountings" containing only numerical
26 information regarding the assets, disbursements, income, investments, etc. There is no back-
27 up/verification information from any independent third party source(s) for any of the income,
28 disbursements, expenses, investments and property on hand and, without same, the purported

1 “Trust Accountings” is grossly incomplete and inadequate.

2 15. The purported “Trust Accountings” do not attach any supporting documents
3 including, but not limited to, vouchers, receipts, invoices, attorney’s fees invoices/affidavits, and
4 verifications of funds. The entire purported “Trust Accountings” were generated by Trustees and
5 include no independent verification and totally lacks explanation of any kind.
6

7 16. As are result of these errors and deficiencies, the purported “Trust Accountings”
8 fail on their face and the Court should order the purported “Trust Accountings” be amended to
9 include the statutorily required information to make a complete and valid accounting.

10 Purported “Trust Accountings” – Failure of Fully Disclosure

11 17. From the time the Trustee began administering the Trust, Wendy has received
12 very little disclosure of information concerning the Trust, the Trust property and the
13 administration of the Trust. This is true despite repeated efforts to contact and communicate
14 with the Trustee and/or his attorneys, who owed Wendy and all of the beneficiaries of the Trust a
15 duty of full disclosure. Based on this history and with the incomplete information Wendy does
16 have concerning the Trust, the Trust property and the administration, it is impossible for Wendy
17 evaluate and/or fully understand the purported “Trust Accountings.”
18

19 Purported “Trust Accountings” – Disputed Second Amendment

20 18. As stated above, Wendy disputes the validity of the Wendy disputes the validity
21 of the documents attached to the version of the Trust Agreement attached to the *Petition*, which
22 purport to contain a description of the properties or purports to contain an accurate description of
23 the properties and the diagrams of same attached to the Trust agreement. Because Wendy
24 disputes the validity of such documents, Wendy objects to and disputes the “Trust Accountings”
25 to the extend they confirm, assume, involve or rely on the validity of such documents.
26
27
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CONCLUSION

19. Based on the foregoing, Wendy respectfully requests that the Court refuse to approve the purported "Trust Accountings" and refuse to ratify and approve and release the Trustee from any liability for actions taken pursuant to the purported "Agreements & Consents" until deficiencies in the purported "Trust Accountings" and disputes concerning the purported "Trust Accountings" and the purported "Agreements & Consents" are resolved and the liability, if any, of the Trustee is determined. Wendy further requests the Court order the Trustee to amend his purported "Trust Accountings" to include all statutorily required information and support and to comply with his duties of full disclosure to the Trust beneficiaries.

AFFIRMATION STATEMENT - Pursuant to NRS 239B.030

The undersigned does hereby affirm that Respondent Wendy A. Jaksick's Opposition and Objection to Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court and for Approval of Accountings and Other Trust Administrative Matters filed by Wendy A. Jaksick in the above-captioned matter does not contain the social security number of any person.

DATED this 10th day of October, 2017.

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

and

SPENCER LAW, P.C.

R. Kevin Spencer (*PHV to be filed*)
Texas Bar Card No. 00786254
Zachary E. Johnson (*PHV to be filed*)
Texas Bar Card No. 24063978
Brendan P. Harvell (*PHV to be filed*)
Texas Bar Card No. 24083150
500 N. Akard Street, Suite 2150
Dallas, Texas 75201
kevin@spencerlawpc.com
zach@spencerlawpc.com
brendan@spencerlawpc.com
Attorneys for Respondent Wendy A. Jaksick

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 10th day of October, 2017, I caused the above and foregoing document entitled **RESPONDENT WENDY A. JAKSICK'S OPPOSITION AND OBJECTION TO PETITION FOR CONFIRMATION OF TRUSTEES AND ADMISSION OF TRUST TO THE JURISDICTION OF THE COURT, AND FOR APPROVAL OF ACCOUNTINGS AND OTHER TRUST ADMINISTRATIVE MATTERS** to be served as follows:

- ✕ service was made upon each of the parties, listed below, via electronic service through the Second Judicial District Court's Odyssey E-File and Serve system.
- ✕ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- pursuant to EDCR 7.26, to be sent via facsimile;
- to be hand-delivered; and/or
- via email.
-

to the attorney(s)/party(ies) listed below at the address and/or facsimile number indicated below:

Todd B. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Luke Jaksick c/o Wendy A. Jaksick P.O. Box 2345 Allen, Texas 75013
Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511
Alexi Smith 11 Bahama Court Mansfield, Texas 76063	Regan Jaksick Sydney Jaksick Sawyer Jaksick c/o Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 8952
Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519 <i>Attorneys for Petitioners</i>	Michael S. Kimmel, as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust c/o Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519
Phil Kreitlein Kreitlein Law Group 470 E. Plumb Lane, #310 Reno, Nevada 89502 <i>Attorneys for Stan Jaksick and Michael S. Kimmel</i>	Kent R. Robison Robison, Belaustegui, Sharpe & Lowe 71 Washington Street Reno, Nevada 89503 <i>Attorneys for Todd B. Jaksick and Michael S. Kimmel</i>

/s/ Jacqueline Magee

An Employee of Fox Rothschild LLP

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

8
9 In the Matter of the
10 SSJ's ISSUE TRUST.

Case No. PR17-00445
Department No. PR

11
12
13 **COMMISSIONER'S RECOMMENDATION REFERRING CASE TO PROBATE JUDGE**

14 The hearing on the *Petition for Confirmation of Trustee and Admission of Trust*
15 *to the Jurisdiction of the Court, etc.*, filed on August 2, 2017, by Petitioner TODD B.
16 JAKSICK, through his counsel MAUPIN COX & LeGOY, was held on October 11, 2017
17 before the Probate Commissioner.

18 Two Objections to the Petition were on file by that time, and the appearing
19 parties were represented at the hearing through their counsel: Petitioner, by DONALD
20 A. LATTIN, ESQ.; Objector STANLEY S. JAKSICK, by KREITLEIN LAW GROUP and
21 PHILIP L. KREITLEN, ESQ., and STEPHEN C. MOSS, ESQ., and Objector WENDY A.
22 JAKSICK, by FOX ROTHSCHILD LLP and MARK J. CONNOT, ESQ.

23
24 The parties agreed, and the Commissioner FINDS, that the matter, as well as
25 the other pending related matter (PR17-00446), being contested and involving the
26 same parties, will best be served by placement of the matter on a trial track before
27 the Probate Judge.
28

1 Now, therefore, in accordance with WDCR 57.5, which pertains to the
2 scheduling and hearing of contested matters, IT IS THEREFORE RECOMMENDED that
3 this case be referred to the Honorable David A. Hardy, Probate Judge, for all further
4 proceedings. Similarly, the parties shall await direction from the Probate Judge for
5 scheduling and other matters.¹

6 This Recommendation is not subject to judicial review pursuant to WDCR
7 57.3(7), since it does not contain Findings of Fact or Conclusions of Law, but is a
8 Recommendation in furtherance of the procedural applications of WDCR 57.
9

10 DATED this 12th day of October, 2017.

11 IT IS SO RECOMMENDED:

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13 _____
14 PROBATE COMMISSIONER
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27 ¹ Although no request for consolidation was made nor was the same discussed at the
28 hearing, these two (2) related cases should be heard together, and it is certainly feasible
that the Probate Judge will determine that they can be consolidated.

1 **CERTIFICATE OF SERVICE**

2 CASE NO. PR17-00445

3 Pursuant to NRCP5(b), I certify that I am an employee of the SECOND
4 JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on
5 the 12th day of October, 2017, I electronically filed the **COMMISSIONER'S**
6 **RECOMMENDATION REFERRING CASE TO PROBATE JUDGE** with the Clerk of the
7 Court by using the ECF system.

8
9 I further certify that I transmitted a true and correct copy of the foregoing
10 document by the method(s) noted below:

11
12 **Electronically filed with the Clerk of the Court by using the ECF system which**
13 **will send a notice of electronic filing to the following:**

14 DONALD LATTIN, ESQ. for TODD B. JAKSICK
15 PHILIP KREITLEIN, ESQ. for STANLEY JAKSICK
16 STEPHEN MOSS, ESQ. for STANLEY JAKSICK
17 BRIAN MCQUAID, ESQ. for TODD B. JAKSICK
18 MARK CONNOT, ESQ. for WENDY A. JAKSICK

19 **Deposited in the Washoe County mailing system for postage and mailing with**
20 **the United States Postal Service in Reno, Nevada:**

21
22 L. ROBERT LEGOY, JR., ESQ. for TODD B. JAKSICK
23 MAUPIN, COX & LEGOY
24 P.O. Box 30000
Reno, NV 89520

25
26 
27 Beth Hemmila
28

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. PR17-00445

SSJ's ISSUE TRUST.

Dept. No. 15

In the Matter of the:

Case No. PR17-00446

SAMUEL S. JAKSICK, JR., FAMILY TRUST.

Dept. No. 15

ORDER ACCEPTING TRANSFER

Administrative Order 2016-16, entered December 29, 2016, designated Judge David Hardy as the primary Probate Judge with administrative responsibility for the Probate program and Judge Jerry Polaha and Judge Lynne Simons as alternate Probate Judges. Good cause appearing, Department Fifteen of the Second Judicial District Court will accept the transfer of the above-entitled case.


On October 12, 2017, Probate Commissioner Wright entered a recommendation referring the case to Probate Judge Hardy in each of the above captioned matters. Each recommendation found the above captioned related matters both "being contested and involving the same parties, will best be served by placement . . . on a trial track before the Probate Judge."

Counsel for the parties shall contact the Department Fifteen Judicial Assistant at (775) 328-3880 within ten days to set a case management/status conference. The


1 conference shall not exceed one hour and will address how the two cases should proceed,
2 scheduling, and whether consolidation is appropriate.

3 **IT IS SO ORDERED.**

4 Dated: October 17, 2017.

5 
6 David A. Hardy
7 District Court Judge
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Department 15 Judicial Assistant

1 **2520**
2 **KENT ROBISON, ESQ. – NSB #1167**
3 **krobison@rbsllaw.com**
4 **Robison, Simons, Sharp & Low**
5 **A Professional Corporation**
6 **71 Washington Street**
7 **Reno, Nevada 89503**
8 **Telephone: 775-329-3151**
9 **Facsimile: 775-329-7169**
10 *Attorneys for Todd B. Jaksick, Beneficiary*
11 *SSJ's Issue Trust and Samuel S. Jaksick, Jr., Family Trust*

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

14 In the Matter of the: **CASE NO.: PR17-00445**
15 **SSJ's ISSUE TRUST.** **DEPT. NO.: 15**

16 In the Matter of the: **CASE NO.: PR17-00446**
17 **SAMUEL S. JAKSICK, JR., FAMILY TRUST.** **DEPT. NO.: 15**

18 **NOTICE OF APPEARANCE**

19 TODD B. JAKSICK, as beneficiary of the SSJ's Issue Trust and the Samuel S. Jaksick, Jr.,
20 Family Trust, by and through his counsel, KENT R. ROBISON, ESQ., and the law firm of
21 ROBISON, SIMONS, SHARP & BRUST, hereby provides this Notice of Appearance of KENT R.
22 ROBISON as counsel for TODD B. JAKSICK, as beneficiary of the SSJ's Issue Trust and the
23 Samuel S. Jaksick, Jr., Family Trust.

24 **AFFIRMATION**
25 **Pursuant to NRS 239B.030**

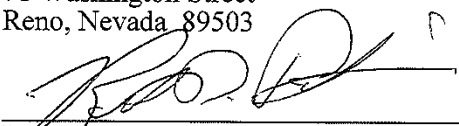
26 The undersigned does hereby affirm that this document does not contain the social security
27 number of any person.

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DATED this 3rd day of November, 2017.

ROBISON, SIMONS, SHARP & BRUST
A Professional Corporation
71 Washington Street
Reno, Nevada 89503



KENT R. ROBISON
*Attorneys for Todd B. Jaksick, Beneficiary
SSJ's Issue Trust and
Samuel S. Jaksick, Jr., Family Trust*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, SIMONS, SHARP & BRUST, and that on this date I caused to be served a true copy of the **NOTICE OF APPEARANCE** on all parties to this action by the method(s) indicated below:

by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

X by using the Court's CM/ECF electronic service system courtesy copy addressed to:

Donald A. Lattin, Esq.
L. Robert LeGoy, Jr., Esq.
Brian C. McQuaid, Esq.
Maupin, Cox & LeGoy
4785 Caughlin Parkway
Reno, Nevada 89519
Email: dlattin@mcllawfirm.com
blegoy@mcllawfirm.com
bmcquaid@mcllawfirm.com
Attorneys for Petitioners/Co-Trustees
Todd B. Jaksick and Michael S. Kimmel of the
SSJ's Issue Trust and Samuel S. Jaksick, Jr., Family Trust

Phil Kreitlein, Esq.
Kreitlein Law Group
470 E. Plumb Lane, #310
Reno, Nevada 89502
Email: philip@kreitleinlaw.com
Attorneys for Stanley S. Jaksick

Stephen C. Moss, Esq.
Law Offices of Michael B. Springer, PC
9628 Prototype Court
Reno, NV 89521
Email: smoss@springerlawnevada.com
Attorney for Stanley S. Jaksick

Mark J. Connot, Esq.
Fox Rothschild LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135
Email: mconnot@foxrothschild.com
Attorney for Respondent Wendy A. Jaksick


by electronic email addressed to the above.

by personal delivery/hand delivery addressed to:

by facsimile (fax) addressed to:

by Federal Express/UPS or other overnight delivery addressed to:

DATED: This 3rd day of November, 2017.


V. JAYNE FERRETTO
Employee of Robison, Simons, Sharp & Brust

1 **CODE: 1290**

Philip L. Kreitlein, Esq.
2 Nevada Bar No. 5394
KREITLEIN LAW GROUP, LTD.
3 470 E. Plumb Lane, Suite 310
Reno, Nevada 89502
4 Telephone: (775) 786-2222
Attorneys for Stanley S. Jaksick

5
6 **IN THE SECOND JUDICIAL DISTRICT OF THE STATE OF NEVADA**
7 **IN AND FOR THE COUNTY OF WASHOE**

8 In the Matter of the Administration of the
9 Samuel J. Jaksick, Jr. Family Trust

Case No.: PR17-00446

Dept. No.: PR

10
11 **NOTICE OF ASSOCIATION OF COUNSEL**

12 **TO: ALL INTERESTED PARTIES AND THEIR ATTORNEYS:**

13 PLEASE TAKE NOTICE that Adam Hosmer-Henner, Esq., of McDONALD CARANO hereby
14 associates as counsel with Philip L. Kreitlein, Esq., of KREITLEIN LAW GROUP LTD., in the above-
15 entitled action for the representation of Stanley S. Jaksick.

16 Copies of notices, pleadings, and documents are to be served on both Philip L. Kreitlein, Esq.,
17 of KREITLEIN LAW GROUP, LTD., and Adam Hosmer-Henner, Esq., of McDONALD CARANO.

18 **AFFIRMATION PURSUANT TO NRS 239B.030**

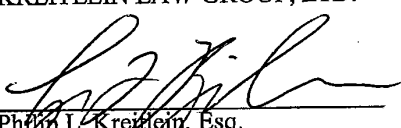
19 The undersigned does hereby affirm that the preceding document does not contain the social
20 security number of any person.


21 DATED this 2nd day of January, 2018.

DATED this 2 day of January, 2018.

22 KREITLEIN LAW GROUP, LTD.

McDONALD CARANO

23 
24 Philip L. Kreitlein, Esq.
25 Nevada State Bar No. 5394
470 E. Plumb Lane, Ste. 310
26 Reno, Nevada 89502
Telephone: (775) 786-2222
27 Attorney for Stanley S. Jaksick


Adam Hosmer-Henner, Esq.
Nevada State Bar No. 12779
100 West Liberty Street, 10th Floor
Reno, NV 89501
Telephone: (775) 788-2000
Attorney for Stanley S. Jaksick

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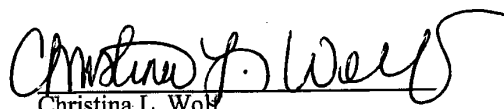
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Kreitlein Law Group, Ltd. and that on the 2nd day of January, 2018, I caused the foregoing document to be served on all parties to this action by:

- ☒ placing an original or true copy thereof in a sealed, postage prepaid, envelope in the United States mail at Reno, Nevada.
- ☐ facsimile (fax)
- ☐ personal delivery
- ☐ Overnight Delivery
- ☐ Reno Carson Messenger Service
- ☒ Clerk of the Court by using the electronic filing system

fully address as follows:

Kent Robison, Esq. Robison, Simons, Sharp & Low 71 Washington Street Reno, NV 89503	Mark J. Connot Rox Rothschild LLP 1980 Festival Plaza Drive, Suite 700 Las Vegas, NV 89135
Donald A. Lattin L. Robert LeGoy, Jr. Brian C. McQuaid Maupin, Cox & LeGoy 4785 Caughlin Parkway Reno, NV 89519	


Christina L. Wolf
An Employee of Kreitlein Law Group, LTD.

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

MARK J. CONNOT (10010)
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135
(702) 262-6899 telephone
(702) 597-5503 fax
mconnot@foxrothschild.com

and

R. Kevin Spencer (*PHV to be filed*)
Texas Bar Card No. 00786254
Zachary E. Johnson (*PHV to be filed*)
Texas Bar Card No. 24063978
Brendan P. Harvell (*PHV to be filed*)
Texas Bar Card No. 24083150

SPENCER LAW, P.C.
500 N. Akard Street, Suite 2150
Dallas, Texas 75201
kevin@spencerlawpc.com
zach@spencerlawpc.com
brendan@spencerlawpc.com

Attorneys for Respondent Wendy A. Jaksick

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

In the Matter of the Administration of the
SSJ's Issue Trust,

CASE NO.: PR17-00445
DEPT. NO. __

In the Matter of the Administration of the
Samuel S. Jaksick, Jr. Family Trust,

CASE NO.: PR17-00446
DEPT. NO. __

DEMAND FOR JURY TRIAL

Respondent Wendy A. Jaksick ("Wendy" or "Respondent"), by and through her attorneys of record, the law firm of Fox Rothschild LLP, in accordance with NRCP 38, hereby makes a demand for a trial by jury of all issues triable of right by a jury in the above-entitled action. With this demand, Respondent tenders the amount of \$320.00 in payment of the first day of jury fees.

AFFIRMATION STATEMENT

Pursuant to NRS 239B.030

The undersigned does hereby affirm that this *Demand for Jury* filed by Wendy A. Jaksick in the above-captioned matter does not contain the social security number of any person.

DATED this 3rd day of January, 2018.

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

and

SPENCER LAW, P.C.

R. Kevin Spencer (*PHV to be filed*)
Texas Bar Card No. 00786254
Zachary E. Johnson (*PHV to be filed*)
Texas Bar Card No. 24063978
Brendan P. Harvell (*PHV to be filed*)
Texas Bar Card No. 24083150
500 N. Akard Street, Suite 2150
Dallas, Texas 75201

Attorneys for Respondent Wendy A. Jaksick

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 3rd day of January, 2018, I caused the above and foregoing document entitled **RESPONDENT WENDY A. JAKSICK'S DEMAND FOR JURY** to be served as follows:

X service was made upon each of the parties, listed below, via electronic service through the Second Judicial District Court's Odyssey E-File and Serve system.

X by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or

- o pursuant to EDCR 7.26, to be sent via facsimile;
- o to be hand-delivered; and/or
- o via email.

to the attorney(s)/party(ies) listed below at the address indicated below:

Todd B. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Luke Jaksick c/o Wendy A. Jaksick P.O. Box 2345 Allen, Texas 75013
Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 89521	Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511
Alexi Smith 11 Bahama Court Mansfield, Texas 76063	Regan Jaksick Sydney Jaksick Sawyer Jaksick c/o Stanley S. Jaksick 8600 Technology Way, Ste. 110 Reno, Nevada 8952
Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519 <i>Attorneys for Petitioners</i>	Michael S. Kimmel, as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust c/o Maupin, Cox & LeGoy Donald A. Lattin, Esq. L. Robert LeGoy, Jr., Esq. Brian C. McQuaid, Esq. 4785 Caughlin Parkway Reno, Nevada 89519
Phil Kreitlein Kreitlein Law Group 470 E. Plumb Lane, #310 Reno, Nevada 89502 <i>Attorneys for Stan Jaksick and Michael S. Kimmel</i>	Ken R. Robison Robison, Belaustegui, Sharpe & Lowe 71 Washington Street Reno, Nevada 89503 <i>Attorneys for Todd B. Jaksick and Michael S. Kimmel</i>

/s/ Jacqueline Magee
An Employee of Fox Rothschild LLP

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 In the Matter of the:

Case No. PR17-00445

10 SSJ's ISSUE TRUST.
11 _____/

Dept. No. 15

12 In the Matter of the:

Case No. PR17-00446

13 SAMUEL S. JAKSICK, JR., FAMILY TRUST.
14 _____/

Dept. No. 15

15
16 **ORDER AFTER CASE MANAGEMENT CONFERENCE CONSOLIDATING CASES**

17 This matter came before this Court for a case management conference on January 4,
18 2018. Upon oral motion and stipulation of counsel, and because the above captioned cases
19 involve the same parties and questions of fact, consolidation is appropriate. Accordingly,
20 PR17-00446 is consolidated into PR17-00445. All further documents shall be filed solely in
21 PR17-00445.

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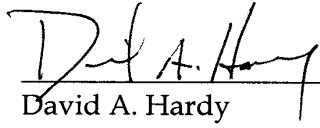
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1 Further, the parties stipulated to this Court having jurisdiction over the trusts,
2 Nevada law governing the administration of the trusts in all respects, confirmation of
3 Todd B. Jaksick, Stanley S. Jaksick, and Michael S. Kimmel as Co-Trustees of The Samuel S.
4 Jaksick, Jr. Family Trust, and confirmation of Todd B. Jaksick as Trustee of the SSJ's Issue
5 Trust.

6 **IT IS SO ORDERED.**

7 Dated: January 5, 2018.

8 
9 David A. Hardy
10 District Court Judge
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1 **CERTIFICATE OF SERVICE**

2 I certify that I am an employee of the Second Judicial District Court of the State of
3 Nevada, in and for the County of Washoe; that on the 5 day of January, 2018, I
4 electronically filed the foregoing with the Second Judicial District Court's electronic filing
5 system which will send a notice of electronic filing to the following:

6 PHILIP L. KREITLEIN, ESQ. for STANLEY JAKSICK

7 STEPHEN C. MOSS, ESQ. for STANLEY JAKSICK

8 ADAM HOSMER-HENNER, ESQ. for STANLEY JAKSICK

9 KENT RICHARD ROBISON, ESQ. for TODD B. JAKSICK

10 DONALD ALBERT LATTIN, ESQ. for TODD B. JAKSICK

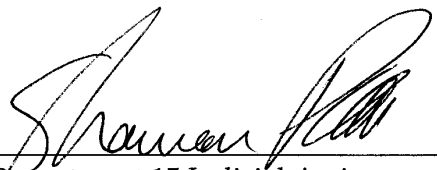
11 MARK J. CONNOT, ESQ. for WENDY A. JAKSICK

12 CAROLYN K. RENNER, ESQ. for TODD B. JAKSICK

13 BRIAN C. MCQUAID, ESQ. for TODD B. JAKSICK

14 Further, I certify that I deposited in the county mailing system for postage and
15 mailing with the U.S. Postal Service in Reno, Nevada, a true copy of the foregoing
16 addressed to:

17 N/A

18
19
20 
21 Department 15 Judicial Assistant
22
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PET

MARK J. CONNOT (10010)
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, NV 89135
(702) 262-6899 telephone
(702) 597-5503 fax
mconnot@foxrothschild.com
Attorneys for Respondent Wendy A. Jaksick

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

In the Matter of the Administration of the
SSJ'S ISSUE TRUST,

CASE NO.: PR17-00445
DEPT. NO. 15

In the Matter of the Administration of the
SAMUEL S. JAKSICK, JR. FAMILY TRUST,

Wendy Jaksick,

Respondent and Counter-Petitioner,

v.

Todd B. Jaksick, Individually, as Co-Trustee of the
Samuel S. Jaksick, Jr. Family Trust, and as Trustee
of the SSJ's Issue Trust, Michael S. Kimmel,
Individually and as Co-Trustee of the Samuel S.
Jaksick, Jr. Family Trust, and Stanley S. Jaksick,
Individually and as Co-Trustee of the Samuel S.
Jaksick, Jr. Family Trust, Kevin Riley, Individually
and as former Trustee of the Samuel S. Jaksick, Jr.
Family Trust and Trustee of the Wendy A. Jaksick
2012 BHC Family Trust,

Petitioners and Counter-
Respondents.

**COUNTER -PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY
DUTIES, FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT
TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF**

1 Counter-Petitioner Wendy A. Jaksick (“Wendy” or “Counter-Petitioner”) by and through her
2 attorneys of record, the law firm of Fox Rothschild LLP, complains against Petitioners and Counter-
3 Respondents and alleges as follows:

4 **PARTIES**

5 1. Counter-Petitioner Wendy A. Jaksick (“Wendy” or “Counter-Petitioner”) is an
6 individual who resides in Texas.

7 2. Counter-Respondent Todd B. Jaksick, in his Individual capacity (“Todd”), is an
8 individual who resides in Reno, Nevada.

9 3. Counter-Respondent Todd B. Jaksick, in his capacity as Co-Trustee of the Samuel S.
10 Jaksick, Jr. Family Trust (“Family Trust Co-Trustee Todd”), resides in Reno, Nevada.

11 4. Counter-Respondent Todd B. Jaksick, in his capacity as Trustee of the SSJ’s Issue Trust
12 (“Issue Trust Trustee”), resides in Reno, Nevada.

13 5. Counter-Respondent Michael S. Kimmel, in his Individual capacity (“Michael”), is an
14 individual who resides in Reno, Nevada.

15 6. Counter-Respondent Michael S. Kimmel, in his capacity as Co-Trustee of the Samuel
16 S. Jaksick, Jr. Family Trust (“Family Trust Co-Trustee Michael”), resides in Reno, Nevada.

17 7. Counter-Respondent Stanley S. Jaksick, in his Individual capacity (“Stanley”), is an
18 individual who resides in Reno, Nevada.

19 8. Counter-Respondent Stanley S. Jaksick, in his capacity as Co-Trustee of the Samuel
20 S. Jaksick, Jr. Family Trust (“Family Trust Co-Trustee Stanley”), resides in Reno, Nevada.

21 9. Kevin Riley, Individually (“Kevin”), is an individual who resides in Sacramento,
22 California.

23 10. Kevin Riley, as former Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust (“Former
24 Family Trust Co-Trustee”), is an individual who resides in Sacramento, California.

11. Kevin Riley, as Trustee of the Wendy A. Jaksick 2012 BHC Family Trust (“BHC Trustee Kevin”), is an individual who resides in Sacramento, California.

12. Family Trust Co-Trustee Todd, Family Trust Co-Trustee Michael and Family Trust Co-Trustee Stanley shall collectively be referred to herein as the “Family Trust Co-Trustees”.

13. Family Trust Co-Trustees, Former Family Trust Trustee, Issue Trust Trustee and BHC Trust Trustee shall collectively be referred to herein as the “Trustees”.

14. Todd, Family Trust Co-Trustee Todd, Issue Trust Trustee, Michael, Family Trust Co-Trustee Michael, Stanley, Family Trust Co-Trustee Stanley, Kevin, Former Family Co-Trustee and BHC Trustee Kevin shall collectively be referred to herein as the “Counter-Respondents”.

15. The Court has proper venue pursuant to NRS 13.040.

INTERESTED PERSONS – THE FAMILY TRUST

16. The following individuals interested in the Samuel S. Jaksick, Jr. Family Trust are entitled to notice of this *Complaint*:

Name & Address	Age	Interest
Todd B. Jaksick 8600 Technology Way, Ste 110 Reno, Nevada 89521	Adult	Co-Trustee & Beneficiary
Michael S. Kemmel, Esq. Hoy Chrissinger Kimmel Vallas 50 West Liberty Street, Ste 840 Reno, Nevada 89501	Adult	Co-Trustee
Stanley S. Jaksick 8600 Technology Way, Ste 110 Reno, Nevada 89521	Adult	Co-Trustee & Beneficiary
Wendy A. Jaksick c/o R. Kevin Spencer Spencer Law, P.C. 500 N. Akard Street, Ste 2150 Dallas, Texas 75201	Adult	Beneficiary

Kevin Riley, Trustee of the Samuel S. Jaksick, Jr. Irrevocable Grandchild Trust No. 1 Rossmann MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, California 95821	Adult	Beneficiary
Kevin Riley, Trustee of the Samuel S. Jaksick, Jr. Irrevocable Grandchild Trust No. 2 Rossmann MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, California 95821	Adult	Beneficiary
Kevin Riley, Trustee of the Samuel S. Jaksick, Jr. Irrevocable Grandchild Trust No. 3 Rossmann MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, California 95821	Adult	Beneficiary
Kevin Riley, Trustee of the Samuel S. Jaksick, Jr. Irrevocable Grandchild Trust No. 4 Rossmann MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, California 95821	Adult	Beneficiary
Alexi Smrt 11 Bahama Court Mansfield, Texas 76063	Adult	Presumptive Remainder Beneficiary
Luke Jaksick c/o Wendy A. Jaksick c/o R. Kevin Spencer Spencer Law, P.C. 500 N. Akard Street, Ste 2150 Dallas, Texas 75201	Minor	Presumptive Remainder Beneficiary
Benjamin Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Minor	Presumptive Remainder Beneficiary

Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Minor	Presumptive Remainder Beneficiary
Regan Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Presumptive Remainder Beneficiary
Sydney Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Presumptive Remainder Beneficiary
Sawyer Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Presumptive Remainder Beneficiary

INTERESTED PERSONS – THE ISSUE TRUST

17. The following individuals interested in the SSJ's Issue Trust are entitled to notice of this *Complaint*:

Name & Address	Age	Interest
Todd B. Jaksick 8600 Technology Way, Ste 110 Reno, Nevada 89521	Adult	Trustee & Beneficiary
Stanley S. Jaksick 8600 Technology Way, Ste 110 Reno, Nevada 89521	Adult	Beneficiary
Wendy A. Jaksick c/o R. Kevin Spencer Spencer Law, P.C. 500 N. Akard Street, Ste 2150 Dallas, Texas 75201	Adult	Beneficiary
Alexi Smrt 11 Bahama Court Mansfield, Texas 76063	Adult	Beneficiary

1 2 3 4	Luke Jaksick c/o Wendy A. Jaksick c/o R. Kevin Spencer Spencer Law, P.C. 500 N. Akard Street, Ste 2150 Dallas, Texas 75201	Minor	Beneficiary
5 6 7	Benjamin Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Minor	Beneficiary
8 9 10	Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Minor	Beneficiary
11 12 13	Regan Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Beneficiary
14 15 16	Sydney Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Beneficiary
17 18	Sawyer Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Beneficiary

THE FAMILY TRUST

18. The Samuel S. Jaksick, Jr. Family Trust Agreement (As Restated) (the “Restated Family Trust Agreement”) establishing The Samuel S. Jaksick, Jr. Family Trust (the “Family Trust”) was executed by Samuel S. Jaksick, Jr. on June 29, 2006. *Please see a copy of the Family Trust attached as Exhibit “I” to the Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other Trust Administration Matters, which was originally filed in Cause No.PR17-00445 (the “Petition for Confirmation in Cause No.PR17-00445”).*

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1 22. Samuel S. Jaksick, Jr. Samuel S. Jaksick, Jr. ("Samuel") was a native Nevadan who
2 had a gift for finding and capitalizing on business and real estate opportunities in Nevada. Samuel's
3 success and reputation were due in large part to the prosperous and well known planned communities
4 he developed throughout Nevada. Over the course of his life, Samuel amassed a substantial amount
5 of wealth, real estate and other property rights.

6 23. During his life, Samuel was married three times. His first marriage was to Gwendolyn
7 Jaksick and that marriage ended in divorce. During his marriage to Gwendolyn, Samuel had three (3)
8 children Stanley S. Jaksick ("Stanley"), Todd B. Jaksick ("Todd") and Wendy A. Jaksick ("Wendy").
9 Samuel's second marriage was to Rebecca Porter and that marriage ended in divorce; no children were
10 born of this marriage. Samuel's final marriage was to Janene Jaksick ("Janene"). Samuel's final
11 marriage ended when he predeceased Janene, by approximately a year and a half. Samuel and Janene
12 did not have any children together.

13 24. Samuel loved his wife, Janene, children and grandchildren very much. He supported
14 them throughout their lives and always made it clear he intended to support them when he passed. He
15 was also very proud of the property and wealth he had acquired and intended that his family enjoy and
16 benefit from that property for generations. Samuel engaged in Estate planning and the creation and
17 funding of two primary (2) trusts to accomplish his objectives.

18 25. The Samuel S. Jaksick, Jr. Family Trust. Samuel executed The Samuel S. Jaksick, Jr.
19 Family Trust Agreement (As Restated) (the "Family Trust Agreement") establishing The Samuel S.
20 Jaksick, Jr. Family Trust (the "Family Trust") on June 29, 2006. The Family Trust was funded with a
21 significant amount of property at the time it was created.

22 26. The purpose of the Family Trust was to provide for Samuel during his life and, upon
23 his death, to provide for his wife through the funding of a Marital Trust and his children through the
24 funding of a Decedent's Trust. The Decedent's Trust essentially provides each of Samuel's children
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1 a one-third interest in the Decedent's Trust and for the distribution of income and principal for his
2 children's health, education, support and maintenance.¹ The Decedent's Trust also provides for
3 discretionary distributions of certain principal for the health, education, support and maintenance of
4 his grandchildren.² However, Samuel's primary intent and purpose to provide for his children is made
5 clear by the Family Trust, which provides "the primary concern of the Grantor is the proper health,
6 education, support, and maintenance of the Beneficiary, and the interest of the other beneficiaries in
7 the trust are to be subordinate to those of the Beneficiary."³
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9 27. Samuel was designated as the initial Trustee of the Family Trust.⁴ If at any time Samuel
10 failed to serve as Trustee and failed to appoint a successor trustee, the Family Trust provides that
11 Stanley, Todd and another person designated in the Family Trust were to serve as Co-Trustees.⁵
12

13 28. The Purported Second Amendment to the Family Trust. On December 10, 2012,
14 Samuel S. Jaksick, Jr. purportedly executed the Purported Second Amendment to the Family Trust
15 (the "Purported Second Amendment"). Although the Purported Second Amendment was allegedly
16 executed in 2012, Wendy was not aware of its existence until it was produced to her after she retained
17 counsel in 2016. The Purported Second Amendment, like many other documents created during
18 Todd's involvement with Samuel's Trusts and various businesses, came out of nowhere and is contrary
19 to Samuel's intent concerning Wendy as expressed by Samuel over the years.
20

21 29. Based on Wendy's understanding of Samuel's intent, she does not believe Samuel
22 would have or did sign the Purported Second Amendment. Based on information and belief, it is
23 Wendy's understanding that Samuel's secretary often signed Samuel's name on documents when
24 Samuel was not present, and Todd or someone on Todd's behalf signed Wendy's and her daughter's
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26 ¹ Paragraphs D.4. and F.1. of Article II of the Family Trust Agreement.

27 ² Paragraph F.2. and F.1. of Article II of the Family Trust Agreement.

28 ³ Paragraph F.2. of Article II of the Family Trust Agreement.

⁴ Paragraph A. of Article IV of the Family Trust Agreement.

⁵ *Id.*

1 name on documents related to the Trusts. Additionally, there are numerous documents related to the
2 Trusts, the administration of the Trusts and Samuel's businesses that Wendy believes Todd
3 manufactured after the fact to suit his needs. Accordingly, based upon information and belief, Wendy
4 believes the Purported Second Amendment may be invalid and she may contest it. However, at this
5 time, Wendy does not have sufficient information to proceed with a contest of the Purported Second
6 Amendment. Wendy reserves the right to amend this *Counter-Petition* to contest the validity of the
7 Purported Second Amendment once she obtains information necessary to fully evaluate such claim.

8
9 30. The SSJ's Issue Trust. Samuel executed The SSJ's Issue Trust Agreement (the "Issue
10 Trust Agreement") establishing The SSJ's Issue Trust (the "Issue Trust") on February 21, 2007.
11 Wendy disputes the validity of the documents attached to the version of the Trust Agreement attached
12 as *Exhibit "I"* to the *Petition for Confirmation in Cause No. PR17-00445* which purport to contain a
13 description of the properties or purports to contain an accurate description of the properties and the
14 diagrams of same attached to the Trust agreement.

15
16 31. The purpose of the Issue Trust was to hold, protect, and preserve family real estate for
17 the use and enjoyment of Samuel and his family for many generations.⁶ The terms of the Issue Trust
18 provide for the use of the trust property by Samuel's issue, but prohibit the distribution of the income
19 or principal from the Issue Trust until the earlier of such time as all of Samuel's issue are deceased or
20 the expiration of Nevada's perpetuity period (which is currently 365 years).⁷ Samuel intended the
21 Issue Trust hold, protect and preserve important existing family property such as the approximately
22 20,000 acres of property known as the 49 Mountain Ranch. But Samuel also intended that the Issue
23 Trust purchase and maintain homes for each of his children. Samuel maintained one or more
24 substantial life insurance policies payable to the Issue Trust to fulfill its purpose and his intent. At the
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27 _____
28 ⁶ Paragraph B. of Article II of the Issue Trust Agreement.

⁷ Paragraphs B.3. and B.4. of Article II of the Issue Trust Agreement.

1 time of Samuel's death, the Issue Trust was beneficiary of a life insurance policy insuring Samuel's
2 life in the amount of \$6 million.

3 32. Todd was designated to serve as the sole Trustee of the Issue Trust ("Issue Trustee")⁸
4 and has served in that capacity since the Issue Trust was established in February 2007.

5 33. Samuel died in a tragic accident on April 21, 2013.

6 34. As a result of Samuel's death, Todd, Stanley and Kevin Riley ("Kevin") were appointed
7 and served as Co-Trustees of the Family Trust. On July 31, 2013, Kevin purportedly resigned as Co-
8 Trustee and Todd and Stanley served as two Co-Trustees until December 2016, when Todd
9 purportedly appointed Michael S. Kimmel ("Michael") to serve as the third Co-Trustee under the
10 authority of the Purported Second Amendment. Interestingly, Todd's appointment was made not long
11 after the Purported Second Amendment surfaced for the first time. Todd, Stanley and Michael shall
12 be known herein as the "Family Trust Co-Trustees".
13

14 35. The Family Trust Co-Trustees and the Issue Trustee have refused to keep Wendy
15 informed and failed to fully disclose to her information concerning the assets and property of the
16 respective Trusts, their administration of the respective Trusts and the transactions they were
17 conducting on behalf of the respective Trusts. The Family Trust Co-Trustees and Issue Trustee used
18 their positions to control and utilize the assets and property of the respective Trusts for their personal
19 benefit at the expense of the Trusts, Wendy and Wendy's interest in the Trusts. As a result of such
20 actions and breaches of fiduciary duties, Wendy was forced to retain counsel to attempt to compel the
21 Family Trust Co-Trustees and Issue Trustee to comply with the obligations and fiduciary duties under
22 the Trust, to keep Wendy informed about the Trusts and their actions as Trustees, to fully disclose and
23 to stop self-dealing
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25 36. The Lake Tahoe Property. In the 1970s, Samuel acquired the lakefront property on
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28 ⁸ Paragraph A. of Article IV of the Issue Trust Agreement.

1 Lake Tahoe located at 1011 Lakeshore Blvd., Incline Village, Nevada 89451 (the "Tahoe Property").
2 The Tahoe Property was Samuel's main residence until his death. Wendy and Stanley were raised in
3 the house during the 1980s before they left for college. When Samuel executed the Family Trust, the
4 Tahoe Property was listed on Schedule A as property initially conveyed to the Trust.⁹ The terms of
5 the Family Trust specifically address the Tahoe Property and Samuel's intention that the Tahoe
6 Property be retained and administered as a separate trust for the benefit of his wife and children.¹⁰ In
7 this respect the Family Trust provides as follows:

8
9 The Lake Tahoe Residence and Residential Funds shall be retained and
10 administered as a separate trust for the benefit of the Surviving Spouse
11 and the Grantor's children who are living on the date of death of the
12 Grantor and shall be held, administered, and distributed as hereafter
13 provided.

14 On the death of the Grantor, ... [a]t the expiration of the six (6) month
15 period set forth in the preceding sentence, the Surviving Spouse and
16 each of the Grantor's living children shall have the right to use and
17 occupy the Lake Tahoe Residence, rent free, for such equal periods
18 throughout each calendar year ... until such time as the Lake Tahoe
19 Residence is sold.¹¹

20 The Family Trust further provided that upon the sale of the Tahoe Property, the sales proceeds shall
21 be divided in three (3) equal shares for the benefit of his children. It was clear Samuel intended that
22 all his children would benefit equally from the use of the Tahoe Property while it was administered as
23 an asset of the Trust and from the proceeds upon its sale.

24 37. On December 5, 2011, the Tahoe Property was apparently transferred from the Family
25 Trust to SSJ, LLC, a single member limited liability company wholly owned by Samuel. Just over a
26 year later, on December 28, 2012, Todd, as Manager of SSJ, LLC, signed and recorded a purported
27 Grant, Bargain and Sale Deed purportedly transferring the Tahoe Property to Incline TSS, Ltd. This

28 ⁹ Schedule A of the Family Trust Agreement.

¹⁰ Paragraphs D.2.a. and G. of Article II of the Family Trust Agreement.

¹¹ Paragraphs G. and G.1. of Article II of the Family Trust Agreement (emphasis added).

1 was done just days after Samuel had open heart surgery in Los Angeles, California and while he was
2 still in the hospital there. Wendy believes the purported transfer to of the Tahoe Property to Incline
3 TSS, Ltd. may be invalid and she may contest such transfer, but does not have the information at this
4 point to make such determination. Wendy reserves the right to contest this transfer as she obtains
5 additional information through.

6 38. At some point, Todd and his family purportedly acquired a forty-six percent (46%)
7 interest in the Tahoe Property. The Tahoe Property was worth approximately \$15 million at the time
8 of Samuel's death. To acquire a nearly fifty percent (50%) interest in the Tahoe Property would have
9 required Todd and his family to make a substantial payment and no such payment was ever made.
10 Additionally, transferring an interest in the Tahoe property to Todd and his children was contrary to
11 Samuel's intention for the property and does not make any sense. Samuel included specific provisions
12 in the Family Trust to protect and preserve the Tahoe Property for use by his wife and all his children
13 so that all of his children would benefit from the property equally. It is clear that Todd simply took
14 the interest in the Tahoe Property for himself and his family. Accordingly, Wendy contests and
15 disputes that Todd and his family validly acquired and own forty-six percent (46%) of the Tahoe
16 Property and disputes and contests the validity of any records that purport to establish such ownership.

17 39. When Samuel died just four (4) months after the purported transfer of the Tahoe
18 Property to Incline TSS, Ltd., Todd realized he could not or did not want to make his and his families'
19 portion of the payments owed on the approximately \$6 million loan on the Tahoe Property. As a
20 result, Todd came up with a scheme to pay down the debt with the funds from the \$6 million life
21 insurance policy payable to the Issue Trust. The day after Samuel died, Todd approached Stanley and
22 Wendy and told them they should agree to use the \$6 million in insurance proceeds payable to the
23 Issue Trust to pay down the Tahoe Property loan. Todd represented to Stanley and Wendy that paying
24 down the debt would benefit all three of them as owners of the property. Stanley and Wendy were led
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1 to believe that the three of them would own equal interests in the Tahoe Property after the paydown
2 of the debt. Todd never disclosed to Stanley and Wendy that he and his family had acquired an interest
3 in the Tahoe Property and it was no longer wholly owned by the Family Trust. As a result, Stanley
4 and Wendy signed a consent agreeing to Todd's proposal.

5 40. Stanley and Wendy later discovered that Todd and his family apparently, directly or
6 indirectly, acquired the forty-six percent (46%) interest in the Tahoe Property and that the Issue Trust
7 owned the remaining fifty-four percent (54%). If Todd and his family did own forty-six percent (46%)
8 of the Tahoe Property and had Todd been forthright and not misleading about it, Wendy, and
9 presumably Stanley, would have never agreed to Todd's proposal to pay down the Tahoe Property
10 loan with the insurance proceeds from the Issue Trust. Under such circumstances, paying down the
11 Tahoe Property debt only benefits Todd and his family while harming Stanley and Wendy. Todd and
12 his family received the benefit of the debt reduction on their interest in the property without having to
13 contribute any funds to pay down the debt.
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15 41. Meanwhile, Wendy and Stanley lost the benefit and use of the \$6 million in life
16 insurance proceeds. The debt payment eliminated the \$6 million in liquidity Samuel intended the
17 Issue Trust use to purchase, own and maintain houses and other property for his children during their
18 lifetimes. Wendy's and Stan's and the family's use of the Tahoe Property is subject to the total and
19 absolute control of Todd as purported part owner and sole Trustee of the remaining ownership interest.
20 Retaining the \$6 million in insurance funds in the Issue Trust for the benefit of all three children was
21 in the best interest of Stanley and Wendy, not paying towards the debt on a property over which Todd
22 claims control. Distributing such funds to pay down the Tahoe Property debt was only in the best
23 interest of Todd and his family and just another instance of Todd's efforts to gain personally at the
24 expense of Wendy and Stanley and completely contrary to the intent of the Decedent. Additionally,
25 Todd was and is now in complete control of the Tahoe Property, by the forty-six percent (46%) interest
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1 he allegedly purportedly acquired and because he was and is the sole Trustee of the portion of the
2 property not owned by him and his family. Todd, as the sole Trustee of the Issue Trust, breached his
3 fiduciary duties to Wendy and Stanley as beneficiaries of the Issues Trust.

4 42. Wendy admits that she and Stanley signed a consent allowing the use of the \$6 million
5 in insurance proceeds, but first, the consent they signed was the result of misrepresentations and fraud
6 by Todd and possibly others and, second, the consent they signed is not the purported consent attached
7 to *Exhibit "7"* to the *Petition for Confirmation in Cause No. PR17-00446*. Whatever consent Stanley
8 and Wendy signed was based on representations made by Todd that were false and were made to
9 induce Stanley and Wendy to agree to the proposed debt payment and should be found invalid, ab
10 initio, and set aside.

12 43. The Purported Indemnification Agreements. Samuel S. Jaksick, Jr., Individually as
13 Trustee of the Family Trust, and on behalf of his representative, executors, trustees, successors and
14 assigns and Todd B. Jaksick and Dawn Jaksick, Individually, TBJ SC Trust and TBJ Investment Trust,
15 and on behalf of their representatives, executors, trustees, successors and assigns purportedly executed
16 the Indemnification and Contribution Agreement on January 1, 2008 (the "Purported
17 Indemnification"). A copy of the purported Indemnification Agreement is attached as *Exhibit "10"*
18 to the *Petition for Confirmation in Cause No. PR17-00445*. Although the Purported Indemnification
19 was allegedly created and executed in 2008, and requires Samuel and the Family Trust to pay and
20 indemnify Todd individually for various obligations of Todd, the Family Trust and family businesses,
21 no one was aware of the existence of the Purported Indemnification until Todd produced it
22 approximately two (2) years after Samuel's death, when it became convenient for Todd to attempt to
23 explain, allow or exonerate his bad acts or bogus payments to himself or his avoidance of his
24 obligations and expenses. If such an agreement existed prior to Todd producing it, Stanley, Wendy,
25 the attorneys for the Trusts and the accountant would have known about it and Todd's reliance on it
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1 long before Todd produced it. Wendy contends that the Purported Indemnification is invalid because
2 it was forged, altered or manufactured by Todd and possibly others and contests same and contends it
3 is not binding on anyone or the Family Trust. Wendy also contests all transactions that occurred or
4 obligations Todd avoided as a result of the Purported Indemnification as such are invalid and should
5 be set aside or, in the case of obligations Todd avoided, such obligations should be enforced.

6 44. It appears Todd manufactured the purported Indemnification Agreement and is using
7 it to pay off any obligations he incurs in relation to the Trusts in addition to his personal obligations.
8 The purported Indemnification Agreement attached as *Exhibit "10"* to the *Petition for Confirmation*
9 *in Cause No. PR17-00445* has, apparently, been used by Todd and his family to fund his lifestyle, and
10 includes the payment by the Family Trust of personal obligations of Todd including, but not limited
11 to the following:
12

- 13 a. Home Loan – WAMU: Mortgage Loan for 4505 Alpes Way in favor of Wells Fargo in
14 the original principal amount of \$1,435,000.00 with monthly payments of \$7,281.67
15 with Todd, individually, as the 100% responsible party;
16
17 b. Line of Credit: Home Equity in favor of Wells Fargo: The original principal amount of
18 \$485,000.00 with approximate monthly payments of \$1,400.00 with Todd,
19 individually, as the 100% responsible party;
20
21 c. Mortgage Construction Loan in Favor of First Independent Bank: The original principal
22 amount of \$3,060,000.00 with monthly payment on the 1st of each month of \$5,774.00
23 with maturity date of August 1, 2008, with Todd, individually, as the 100% responsible
24 party; and
25
26 d. Cadillac automobile loan: Note in favor of GMAC in the original principal amount of
27 \$33,600.00 with monthly payments of \$700.00 due on the 20th of each month with
28 maturity date of May 20, 2010, with Todd, individually, as the 100% responsible Party.

1 The Purported Indemnification Agreement attached as *Petition for Confirmation in Cause No. PR17-*
2 *00445* further indicates that all of these personal obligations have been paid off. Accordingly, Todd
3 appears to be relying on the Purported Indemnification as authority to use the Family Trust as his
4 personal piggybank at the expense of the Family Trust and the beneficiaries. Todd never bothered in
5 any capacity to inform Wendy of any such transactions prior to them occurring. These were all Todd's
6 transactions by Todd that materially affected the interest of Wendy and Stanley.

7
8 45. Additionally, based on information and belief, Todd appears to be acquiring property
9 of the Trusts, directly or indirectly, and paying for such property with a note instead of cash. Todd
10 then, apparently, uses the Purported Indemnification to avoid the obligation to repay the note,
11 ultimately acquiring the property without ever paying for it or forcing the Family Trust to pay for it.
12 Based on information and belief, it appears Todd used this scheme when he acquired Samuel's cattle
13 after his death. Based on information and belief, it also appears Todd has acquired other trust property,
14 including valuable water rights, this way, sold the property to third-parties and then avoided or
15 cancelled the note he used to acquire the property and retained the money he received from the sale to
16 the third-party.
17

18 46. Wendy was very recently informed that an alleged Indemnification and Contribution
19 Agreement similar to Todd's may have been executed in favor of Stanley ("Stanley's Purported
20 Indemnification"). Because Wendy believes that she and other family members would have been
21 aware of any such indemnity agreement long before now, pending the discovery of additional
22 information concerning same, Wendy contends any such Indemnity Agreement is invalid and contests
23 same.
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25 47. Sale of Bright Holland, Co. Property. In 2016, Todd negotiated the sale of certain
26 property owned by Bright Holland, Co. known as the Fly Ranch (the "Fly Ranch Property") to the
27 Burning Man Project. It is believed that Fly Ranch Property sold for \$6.5 million. Wendy was never
28

1 informed concerning the proposed sale and only learned of the sale when she read about it in the news.
2 Wendy was told she has a thirteen percent (13%) interest in Bright Holland through her interest in the
3 Wendy A. Jaksick 2012 BHC Family Trust, which was apparently established by Samuel on December
4 17, 2012 (the "BHC Family Trust"). At the time the BHC Family Trust was created, it was funded
5 with thirteen shares of Bright Holland, Co. stock accordingly to the trust agreement's schedule of
6 assets. It is Wendy's understanding that similar trusts were established for Todd and Stanley, and each
7 child had an equal amount of shares and interest in Bright Holland, Co.
8

9 48. Despite the substantial amount of funds received by the sale of the Fly Ranch Property,
10 the Trustee of the BHC Family Trust refused and continues to refuse to use any of the funds for
11 Wendy's benefit despite repeated requests by Wendy for distributions needed for her and her family's
12 living expenses. Instead, Wendy was told the proceeds from the sale would be held in escrow for the
13 potential purchase of replacement property or would be used to pay down debt. Apparently, Todd
14 made the decision that no funds would be distributed to or for Wendy's benefit from the sale despite
15 his awareness that Wendy desperately needed the funds for her and her family's living expenses. The
16 is consistent with and appears to be a part Todd's ongoing efforts and his scheme to minimize
17 distributions to Wendy in order to starve her and her family and force her to agree to a settlement of
18 her interests in the Trusts for substantial discounted sum. Todd clearly let his personal disdain for
19 Wendy and her family in his Individual capacity taint his judgment and ability to act in Wendy and
20 her family's best interest as her Trustees; and irreconcilable conflict of interest and bias. Additionally,
21 Kevin, in his Individual and Trustee capacities, has simply followed Todd's lead and failed to act in
22 Wendy's best interest.
23

24
25 49. Sale of Bronco Billy's Casino. Based information and belief, Samuel, through the
26 Family Trust, owned an eighteen percent (18%) interest in Bronco Billy's Casino ("Bronco Billy's").
27 In 2015, Bronco Billy's was apparently sold for approximately \$30 million, netting approximately
28

1 \$5.4 million for the Family Trust's interest. Wendy expected her share of the Family Trust would
2 substantially benefit from its one-third interest in the sale proceeds. However, despite Samuel's
3 interest being held in the Family Trust, it was represented to Wendy that she and her share of the
4 Family Trust did not have an interest in Bronco Billy's. Instead, apparently Todd and Stanley, directly
5 or in trust, each owned fifty percent (50%) of Samuel's interest in Bronco Billy's at the time of the
6 sale. When Wendy complained about the Bronco Billy's transaction, she was told she did not have an
7 interest in Bronco Billy's and she and her share of the Family Trust were not entitled to any of the
8 proceeds of the sale because she did not have a gaming license from the Colorado Division of Gaming;
9 a ridiculous response. In essence, Todd and Stanley stole Wendy's interest in the Trust and, in turn,
10 in the sale proceeds from Bronco Billy's.
11

12 50. This explanation makes no sense unless Samuel's eighteen percent (18%) interest in
13 Bronco Billy's was transferred out of the Family Trust to Todd and Stanley before the sale. If the sale
14 occurred while the interest was held in Trust, the proceeds of the sale would be paid to the Trust and
15 equally apportioned between the children's share of the Trust, without regard to any Colorado gaming
16 license. The Family Trust owned the interest in Bronco Billy's and would have received the proceeds
17 of the sale, not Wendy in her individual capacity; accordingly, there would be no reason Wendy or
18 any of them would need a gaming license. If, however, the interest was transferred out of the Family
19 Trust before the sale, then Todd and Stanley would have wrongly received a substantial benefit from
20 the Family Trust at the expense of Wendy's interest. Todd and Stanley could not have ended up with
21 one-hundred percent (100%) ownership in the interest in Bronco Billy's without wrongfully taking
22 Wendy's share of the Trust. They had to take her interest away from her without telling her. Such
23 action by the Co-Trustees would be a, per se, breach of the Trust Agreement and a breach of their
24 fiduciary duties to Wendy, unless her share of the Trust received other property in an amount equal in
25 value and liquidity.
26
27
28

1 51. Despite Wendy's requests, Co-Trustees have further breached their fiduciary duties to
2 Wendy by refusing to provide her with full disclosure and an accounting concerning the Bronco Billy's
3 transaction. She still does not know all of the details of the sale and the transaction. Wendy has never
4 received confirmation of what happened to the Family Trust's interest in Bronco Billy's or that her
5 share of the Family Trust was made whole as a result of the Bronco Billy's sale, and, therefore,
6 reasonably believes that it was not made whole.

7 52. This transaction is perfect example of the Co-Trustees' continued efforts to manipulate
8 the Family Trust and its property and to use their position of authority and control over same for their
9 personal benefit at the expense of the Trust, the beneficiaries of the Trust and, particularly, at the
10 expense off Wendy and her family. It is also consistent with and appears to be a part of the Co-
11 Trustees' ongoing scheme to minimize distributions to Wendy in an effort to force her to agree to
12 settle her interest in the Trusts.
13

14 53. The Purported Second Amendment to the Family Trust. On December 10, 2012,
15 Samuel S. Jaksick, Jr. purportedly executed the Purported Second Amendment. Although the
16 Purported Second Amendment was allegedly executed in 2012, Wendy was not aware of its existence
17 until it was produced to her after she retained counsel in 2016. The Purported Second Amendment,
18 like many other documents created during Todd's involvement with Samuel's Trusts and various
19 businesses, came out of nowhere and is appears to be contrary to Samuel's intent concerning Wendy
20 as expressed by Samuel over the years.
21

22 54. Based on Wendy's understanding of Samuel's intent, she does not believe Samuel
23 would have or did sign the Purported Second Amendment. It is Wendy's understanding that Samuel's
24 secretary often signed Samuel's name on documents when Samuel was not present, and Todd or
25 someone on Todd's behalf signed Wendy's and her daughter's name on documents related to the
26 Trusts. Additionally, there are numerous documents related the Trusts, the administration of the Trusts
27
28

1 and Samuel's businesses Wendy believes Todd manufactured after the fact to suit his needs.
2 Accordingly, based upon information and belief, Wendy believes the Purported Second Amendment
3 may be invalid and she may contest it. However, at this time, Wendy does not have sufficient
4 information to proceed with a contest of the Purported Second Amendment. Wendy reserves the right
5 to amend this *Counter-Petition* to contest the validity of the Purported Second Amendment once she
6 obtains information necessary to fully evaluate such claim.

7 CAUSES OF ACTION

8 **Count 1: Breach of Fiduciary Duties.**

9
10 55. Wendy incorporates by reference the foregoing paragraphs 1 through 54 as if fully
11 stated herein.

12 56. "The fiduciary obligations of a trustee are great."¹² "Perhaps the most fundamental
13 duty of a trustee is that he must display throughout the administration of the trust complete loyalty to
14 the interests of the beneficiary and must exclude all selfish interest and all consideration of the interests
15 of third persons."¹³

16
17 57. In Nevada a "trustee is a fiduciary who must act in good faith and with fidelity to
18 the beneficiary of the trust. He should not place himself in a position where it would be for his
19 own benefit to violate his duty to the beneficiary."¹⁴ Said fiduciary duties, include, but are not
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25
26 ¹² *Riley v. Rockwell*, 103 Nev. 698, 701, 747 P.2d 903, 905 (1987).

27 ¹³ BOGERT, TRUSTS AND TRUSTEES § 543 (2d ed. 1992); *see also* 76 AM. JUR. 2D TRUSTS § 349 (2010) ("A
trustee is a fiduciary of the highest order and is required to exercise a high standard of conduct and loyalty in the
administration of the trust.").

28 ¹⁴ *Bank of Nevada v. Speirs*, 95 Nev. 870, 874, 603 P.2d 1074, 1077 (1979).

1 limited to, the duty of full disclosure,¹⁵ fidelity,¹⁶ fairness, loyalty, avoidance of self-dealing and
2 utmost good faith.

3 58. NRS 164.015(1) provides that "[t]he court has exclusive jurisdiction of
4 proceedings initiated by the petition of an interested person concerning the internal affairs of a
5 nontestamentary trust. Proceedings which may be maintained under this section are those
6 concerning the administration and distribution of trusts, . . . including petitions with respect to
7 a nontestamentary trust for any appropriate relief provided with respect to a testamentary trust
8 in NRS 153.031."

9
10 59. N.R.S. 153.031 provides that a "beneficiary may petition the court regarding any aspect
11 of the affairs of the trust, including: . . . (g) Instructing the trustee; (h) Compelling the trustee to report
12 information about the trust or account, to the beneficiary; . . . (q) Compelling compliance with the
13 terms of the trust or other applicable law; . . ."

14
15 60. Similarly, N.R.S. 163.115 provides that "[i]f a trustee commits or threatens to
16 commit a breach of trust, a beneficiary or cotrustee of the trust may maintain a proceeding for any
17 of the following purposes that is appropriate: (a) To compel the trustee to perform his or her duties;
18 (b) To enjoin the trustee from committing the breach of trust; . . . (f) to set aside the acts of the
19 trustee; . . ."

21 ¹⁵ See, e.g., *Blue Chip Emerald LLC*, 299 A.D.2d 278, 279 (N.Y. 2005) ("[W]hen a fiduciary, in furtherance of its
22 individual interests, deals with the beneficiary of the duty in a matter relating to the fiduciary relationship, the
23 fiduciary is strictly obligated to make 'full disclosure' of all material facts."). See also *Zastrow v. Journal*
Communications, Inc., 718 N.W.2d 51, 61 (Wis. 2006) ("[I]f a trustee does not make a full disclosure of material
24 facts to a beneficiary, that conduct is a breach of the trustee's duty of loyalty. . . The law concludes this breach is
25 intentional."); *Flippo v. CSC Associates III, L.L.C.*, 547 S.E.2d 216, 222 (Va. 2001) (Even if a fiduciary's actions are
26 legal, he is in breach when his legal actions are for his own benefit and not for the beneficiary); *Taylor v. Nationsbank*
Corp., 481 S.E.2d 358, 361 (N.C. Ct. App. 1997) (Found many courts "have determined that a trustee has a duty of
full disclosure of all material facts for the protection of a beneficiary's present and future interests in the trust.")
(citations omitted); *Huie v. DeShazo*, 922 S.W.2d 920, 923 (Tex. 1996) (Trustees owe beneficiaries "a fiduciary duty
of full disclosure of all material facts known to them that might affect [the beneficiaries'] rights.") (citations omitted);
Lind v. Webber, 134 P. 461, 466 (Nev. 1913).

27 ¹⁶ *Bank of Nevada*, 95 Nev. at 873, 603 P.2d at 1076 ("A testamentary trustee is a fiduciary who must act in good
28 faith and with fidelity to the beneficiary of the trust. He should not place himself in a position where it would be for
his own benefit to violate his duty to the beneficiary").

1 61. Moreover, a party who knowingly participates in another's breach of fiduciary duty
2 may be liable for breach as a joint tortfeasor.¹⁷ Indeed, trustees are liable to beneficiaries for the
3 actions undertaken by a co-trustee unless they expressly disavow in writing and/or attempt to prevent
4 such breach. See N.R.S. 163.100.

5 62. The Trustees breached their fiduciary duties owed to Wendy by failing to fully disclose
6 and inform Wendy of all matters that materially affected the Trusts and the beneficiaries at every step
7 of their administration of the Trusts, by failing to act in the best interest of the Trusts and their
8 beneficiaries, by placing their own interests over and above the interests of the Trusts and the
9 beneficiaries, by self-dealing, by not being truthful, by failing to act in good faith, by misrepresenting
10 beneficiaries, by deliberately withholding and refusing to provide information and documents, by failing to timely
11 and adequately account, by exhibiting extreme carelessness, hostility and bias towards Wendy and her
12 family and by acting in bad faith, intentionally and with reckless indifference to the interests of the
13 Trust and its beneficiaries and by misappropriating assets of the Trusts. Such breaches have caused
14 actual damages to the Estate and its beneficiaries.
15

16 63. At a minimum, Trustees breached the following duties: (i) duty of full disclosure, (ii)
17 duty of loyalty/fidelity, (iii) duty to not self-deal, (iv) duty of good faith and fair dealing and to not
18 take advantage of their beneficiaries and (v) misappropriation of trust assets
19

20 64. Accordingly, as a direct violation of the Trustees' breaches and conduct, Wendy is
21 entitled to surcharge the Trustees for damages resulting from such breaches and actions, the amount
22 of which will be proven at trial.¹⁸ The gamesmanship of the Trustees, and particularly Todd, and their
23

24 ¹⁷ See *Kinzbach Tool Co. v. Corbett-Wallace Corp.*, 160 S.W.2d 509, 514 (Tex. 1942) (A party who knowingly participates
25 in another's breach of fiduciary duty may be liable for the breach as a joint tortfeasor); RESTATEMENT (SECOND) OF
26 TRUSTS § 326 (1959) ("A third person who, although not a transferee of trust property, has notice that the trustee is
27 committing a breach of trust and participates therein is liable to the beneficiary for any loss caused by the breach of trust.");
BOGERT, TRUSTS AND TRUSTEES § 543 (2d ed. 1992) (Person who knowingly aids trustee in committing a breach
of his duties is liable to the beneficiary).

28 ¹⁸ See, e.g., RESTATEMENT (THIRD) OF TRUSTS § 70(b) (2007). See also *Pierce v. Lyman*, 3 Cal. Rptr. 2d 236, 241
(Cal. Ct. App. 1991) (Recognizing that "[t]he beneficiaries of a trust may sue a trustee to recover profits or recoup losses

1 complete disregard for Wendy, her rights, constitutes a breach of fiduciary duty, conspiracy and aiding
2 and abetting. Accordingly, Wendy is entitled to surcharge the Trustees for damages resulting from
3 such breaches and actions.

4 **Count 2: Failure to Disclose and Adequately Account to Compel Accounting.**

5 65. Wendy incorporates by reference the foregoing paragraphs 1 through 64 as if fully
6 stated herein.

7 66. The law clearly and unequivocally imposes a duty upon a trustee to provide clear and
8 accurate accounts with respect to his administration of the Trust to the Trust's beneficiaries. *See, e.g.,*
9 RESTATEMENT OF TRUSTS (Second) § 172. A beneficiary's right to an accounting is founded
10 upon the fiduciary relationship that exists between the beneficiaries and the trustee. Indeed, courts
11 recognize that:
12

13 As a general matter of equity, the existence of a trust relationship
14 is accompanied as a matter of course by the right of the beneficiary
15 to demand of the fiduciary a full and complete accounting at any
16 proper time. . . . The scope of each accounting depends of course
17 upon the circumstances of the individual case, and, as a general rule
should include all items of information in which the beneficiary has
a legitimate concern.

18 67. Pursuant to NRS 165.135, a trust accounting is required to contain the following
19 information:

20 1. An Account must include:

- 21 a. A statement indicating the accounting period;
22 b. With respect to the trust principal:
23 i. The trust principal held at the beginning of the accounting
24 period, and in what form held, and the approximate market value
25 thereof at the beginning of the accounting period;
26 ii. Additions to the trust principal during the accounting period,
with the dates and sources of acquisition;

27 _____
28 resulting from a trustee's breach of the duty of loyalty, the duty to avoid conflicts of interest, the duty to control and
preserve trust property, the duty to make trust property productive and the duty to dispose of improper investments).

- 1 iii. Investments collected, sold or charged off during the accounting
2 period;
3 iv. Investments made during the accounting period, with the date,
4 source and cost of each investment;
5 v. Any deductions from the trust principal during the accounting
6 period, with the date and purpose of each deduction; and
7 vi. The trust principal, invested or uninvested, on hand at the end of
8 the accounting period, reflecting the approximate market value
9 thereof at that time;
10 c. With respect to trust income, the trust income:
11 i. On hand at the beginning of the accounting period, and in what
12 form held;
13 ii. Received during the accounting period, when and from what
14 source;
15 iii. Paid out during the accounting period, when, to whom and for
16 what purpose; and
17 iv. On hand at the end of the accounting period and how invested;
18 d. A statement of unpaid claims with the reason for failure to pay them;
19 and
20 e. A brief summary of the account, which must include:
21 i. The beginning value of the trust estate:
22 a. For the first accounting, the beginning value of
23 the trust estate shall consist of the total of all
24 original assets contained in the beginning
25 inventory.
26 b. For accountings other than the first account, the
27 beginning value of the trust estate for the
28 applicable accounting period must be the ending
 value of the prior accounting.
 ii. The total of all receipts received during the accounting period,
 excluding capital items.
 iii. The total of all gains on sales or other disposition of assets, if
 any, during the accounting period.
 iv. The total of disbursements and distributions during the
 accounting period.
 v. The total of all losses on sales or other disposition of assets, if
 any, during the accounting period.
 vi. The total value of the trust assets remaining on hand at the end
 of the accounting period.

1 2. A summary of the account pursuant to paragraph (e) of subsection 1 must
2 be in substantially the following form:

3 ...

4 3. In lieu of segregating the report on income and principal pursuant to
5 subsection 1, the trustee may combine income and principal activity in the
6 account so long as the combined report on income and principal does not
7 materially impeded a beneficiary's ability to evaluate the charges to or
8 credits against the beneficiary's interest.

9 68. The Counter-Respondents have failed to fully disclose and account to Wendy for many
10 years. The purported "Trust Accountings" included with the *Petition for Confirmation in Cause*
11 *No.PR17-00445* and the *Petition for Confirmation in Cause No. PR17-00445* do not satisfy the
12 statutory requirements, and, as result, the Trustees have failed their obligations under Nevada law.
13 Additionally, it is impossible to evaluate and/or fully understand the Trust assets and Trust
14 administration without the records and information relied on to prepare the purported "Trust
15 Accountings."

16 69. Despite Wendy's objections to the "Trust Accountings" and the Trustees' failure to
17 provide her with the backup for the Trust Accountings, the Trustees have made no effort to amend or
18 supplement the accountings to comply with Nevada law or to provide Wendy with the support and
19 additional information necessary for Wendy to fully understand the Trust Accountings and the
20 Trustees' administration of the Trusts. As a result, Trustees have breached and continue to breach
21 their fiduciary duties of full disclosure and the resulting attorneys' fees and costs are damaging Wendy
22 and the Trusts.

23 70. The Trustees should be compelled to prepare and file accountings for each Trusts that
24 comply with the statute and provide Wendy and the other beneficiaries a full understanding of the
25 assets and administration of the Trusts. Additionally, the Trustees breaches of fiduciary duty of full
26 disclosure and to render proper statutory accountings for the Trusts, warrant this Court entering an
27 order surcharging the Trustees.
28

1 **Count 3: Civil Conspiracy and Aiding and Abetting.**

2 71. Wendy incorporates by reference the foregoing paragraphs 1 through 70 as if fully
3 stated herein.

4 72. "[C]ivil conspiracy is a combination of two or more persons who, by some
5 concerted action, intend to accomplish some unlawful objective for the purpose of harming another
6 which results in damage."¹⁹ "[L]iability attaches for civil aiding and abetting if the defendant
7 substantially assists or encourages another's conduct in breaching a duty to a third person."²⁰
8 Furthermore, NRS 163.110 holds trustees equally liable for actions of co-trustees.
9

10 73. Wendy asserts that the Trustees, acting in their Individual and Trustee capacities,
11 have conspired and/or aided and abetted the Trustees to the extent they undertook any actions,
12 which resulted in a breach of the Trustees' fiduciary duties. As a direct violation of the Trustees'
13 breach of fiduciary duties, the other Trustees, in their Trustee capacities or in their individual
14 capacities, are liable to Wendy for damages resulting from the Trustees' breaches, the amount of
15 which will be proven at trial.
16

17 74. To the extent Kevin claims he had resigned as Co-Trustee of the Family Trust or
18 the BHC Family Trust and was not serving as Trustee of these Trusts at the time any of the acts
19 complained of herein occurred is of no significance. Wendy asserts that the Trustees and Kevin,
20 acting as in his individual capacity, conspired and/or aided and abetted the Trustees to the extent
21 he undertook any actions, which resulted in a breach of the Trustees' fiduciary duties. Kevin, in
22 his individual capacity, is liable to Petitioner for damages resulting from the Trustees breaches,
23 the amount of which will be proven at trial.
24
25

26 _____
¹⁹ *Collins v. Union Federal Sav. & Loan Ass-n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983).

27 ²⁰ *Dow Chemical Co. v. Mahlum*, 114 Nev. 1468, 1490, 970 P.2d 98, 112 (1998), *disapproved on other grounds by GES,*
28 *Inc. v. Corbitt*, 117 Nev. 265, 21 P.3d 11 (2001).

1 75. For the additional reasons as set forth herein, the Trustees, in their Individual and
2 Trustee capacities, are further liable to Wendy for civil conspiracy and aiding and abetting, the amount
3 of damages, of which, will be proven at trial.

4 **Count 4: Aiding and Abetting Breaches of Fiduciary Duty.**

5 76. Wendy incorporates by reference the foregoing paragraphs 1 through 75 as if fully
6 stated herein.

7 77. The Trustees each had a fiduciary relationship with relationship, and owed fiduciary
8 duties to, Wendy.
9

10 78. The Counter-Respondents were aware of the fiduciary relationships each of the
11 Trustees had with Wendy as well as the fiduciary duties each of the Trustees owed to Wendy.

12 79. The Counter-Respondents knew or should have known that each of the Trustees
13 breached their fiduciary duties to Wendy.

14 80. The Counter-Respondents provided substantial assistance to each other in breaching
15 their fiduciary duties by, among other things, aiding, abetting, participating in and/or assisting with
16 their fraudulent actions/statements and other wrongful conduct.
17

18 81. The Counter-Respondents acted intentionally and/or in concert with each other to
19 provide substantial assistance in each Trustees' breaching of their fiduciary duties toward Wendy.

20 82. As a direct and proximate result of the actions of Counter-Respondents, Wendy has
21 been substantially damaged.
22

23 **Count 5: Actual Fraud.**

24 83. Wendy incorporates by reference the foregoing paragraphs 1 through 82 as if fully
25 stated herein.

26 84. The elements of intentional misrepresentation are: (1) A false representation made by
27 the defendant; (2) defendant's knowledge or belief that its representation was false or that defendant
28

1 has an insufficient basis of information for making the representation; (3) defendant intended to induce
2 plaintiff to act or refrain from acting upon the misrepresentation; and (4) damage to the plaintiff as a
3 result of relying on the misrepresentation.²¹

4 85. Todd, in his Individual and Trustee capacities, made material and intentional
5 misrepresentations to Wendy, which were false, which Todd knew were false when made, which were
6 intended to be acted upon by Wendy, were relied upon by Wendy and resulted in damages to Wendy.

7
8 86. Wendy has suffered injury and has been damaged by Todd's efforts, actions and
9 fraudulent conduct, and these damages were directly caused by such actions and due to Wendy's
10 reliance on Todd's misrepresentations and false representations. Todd, in his Individual and Trustee
11 capacities, should be held liable for all damages resulting therefrom.

12 87. The purported consent, in which Wendy and Stanley agreed to pay down the Tahoe
13 Property loan with the \$6 million in life insurance proceeds, was executed as the result of one or more
14 intentional misrepresentations made by Todd, in his Individual and Trustee capacities, to Wendy and
15 Stanley, and, therefore, should be set aside and declared void as if it were never signed.

16
17 **Count 6: Removal of Trustees and Appointment of Independent Trustee(s).**

18 88. Wendy incorporates by reference the foregoing paragraphs 1 through 87 as if fully
19 stated herein.

20 89. N.R.S. 156.070 provides for the removal and appointment of Trustees as follows:

21 The trustee shall, when directed by the court, account to it for all his or
22 her acts as trustee, and the court may, from time to time, upon good
23 cause shown, remove any trustee, and appoint another in his or her
place.

24 90. Wendy requests the Trustees be removed by the Court for the breaches of fiduciary
25 duties and other actions described herein, as well as, their strong bias against Wendy and her family
26

27
28 ²¹ *Barnettler v. Reno Air, Inc.*, 114 Nev. 441, 447, 956 P.2d 1382, 1386 (1998).

1 that has created an irreconcilable conflict in their administration of the Trusts. Upon the Trustees
2 removal, Wendy requests the Court appoint Nevada State Bank, the successor trustee named in Article
3 IV, Paragraph A(1) of the Family Trust, or some other qualified independent trustee(s).

4 **Count 7: Unjust Enrichment and Constructive Trust.**

5 91. Wendy incorporates by reference the foregoing paragraphs 1 through 90 as if fully
6 stated herein.

7 92. “Unjust enrichment occurs whenever a person has and retains a benefit which in equity
8 and good conscience belongs to another. Unjust enrichment is the unjust retention of a benefit to the
9 loss of another, or the retention of money or property of another against the fundamental principles of
10 justice or equity and good conscience.”²²

11 93. Trustees took actions in the administration of the Trusts that resulted in Trustees
12 receiving personal benefits and control of property of the Trusts. Because of such actions, breaches
13 of fiduciary duty, the misapplication of property of the Trusts, the creation and reliance on invalid
14 Purported Indemnification and other invalid documents; Todd, in his Individual and Trustee capacities,
15 and persons acting on his behalf and others fraudulently inducing Wendy and/or Stanley to sign
16 purported documents; and because of the fiduciary and/or confidential relationship between Trusts and
17 Wendy, a constructive trust, for the benefit of the Trusts and/or Wendy, should be imposed upon any
18 benefit or property acquired as a result of the transactions described herein or any unfair transaction
19 with the Trusts, because Todd, Todd’s family, Stanley, Michael, Kevin and possibly others have been
20 unjustly enriched.
21
22
23

24 **Count 8: Trustees Should be Precluded from Using Assets of the Trust to Defend this Matter.**

25 94. Wendy incorporates by reference the foregoing paragraphs 1 through 93 as if fully
26 stated herein.

27
28 ²² *Nevada Indus. Dev., Inc. v. Benedetti*, 103 Nev. 360, 363, 741 P.2d 802, 804 (1987).

1 95. A trustee is not entitled to payment of attorney's fees and expenses of litigation from
2 the assets of the trust when the trustee breached the trust, unless a benefit was conferred upon the trust
3 as a result of the trustee's actions.²³ As demonstrated herein, the Trustees have, at a minimum, breached
4 the following duties (i) duty of full disclosure, (ii) duty of loyalty/fidelity, (iii) duty to not self-deal,
5 (iv) duty of good faith and fair dealing and to not take advantage of their beneficiaries and (v)
6 misappropriation of trust assets. Trustees defense of such actions, which are all the fruits of their own
7 illegal and fraudulent conduct, is done in bad-faith and without just cause. Additionally, it is clear
8 based on the Trustees actions that hold a strong bias against Wendy and her family that has created an
9 irreconcilable conflict in their administration of the Trusts. Based on the numerous breaches of
10 fiduciary duty and conflicts of interest, it is in the best interests of the Trusts that any and all attorney's
11 fees and costs incurred by the Trustees, in their Individual and Trustee capacities, in defending this
12 matter be paid from the Trustees' own personal resources and not assets of the Trusts, as they are the
13 only persons that would benefit from using trust assets to defend their wrongful and self-serving
14 actions.²⁴
15

17 ²³ See, e.g., *Estate of Bowlds*, 120 Nev. 990, 102 P.3d 593 (Dec. 2004) (Citing *Matter of Estate of Rohrich*, 496 N.W.2d
18 566, 571 (N.D. 1993) (An attorney's services must benefit the estate to justify compensation from estate assets)). See
19 also *Gump*, 1 Cal. App.4th at 605, 2 Cal.Rptr.2d at 278.

20 ²⁴ "In the court's discretion, fees incurred by the trustee in defending against a beneficiary's claim of breach [of duty] may
21 not be payable from the trust during the pendency of the litigation." Bogert's Trusts and Trustees § 971 (footnote omitted).

22 See also *Sierra v. Williamson*, 784 F. Supp. 2d 774, 777 (W.D. Ky. 2011) ("[W]hether a trustee is entitled to
23 attorney's fees from the trust corpus is not a matter of right, but is warranted where the trustees were not at fault in
24 the litigation and the amount of attorney expenses was reasonable . . . the Court believes that the proper procedure is
25 to allow [the trustees] to seek reimbursement from the Trust after the conclusion of this case, assuming [the trustees]
26 are successful and their expenses reasonable."

27 See also *Sierra*, 784 F. Supp. 2d at 778 ("Delaying reimbursement of trustees until after litigation is
28 warranted because 'the need to protect beneficiaries from self-interested trustees outweighs the innocent trustee's need
for immediate payment of its attorney's fees.") (citation omitted).

 See also *Wells Fargo Bank v. Sup. Ct.*, 22 Cal. 4th 201, 213 n.4, 990 P.2d 591, 599 ri.4 (2000) ("The better
practice may be for a trustee to seek reimbursement after any litigation with beneficiaries concludes, initially retaining
separate counsel with personal funds.").

 See, also, *Jacob v. Davis*, 128 Md. App. 433, 466, 738 A.2d 904, 921 (1999) ("The general rule is that at trustee is
entitled to attorneys' fees paid from the trust if it successfully defends an action brought by the beneficiary.")

1 96. In the instant case, the actions of the Trustees, in their Individual and Trustee capacities,
2 are so intertwined that it would be extremely difficult to segregate out the legal services being provided
3 between the various capacities. Additionally, the Trustees have significant wealth and otherwise have
4 the means to defend themselves in this matter.

5 97. To authorize the Trustees to utilize assets of the trust to defend themselves in this
6 matter would further deplete the assets of the Trusts. This is also true in light of the fact that the
7 Trusts have been drained of liquid assets by the Trustee breaches of fiduciary duties and payment
8 of Todd's obligations under the Purported Indemnity Agreement that has been contested.
9

10 98. As such, the Trustees, in their Individual and Trustee capacities, should not only be
11 precluded from continuing to pay their legal fees from the Trusts, but they also should be compelled
12 to reimburse the Trusts for all legal fees paid to date.

13 **Count 9: Disgorgement of Trustee Fees.**

14 99. Wendy incorporates by reference the foregoing paragraphs 1 through 98 as if fully
15 stated herein.
16

17 N.R.S. 153.031(3) provides:

18 If the court grants any relief to the petitioner, the court may, in its
19 discretion, order any or all of the following additional relief if the court
20 determines that such additional relief is appropriate to redress or avoid
21 an injustice:

- 22 (a) Order a reduction in the trustee's compensation.
23 (b) Order the trustee to pay to the petitioner or any other party all
24 reasonable costs incurred by the party to adjudicate the affairs of the
25 trust pursuant to this section, including, without limitation, reasonable
26 attorney's fees. The trustee may not be held personally liable for the
27 payment of such costs unless the court determines that the trustee was
28 negligent in the performance of or breached his or her fiduciary duties.

100. Wendy believes that the Trustees' have been paying themselves trustee's compensation.

(citations omitted; emphasis added); Restatement (Third) of Trusts § 88, cmt. d ("*To the extent the trustee is successful in defending against charges of misconduct, the trustee is normally entitled to indemnification for reasonable attorneys' fees and other costs*") (emphasis added).

1 101. Based upon the various breaches of fiduciary duties as set forth herein, this Court
2 should enter an order requiring Family Co-Trustees' and Issue Co-Trustee's to disgorge any and all
3 trustee compensation they have been paid.

4 102. Clearly, the Trustees' actions in engaging litigation counsel and incurring significant
5 legal fees, does not benefit the Trusts and does not amount to good faith based on the Trustees' various
6 breaches of fiduciary duties as set forth herein. This Court should compel the Trustees to obtain
7 reimbursement on behalf of the Trusts of the entire retainers paid to their litigation counsel from the
8 Trusts.
9

10 103. Additionally, such conduct constitutes a further breach by yet again depriving the Trust
11 of the use of such funds.

12 **Count 10: Contest of Purported Consent Agreement.**

13 104. Wendy incorporates by reference the foregoing paragraphs 1 through 103 as if fully
14 stated herein.

15 105. NRS 30.030 and NRS 30.040 provide that any person whose rights, status or other legal
16 relations are affected by contract may have determined any question of construction or validity arising
17 under the contract and obtain a declaration of rights, status or other relations thereunder
18

19 106. Wendy contests the purported consent attached to *Exhibit "7"* to the *Petition for*
20 *Confirmation in Cause No. PR17-00446* (the "Purported Consent"), because it is not the version of
21 the consent that she signed, or, in the alternative, it was signed based on representations made by Todd,
22 in his Individual and Trustee capacities, that were false and were made to induce Stanley and Wendy
23 to agree to the proposed debt payment. As a result, the Purported Consent should be found invalid, ab
24 initio, and set aside.
25

26 107. Wendy also contests all actions taken by Todd, in his Individual and Trustee capacities,
27 associated with the Purported Consent and requests the Court declare all such actions invalid.
28

1 **Count 11: Contest of Purported Indemnity Agreement.**

2 108. Wendy incorporates by reference the foregoing paragraphs 1 through 107 as if fully
3 stated herein.

4 109. NRS 30.030 and NRS 30.040 provide that any person whose rights, status or other legal
5 relations are affected by contract may have determined any question of construction or validity arising
6 under the contract and obtain a declaration of rights, status or other relations thereunder.

7 110. Wendy contests the Purported Indemnification Amendment and contends it should be
8 should be set aside and declared invalid because it was manufactured and forged by Todd or someone
9 at Todd's behest and was never signed by Samuel.

10 111. Wendy also contests all actions taken by Todd, in his Individual and Trustee capacities,
11 under the Purported Indemnification and all transactions that occurred or obligations Todd, in his
12 Individual and Trustee capacities, avoided as a result of the Purported Indemnification and requests
13 the Court declare all such are invalid and should be set aside or, in the case of obligations of Todd that
14 were avoided, in either his Individual and Trustee capacities, such obligations should be enforced.
15

16 **Count 12: Wendy is Entitled to be Awarded Attorneys' Fees and Costs.**

17 112. Wendy incorporates by reference the foregoing paragraphs 1 through 111 as if fully
18 stated herein
19

20 113. Wendy is additionally entitled to recover damages, including attorneys' fees and
21 costs incurred by her to avoid, minimize, or reduce the damage caused by wrongful conduct of the
22 Trustees. NRS 153.031(3)(b) and 164.005 provide that if the court grants any relief to a beneficiary,
23 the court may order the trustee to pay the beneficiary all reasonable costs incurred by petitioner to
24 adjudicate the affairs of the trust, including, without limitation, reasonable attorney's fees, and the
25 trustee may be held personally liable for the payment of such costs if the trustee was negligent in
26 the performance of his or her fiduciary duties.
27

114. This remedy is warranted given that the Trustees' blatant breaches of fiduciary duties and refusals to remedy such breaches, including failing to properly account, have cost Wendy substantial attorneys' fees and costs. As a result, this Court should award Wendy's attorneys' fees and costs from the Trustees' personal assets as contemplated by Nevada law or, in the alternative, from the Trusts.

DAMAGES

1. Wendy is entitled to recover her damages alleged above from the Counter-Respondents, jointly and severally, and any and all other remedies available at law or equity, including without limitation pre- and post-judgment interest pursuant to applicable law.

PRAYER FOR RELIEF

WHEREFORE, Wendy seeks a judgment against Counter Respondents:

1. For surcharge of the Trustees and recovery from Counter-Respondents, jointly and severally, for all actual, compensatory damages, including consequential damages, punitive damages, and pre-judgment and post judgment interest to which she is justly entitled, which amounts are in excess of \$10,000;

2. Finding Aiding and Abetting;

3. Finding Civil Conspiracy;

4. Finding Aiding and Abetting Breach of Fiduciary Duties;

5. Finding Fraud,

6. Compelling the Trustees to properly account;

7. For the removal of the Trustees and the appointment of one or more Independent Co-Trustees;

8. For a constructive trust and a finding of unjust enrichment and for the recoupment of any benefits conferred upon the Counter-Respondents as result of their service as Trustees and their

1 wrongful actions;

2 9. Prohibiting the Counter-Respondents from paying their attorneys' fees and costs from
3 the Trust, and an order disgorging the amounts already paid to their attorneys;

4 10. For the Counter-Respondents to reimburse the Trust for all legal fees, accountant fees
5 and all costs paid from the Trusts;

6 11. Declaring the Consent Agreement signed by Wendy and Stan in association with the
7 pay down of the Tahoe Property loan invalid and void;

8 12. Declaring the Purported Indemnification in favor of Todd void;

9 13. Declaring all actions taken by Todd, in his Individual and Trustee capacities, under the
10 Purported Indemnification are invalid and should be set aside or, in the case of obligations of Todd,
11 that were avoided, in either his Individual and Trustee capacities, such obligations shall be enforced;
12

13 14. For reasonable attorney fees and costs of Wendy; and

14 15. For such other and further relief as the court deems proper.

15 Counter-Petitioner requests a jury trial.

16 DATED this 19th day of January, 2018.

17 **FOX ROTHSCHILD LLP**

18 By: /s/ Mark J. Connot

19 MARK J. CONNOT (10010)
20 1980 Festival Plaza Drive, #700
21 Las Vegas, NV 89135
22 Telephone: 702.262.6899
23 and

24 **SPENCER & JOHNSON, PLLC**

25 R. Kevin Spencer (*PHV to be filed*)
26 Texas Bar Card No. 00786254
27 Zachary E. Johnson (*PHV to be filed*)
28 Texas Bar Card No. 24063978
500 N. Akard Street, Suite 2150
Dallas, Texas 75201
kevin@dallasproabte.com
zach@dallasprobate.com

Attorneys for Respondent Wendy A. Jaksick

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AFFIRMATION STATEMENT

Pursuant to NRS 239B.030

The undersigned does hereby affirm that the **COUNTER -PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY DUTIES, FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF** filed by Wendy A. Jaksick in the above-captioned matter does not contain the social security number of any person.

DATED this 19th day of January, 2018.

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)

1980 Festival Plaza Drive, #700

Las Vegas, Nevada 89135

Attorneys for Respondent Wendy A. Jaksick

VERIFICATION

The undersigned verifies under penalty of perjury that after a diligent inquiry of the facts and review of pertinent documents, the **COUNTER -PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY DUTIES, FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF** is true as to the best of his knowledge, except for those matters stated on information and belief, and that as to such matters the undersigned believes it to be true.

By: /s/ Zachary E. Johnson
Zachary E. Johnson

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 19th day of January, 2018, I caused the above and foregoing document entitled **COUNTER - PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY DUTIES, FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF** to be served as follows:

- ☒ service was made via electronic service through the Second Judicial District Court's Odyssey E-File and Serve system;
- ☒ by placing same to be deposited for mailing in the United States Mail, first class postage prepaid, in Las Vegas, Nevada;
- ☐ pursuant to EDCR 7.26, to be sent via facsimile;
- ☐ to be hand-delivered; and/or
- ☐ via email.

to the attorney(s)/party(ies) listed below at the addresses indicated below:

///

///

1	Todd B. Jaksick	Luke Jaksick
2	8600 Technology Way, Ste. 110	c/o Wendy A. Jaksick
3	Reno, Nevada 89521	P.O. Box 2345
4		Allen, Texas 75013
5	Stanley S. Jaksick	Benjamin Jaksick
6	8600 Technology Way, Ste. 110	Amanda Jaksick
7	Reno, Nevada 89521	c/o Dawn E. Jaksick
8		6220 Rouge Drive
9		Reno, Nevada 89511
10	Alexi Smith	Regan Jaksick
11	11 Bahama Court	Sydney Jaksick
12	Mansfield, Texas 76063	Sawyer Jaksick
13		c/o Stanley S. Jaksick
14		8600 Technology Way, Ste. 110
15		Reno, Nevada 8952
16	Maupin, Cox & LeGoy	Michael S. Kimmel, as Co-Trustee
17	Donald A. Lattin, Esq.	of the Samuel S. Jaksick, Jr.
18	L. Robert LeGoy, Jr., Esq.	Family Trust
19	Brian C. McQuaid, Esq.	c/o Maupin, Cox & LeGoy
20	4785 Caughlin Parkway	Donald A. Lattin, Esq.
21	Reno, Nevada 89519	L. Robert LeGoy, Jr., Esq.
22	<i>Attorneys for Petitioners</i>	Brian C. McQuaid, Esq.
23		4785 Caughlin Parkway
24		Reno, Nevada 89519
25	Phil Kreitlein	Ken R. Robison
26	Kreitlein Law Group	Robison, Belaustegui, Sharpe &
27	470 E. Plumb Lane, #310	Lowe
28	Reno, Nevada 89502	71 Washington Street
	<i>Attorneys for Stan Jaksick and Michael S.</i>	Reno, Nevada 89503
	<i>Kimmel</i>	<i>Attorneys for Todd B. Jaksick and</i>
		<i>Michael S. Kimmel</i>

/s/ Monica Wilson

An Employee of Fox Rothschild LLP

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

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2018-02-23 12:15:50 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6546999 : csulezic

1 MARK J. CONNOT (10010)
2 FOX ROTHSCHILD LLP
3 1980 Festival Plaza Drive, Suite 700
4 Las Vegas, Nevada 89135
5 (702) 262-6899 telephone
6 (702) 597-5503 fax
7 mconnot@foxrothschild.com

8 *and*

9 R. Kevin Spencer (*PHV Pending*)
10 Texas Bar Card No. 00786254
11 Zachary E. Johnson (*PHV Pending*)
12 Texas Bar Card No. 24063978
13 SPENCER LAW, P.C.
14 500 N. Akard Street, Suite 2150
15 Dallas, Texas 75201
16 kevin@spencerlawpc.com
17 zach@spencerlawpc.com

18 *Attorneys for Respondent Wendy A. Jaksick*

19 **SECOND JUDICIAL DISTRICT COURT**

20 **WASHOE COUNTY, NEVADA**

21 In the Matter of the Administration of the
22 SSJ's Issue Trust,

CASE NO.: PR17-00445
DEPT. NO. 15

23 In the Matter of the Administration of the
24 Samuel S. Jaksick, Jr. Family Trust,

CASE NO.: PR17-00446
DEPT. NO. 15

25 **MOTION TO ASSOCIATE COUNSEL**

26 Respondent Wendy A. Jaksick ("Respondent"), by and through her attorneys of record,
27 the law firm of Fox Rothschild LLP, hereby moves the Court for an Order permitting Zachary
28 Everett Johnson, Esq., to practice in Nevada pursuant to Nevada Supreme Court Rule 42 (SCR
42). This motion is supported by the attached "Verified Application for Association of
Counsel Under Nevada Supreme Court Rule 42" (Exhibit 1), "Certificate of Good Standing"

1 from State Bar of Texas (Exhibit 2), and the State Bar of Nevada Statement Pursuant to
2 Supreme Court Rule 42(3)(b) (Exhibit 3).

3
4 **AFFIRMATION STATEMENT**

Pursuant to NRS 239B.030

5 The undersigned does hereby affirm that this Motion to Associate Counsel filed by
6 Respondent Wendy A. Jaksick in the above-captioned matter does not contain the social
7 security number of any person.

8 DATED this 23rd day of February, 2018.

9
10
11 **FOX ROTHSCHILD LLP**

12
13 /s/ Mark J. Connot

14 MARK J. CONNOT (10010)

15 1980 Festival Plaza Drive, #700

16 Las Vegas, Nevada 89135

17 *Attorneys for Respondent Wendy A. Jaksick*

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 23rd day of February, 2018, I served a true and correct copy of the **MOTION TO ASSOCIATE COUNSEL** in the manners and at the locations described below:

X service was made upon each of the parties, listed below, via electronic service through the Second Judicial District Court's Odyssey E-File and Serve system.

X by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada

to the attorney(s)/party(ies) listed below:

Kent Robison, Esq.
Therese M. Shanks, Esq.
Robison, Sharp, Sullivan & Brust
71 Washington Street
Reno, NV 89503
*Attorneys for Todd B. Jaksick, Beneficiary
SSJ's Issue Trust and Samuel S. Jaksick, Jr.,
Family Trust*

Donald A. Lattin, Esq.
L. Robert LeGoy, Jr., Esq.
Brian C. McQuaid, Esq.
Carolyn K. Renner, Esq.
Maupin, Cox & LeGoy
4785 Caughlin Parkway
Reno, NV 89519
*Attorneys for Petitioners/Co-Trustees
Todd B. Jaksick and Michael S. Kimmel of
the SSJ's Issue Trust and Samuel S.
Jaksick, Jr., Family Trust*

Phil Kreitlein, Esq.
Kreitlein Law Group
470 E. Plumb Lane, #310
Reno, NV 89502
Attorneys for Stanley S. Jaksick

Adam Hosmer-Henner, Esq.
McDonald Carano
100 West Liberty Street, 10th Fl.
P.O. Box 2670
Reno, NV 89505
Attorneys for Stanley S. Jaksick

Stephen C. Moss, Esq.
Law Offices of Michael B. Springer, PC
9628 Prototype Court
Reno, NV 89521
Attorney for Stanley S. Jaksick

/s/ Doreen Loffredo
An Employee of Fox Rothschild LLP

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LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	<u>Pages</u>
1	Verified Application for Association of Counsel Under Nevada Supreme Court Rule 42	8
2	Certificate of Good Standing from State Bar of Texas	1
3	State Bar of Nevada Statement Pursuant to Supreme Court Rule 42(3(b))	2

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2018-02-23 12:15:50 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6546999 : csulezic

EXHIBIT 1

EXHIBIT 1

CASE NO. PR17-00445

DEPT NO. 15

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

In the Matter of the:)	VERIFIED APPLICATION FOR
)	ASSOCIATION OF COUNSEL UNDER
SSJ's ISSUE TRUST)	<u>NEVADA SUPREME COURT RULE 42</u>
)	
_____)	

Zachary Everett Johnson, Petitioner, respectfully represents:
First Middle Name Last

1. Petitioner resides at 6560 Danbury Lane
Street Address

Dallas, Dallas, Texas
City County State

75214, (214) 701-2455
Zip Code Telephone

2. Petitioner is an attorney at law and a member of the law firm of

Spencer Law, P.C.

with offices at 500 N. Akard Street, Suite 2150
Street Address

Dallas, Dallas, Texas
City County State

75201, (214) 965-9999, zach@spencerlawpc.com
Zip Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by Wendy Jacksick to provide legal representation in connection with the above-entitled matter now pending before the above referenced court.

4. Since November of 2009, petitioner has been, and presently is, a member of good standing of the bar of the highest court of the State of Texas where petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

DATE ADMITTED

Northern District of Texas

January 8, 2010

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If yes, give particulars; e.g., court, jurisdiction, date: No

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with authority at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

8. Has Petitioner ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law? You must answer yes

or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: No

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars: No

11. Petitioner has filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matters, if none, indicate so: *(do not include Federal Pro Hacs)*

<u>Date of Application</u>	<u>Cause</u>	<u>Title of Court Administrative Body or Arbitrator</u>	<u>Was Application Granted or Denied?</u>
--------------------------------	--------------	---	---

None

(If necessary, please attach a statement of additional applications)

12. Nevada Counsel of Record for Petition in this matter is:
(must be the same as the signature on the Nevada Counsel consent page)

Mark J. Connot 10010
First Name Middle Name Last Name NV Bar #

who has offices at Fox Rothschild LLP
Firm Name/Company

1980 Festival Plaza Drive, #700 Las Vegas Clark
Street Address City County

89135 (702) (702) 699-5924
Zip Code Phone Number

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

NAME

MAILING ADDRESSES

See Exhibit "A"

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I, Zachary E. Johnson, do hereby swear/affirm under penalty of perjury that the assertions of this application and the following statements are true:

- 1) That I am the Petitioner in the above entitled matter.
- 2) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:

- (A) I am not a member of the State Bar of Nevada;
- (B) I am not a resident of the State of Nevada;
- (C) I am not regularly employed as a lawyer in the State of Nevada;
- (D) I am not engaged in substantial business, professional, or other activities in the State of Nevada;
- (E) I am a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and
- (F) I have associated a lawyer who is an active member in good standing of the State Bar of Nevada as counsel of record in this action or proceeding.

- 2) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the course of such appearance.

DESIGNATION, CERTIFICATION AND CONSENT OF NEVADA COUNSEL

SCR 42(14) Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

I Mark G. Gant hereby agree to associate with Petitioner referenced hereinabove
Print Nevada Counsel Name

and further agree to perform all of the duties and responsibilities as required by Nevada Supreme Court Rule 42.

DATED this 15 day of December, 2017

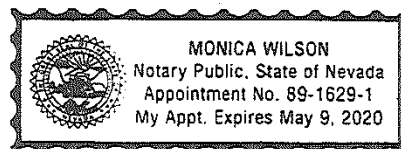
[Signature]
Nevada Counsel of Record (blue ink)

STATE OF Nevada)
COUNTY OF Clark) ss

Subscribed and sworn to before me

this 15th day of December, 2017

[Signature]
Notary Public



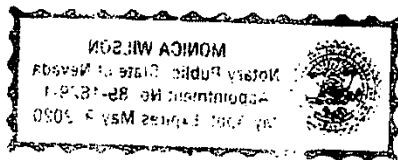


Exhibit "A"

<p>Party: Todd B. Jaksick, as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust and as Trustee of the SSJ's Issue Trust</p> <p>Address: 8600 Technology Way, Ste. 110 Reno, Nevada 89521</p>	<p>Represented by: Donald A. Lattin, L. Robert LeGoy, Jr., and Brian C. McQuaid of Maupin, Cox & LeGoy</p> <p>Address: 4785 Caughlin Parkway Reno, Nevada 89519</p>
<p>Party: Todd B. Jaksick, Individually</p> <p>Address: 8600 Technology Way, Ste. 110 Reno, Nevada 89521</p>	<p>Represented by: Kent R. Robison of Robison, Belaustegui, Sharpe & Loew</p> <p>Address: 71 Washington Street Reno, Nevada 89503</p>
<p>Party: Stan Jaksick, Individually</p> <p>Address: 8600 Technology Way, Ste. 110 Reno, Nevada 89521</p>	<p>Represented by: Phil Kreitlein of Kreitlein Law Group</p> <p>Address: 470 E Plumb Lane, #310 Reno, Nevada 89502</p>
<p>Party: Wendy Jaksick, Individually and as Beneficiary of the Samuel S. Jaksick, Jr. Family Trust and the SSJ's Issue Trust</p> <p>Address: 4805 Atworth Lane McKinney, Texas 75070</p>	<p>Represented by: Mark J. Connot of Fox Rothschild, LLP</p> <p>Address: 1980 Festival Plaza Drive, #700 Las Vegas, Nevada 89135</p> <p>R. Kevin Spencer and Zachary E. Johnson of Spencer Law, P.C.</p> <p>Address: 500 N. Akard St., Suite 2150 Dallas, Texas 75201</p>

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2018-02-23 12:15:50 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6546999 : csulezic

EXHIBIT 2

EXHIBIT 2

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

December 29, 2017

Re: Zachary Everett Johnson, State Bar Number 24060978

To Whom It May Concern:

This is to certify that Mr. Zachary Everett Johnson was licensed to practice law in Texas on November 06, 2009, and is an active member in good standing with the State Bar of Texas. "Good standing" means that the attorney is current on payment of Bar dues and attorney occupation tax; has met Minimum Continuing Legal Education requirements; and is not presently under either administrative or disciplinary suspension from the practice of law.

No previous disciplinary sanctions have been entered against the attorney's law license.

This certification expires 30 days from the date, unless sooner revoked or rendered invalid by operation of rule or law.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Acevedo", with a stylized flourish at the end.

Linda A. Acevedo
Chief Disciplinary Counsel
LA/aa



P.O. BOX 12487, CAPITOL STATION, AUSTIN, TEXAS 78711-2487, 512.427.1350; FAX: 512.427.4167

TJA 000687

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Jacqueline Bryant
Clerk of the Court
Transaction # 6546999 : csulezic

EXHIBIT 3

EXHIBIT 3

1 STAT

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

4 Case No. PR17-00445
5 Dept. No. 15

6 In the Matter of the:

7 SSJ's Issue Trust
8
9

10
11 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE
12 42 (3) (b)

13 THE STATE BAR OF NEVADA, in response to the application of
14 Petitioner, submits the following statement pursuant to SCR42(3):

15 SCR42(6)**Discretion.** The granting or denial of a motion to associate
16 counsel pursuant to this rule by the court is discretionary. The
17 court, arbitrator, mediator, or administrative or governmental
18 hearing officer may revoke the authority of the person permitted to
19 appear under this rule. Absent special circumstances, repeated
20 appearances by any person or firm of attorneys pursuant to this rule
21 shall be cause for denial of the motion to associate such person.

22 (a) **Limitation.** It shall be presumed, absent special
23 circumstances, and only upon showing of good cause, that
24 more than 5 appearances by any attorney granted under
25 this rule in a 3-year period is excessive use of this
26 rule.

27 (b) **Burden on applicant.** The applicant shall have the
28 burden to establish special circumstances and good cause
for an appearance in excess of the limitation set forth
in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.

1. DATE OF APPLICATION: December 18, 2017

2. APPLYING ATTORNEY: Zachary Everett Johnson, Esq.

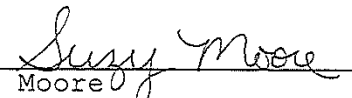
3. FIRM NAME AND ADDRESS: Spencer Law, P.C., 500 N. Akard Street,
Suite 2150, Dallas, TX 75201

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4. NEVADA COUNSEL OF RECORD: Mark J. Connot, Esq., Fox Rothschild,
LLP, 1980 Festival Plaza Drive, Suite., 700, Las Vegas, NV
89135

5. There is no record of previous applications for appearance by
petitioner within the past three (3) years.

DATED this January 16, 2018


Suzy Moore
Member Services Admin.
Pro Hac Vice Processor
STATE BAR OF NEVADA

Jayne Ferretto

From: eflex@washoecourts.us
Sent: Friday, February 23, 2018 1:31 PM
To: Therese Shanks
Cc: Jayne Ferretto
Subject: NEF: CONS: TRUST: SSJ'S ISSUE TRUST: Association of Counsel: PR17-00445

***** IMPORTANT NOTICE - READ THIS INFORMATION *****
PROOF OF SERVICE OF ELECTRONIC FILING

A filing has been submitted to the court RE: PR17-00445

Judge: HONORABLE DAVID A. HARDY

Official File Stamp: 02-23-2018:12:15:50
Clerk Accepted: 02-23-2018:13:30:23
Court: Second Judicial District Court - State of Nevada
Civil
Case Title: CONS: TRUST: SSJ'S ISSUE TRUST
Document(s) Submitted: Association of Counsel
- **Continuation
- **Continuation
- **Continuation
Filed By: Mark Connot

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The following people were served electronically:

CAROLYN K. RENNER, ESQ. for MICHAEL S. KIMMEL, TODD B. JAKSICK
BRIAN C. MCQUAID, ESQ. for MICHAEL S. KIMMEL, TODD B. JAKSICK
DONALD ALBERT LATTIN, ESQ. for MICHAEL S. KIMMEL, TODD B. JAKSICK
KENT RICHARD ROBISON, ESQ. for TODD B. JAKSICK
ADAM HOSMER-HENNER, ESQ. for STANLEY JAKSICK
PHILIP L. KREITLEIN, ESQ. for STANLEY JAKSICK
STEPHEN C. MOSS, ESQ. for STANLEY JAKSICK
THERESE M. SHANKS, ESQ. for TODD B. JAKSICK
MARK J. CONNOT, ESQ. for WENDY A. JAKSICK

The following people have not been served electronically and must be served by traditional means (see Nevada Electronic Filing Rules.):

SSJ'S ISSUE TRUST

L. ROBERT LEGOY, JR., ESQ. for MICHAEL S. KIMMEL, TODD B. JAKSICK

SAMUEL S. JAKSICK, JR. FAMILY TRUST

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

MARK J. CONNOT (10010)
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135
(702) 262-6899 telephone
(702) 597-5503 fax
mconnot@foxrothschild.com

and

R. Kevin Spencer (*PHV Pending*)
Texas Bar Card No. 00786254
Zachary E. Johnson (*PHV Pending*)
Texas Bar Card No. 24063978
SPENCER LAW, P.C.
500 N. Akard Street, Suite 2150
Dallas, Texas 75201
kevin@spencerlawpc.com
zach@spencerlawpc.com

Attorneys for Respondent Wendy A. Jaksick

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

In the Matter of the Administration of the
SSJ's Issue Trust,

CASE NO.: PR17-00445
DEPT. NO. 15

In the Matter of the Administration of the
Samuel S. Jaksick, Jr. Family Trust,

CASE NO.: PR17-00446
DEPT. NO. 15

MOTION TO ASSOCIATE COUNSEL

Respondent Wendy A. Jaksick ("Respondent"), by and through her attorneys of record, the law firm of Fox Rothschild LLP, hereby moves the Court for an Order permitting Richard Kevin Spencer, Esq., to practice in Nevada pursuant to Nevada Supreme Court Rule 42 (SCR 42). This motion is supported by the attached "Verified Application for Association of Counsel Under Nevada Supreme Court Rule 42" (Exhibit 1), "Certificate of Good Standing"

1 from State Bar of Texas (Exhibit 2), and the State Bar of Nevada Statement Pursuant to
2 Supreme Court Rule 42(3)(b) (Exhibit 3).

3
4 **AFFIRMATION STATEMENT**

Pursuant to NRS 239B.030

5 The undersigned does hereby affirm that this Motion to Associate Counsel filed by
6 Respondent Wendy A. Jaksick in the above-captioned matter does not contain the social
7 security number of any person.

8 DATED this 23rd day of February, 2018.

9
10 **FOX ROTHSCHILD LLP**

11
12 /s/ Mark J. Connot

13 MARK J. CONNOT (10010)

14 1980 Festival Plaza Drive, #700

15 Las Vegas, Nevada 89135

16 *Attorneys for Respondent Wendy A. Jaksick*
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 23rd day of February, 2018, I served a true and correct copy of the **MOTION TO ASSOCIATE COUNSEL** in the manners and at the locations described below:

X service was made upon each of the parties, listed below, via electronic service through the Second Judicial District Court's Odyssey E-File and Serve system.

X by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada

to the attorney(s)/party(ies) listed below:

Kent Robison, Esq.
Therese M. Shanks, Esq.
Robison, Sharp, Sullivan & Brust
71 Washington Street
Reno, NV 89503
*Attorneys for Todd B. Jaksick, Beneficiary
SSJ's Issue Trust and Samuel S. Jaksick, Jr.,
Family Trust*

Donald A. Lattin, Esq.
L. Robert LeGoy, Jr., Esq.
Brian C. McQuaid, Esq.
Carolyn K. Renner, Esq.
Maupin, Cox & LeGoy
4785 Caughlin Parkway
Reno, NV 89519
*Attorneys for Petitioners/Co-Trustees
Todd B. Jaksick and Michael S. Kimmel of
the SSJ's Issue Trust and Samuel S.
Jaksick, Jr., Family Trust*

Phil Kreitlein, Esq.
Kreitlein Law Group
470 E. Plumb Lane, #310
Reno, NV 89502
Attorneys for Stanley S. Jaksick

Adam Hosmer-Henner, Esq.
McDonald Carano
100 West Liberty Street, 10th Fl.
P.O. Box 2670
Reno, NV 89505
Attorneys for Stanley S. Jaksick

Stephen C. Moss, Esq.
Law Offices of Michael B. Springer, PC
9628 Prototype Court
Reno, NV 89521
Attorney for Stanley S. Jaksick

/s/ Doreen Loffredo
An Employee of Fox Rothschild LLP

FOX ROTHCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

LIST OF EXHIBITS

<u>Exhibit No.</u>	<u>Description</u>	<u>Pages</u>
1	Verified Application for Association of Counsel Under Nevada Supreme Court Rule 42	8
2	Certificate of Good Standing from State Bar of Texas	1
3	State Bar of Nevada Statement Pursuant to Supreme Court Rule 42(3)(b)	2

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Jacqueline Bryant
Clerk of the Court
Transaction # 6546984 : csulezic

EXHIBIT 1

EXHIBIT 1

CASE NO. PR17-00445

DEPT NO. 15

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

In the Matter of the:)	VERIFIED APPLICATION FOR
)	ASSOCIATION OF COUNSEL UNDER
SSJ's ISSUE TRUST)	<u>NEVADA SUPREME COURT RULE 42</u>
)	
_____)	

Richard Kevin Spencer, Petitioner, respectfully represents:
First Middle Name Last

1. Petitioner resides at 6507 Prestonshire Lane
Street Address

Dallas, Dallas, Texas
City County State

75225, (214) 358-5595
Zip Code Telephone

2. Petitioner is an attorney at law and a member of the law firm of

Spencer Law, P.C.

with offices at 500 N. Akard Street, Suite 2150
Street Address

Dallas, Dallas, Texas
City County State

75201, (214) 965-9999, kevin@spencerlawpc.com
Zip Telephone Email

3. Petitioner has been retained personally or as a member of the above named law firm by Wendy Jacksick to provide legal representation in connection with the above-entitled matter now pending before the above referenced court.

4. Since May of 1993, petitioner has been, and presently is, a member of good standing of the bar of the highest court of the State of Texas where petitioner regularly practices law.

5. Petitioner was admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or courts of other states on the dates indicated for each, and is presently a member in good standing of the bars of said Courts:

	<u>DATE ADMITTED</u>
<u>Northern District of Texas</u>	<u>February 15, 1995</u>
_____	_____
_____	_____
_____	_____

6. Is Petitioner currently suspended or disbarred in any court? You must answer yes or no. If yes, give particulars; e.g., court, jurisdiction, date: No

7. Is Petitioner currently subject to any disciplinary proceedings by any organization with authority at law? You must answer yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

8. Has Petitioner ever received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law? You must answer

yes or no. If yes, give particulars, e.g. court, discipline authority, date, status: No

9. Has Petitioner ever had any certificate or privilege to appear and practice before any regulatory administrative body suspended or revoked? You must answer yes or no. If yes, give particulars, e.g. date, administrative body, date of suspension or reinstatement: No

10. Has Petitioner, either by resignation, withdrawal, or otherwise, ever terminated or attempted to terminate Petitioner's office as an attorney in order to avoid administrative, disciplinary, disbarment, or suspension proceedings? You must answer yes or no. If yes, give particulars:

No

11. Petitioner has filed the following application(s) to appear as counsel under Nevada Supreme Court Rule 42 during the past three (3) years in the following matters, if none, indicate so: (*do not include Federal Pro Hacs*)

<u>Date of Application</u>	<u>Cause</u>	<u>Title of Court Administrative Body or Arbitrator</u>	<u>Was Application Granted or Denied?</u>
<u>None</u>			

(If necessary, please attach a statement of additional applications)

12. Nevada Counsel of Record for Petition in this matter is:

(must be the same as the signature on the Nevada Counsel consent page)

Mark J. Connot 10010
First Name Middle Name Last Name NV Bar #

who has offices at Fox Rothschild LLP
Firm Name/Company

1980 Festival Plaza Drive, #700 Las Vegas Clark
Street Address City County

89135 (702) (702) 699-5924
Zip Code Phone Number

13. The following accurately represents the names and addresses of each party in this matter, WHETHER OR NOT REPRESENTED BY COUNSEL, and the names and addresses of each counsel of record who appeared for said parties: (You may attach as an Exhibit if necessary.)

NAME

MAILING ADDRESSES

See Exhibit "A"

14. Petitioner agrees to comply with the provisions of Nevada Supreme Court Rule 42(3) and (13) and Petitioner consents to the jurisdiction of the courts and disciplinary boards of the State of Nevada in accordance with provisions as set forth in SCR 42(3) and (13). Petitioner respectfully requests that Petitioner be admitted to practice in the above-entitled court FOR THE PURPOSES OF THIS MATTER ONLY.

15. Petitioner has disclosed in writing to the client that the applicant is not admitted to practice in this jurisdiction and that the client has consented to such representation.

I, R. Kevin Spencer, do hereby swear/affirm under penalty of perjury that the assertions of this application and the following statements are true:

- 1) That I am the Petitioner in the above entitled matter.
- 2) That I have read Supreme Court Rule (SCR) 42 and meet all requirements contained therein, including, without limitation, the requirements set forth in SCR 42(2), as follows:
 - (A) I am not a member of the State Bar of Nevada;
 - (B) I am not a resident of the State of Nevada;
 - (C) I am not regularly employed as a lawyer in the State of Nevada;
 - (D) I am not engaged in substantial business, professional, or other activities in the State of Nevada;
 - (E) I am a member in good standing and eligible to practice before the bar of any jurisdiction of the United States; and
 - (F) I have associated a lawyer who is an active member in good standing of the State Bar of Nevada as counsel of record in this action or proceeding.
- 2) That I have read the foregoing application and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to the matter I believe them to be true.

That I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of Nevada; that I understand and shall comply with the standards of professional conduct required by members of the State Bar of Nevada; and that I am subject to the disciplinary jurisdiction to the State Bar of Nevada with respect to any of my actions occurring in the course of such appearance.

DATED this 10th day of November, 2017

[Signature]
Petitioner/Affiant (blue ink)

STATE OF TEXAS

)

) ss

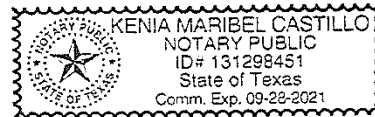
COUNTY OF DALLAS

)

Subscribed and sworn to before me

this 10th day of November, 2017

[Signature]
Notary Public



DESIGNATION, CERTIFICATION AND CONSENT OF NEVADA COUNSEL

SCR 42(14) Responsibilities of Nevada attorney of record.

(a) The Nevada attorney of record shall be responsible for and actively participate in the representation of a client in any proceeding that is subject to this rule.

(b) The Nevada attorney of record shall be present at all motions, pre-trials, or any matters in open court unless otherwise ordered by the court.

(c) The Nevada attorney of record shall be responsible to the court, arbitrator, mediator, or administrative agency or governmental body for the administration of any proceeding that is subject to this rule and for compliance with all state and local rules of practice. It is the responsibility of Nevada counsel to ensure that the proceeding is tried and managed in accordance with all applicable Nevada procedural and ethical rules.

I Mark Connot hereby agree to associate with Petitioner referenced hereinabove

Print Nevada Counsel Name

and further agree to perform all of the duties and responsibilities as required by Nevada Supreme Court Rule 42.

DATED this 15th day of December, 2017

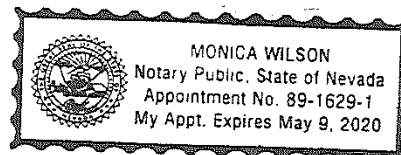
[Signature]
Nevada Counsel of Record (blue ink)

STATE OF Nevada)
COUNTY OF Clark) ss

Subscribed and sworn to before me

this 15th day of December, 2017

[Signature]
Notary Public



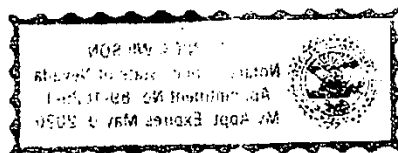


Exhibit "A"

<p>Party: Todd B. Jaksick, as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust and as Trustee of the SSJ's Issue Trust</p> <p>Address: 8600 Technology Way, Ste. 110 Reno, Nevada 89521</p>	<p>Represented by: Donald A. Lattin, L. Robert LeGoy, Jr., and Brian C. McQuaid of Maupin, Cox & LeGoy</p> <p>Address: 4785 Caughlin Parkway Reno, Nevada 89519</p>
<p>Party: Todd B. Jaksick, Individually</p> <p>Address: 8600 Technology Way, Ste. 110 Reno, Nevada 89521</p>	<p>Represented by: Kent R. Robison of Robison, Belaustegui, Sharpe & Loew</p> <p>Address: 71 Washington Street Reno, Nevada 89503</p>
<p>Party: Stan Jaksick, Individually</p> <p>Address: 8600 Technology Way, Ste. 110 Reno, Nevada 89521</p>	<p>Represented by: Phil Kreitlein of Kreitlein Law Group</p> <p>Address: 470 E Plumb Lane, #310 Reno, Nevada 89502</p>
<p>Party: Wendy Jaksick, Individually and as Beneficiary of the Samuel S. Jaksick, Jr. Family Trust and the SSJ's Issue Trust</p> <p>Address: 4805 Atworth Lane McKinney, Texas 75070</p>	<p>Represented by: Mark J. Connot of Fox Rothschild, LLP</p> <p>Address: 1980 Festival Plaza Drive, #700 Las Vegas, Nevada 89135</p> <p>R. Kevin Spencer and Zachary E. Johnson of Spencer Law, P.C.</p> <p>Address: 500 N. Akard St., Suite 2150 Dallas, Texas 75201</p>

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Jacqueline Bryant
Clerk of the Court
Transaction # 6546984 : csulezic

EXHIBIT 2

EXHIBIT 2

STATE BAR OF TEXAS



Office of the Chief Disciplinary Counsel

December 29, 2017

Re: Richard Kevin "Kevin" Spencer, State Bar Number 078625.

To Whom It May Concern:

This is to certify that Mr. Richard Kevin "Kevin" Spencer was licensed to practice law in Texas on May 07, 1993, and is an active member in good standing with the State Bar of Texas. "Good standing" means that the attorney is current on payment of Bar dues and attorney occupation tax; has met Minimum Continuing Legal Education requirements; and is not presently under either administrative or disciplinary suspension from the practice of law.

No previous disciplinary sanctions have been entered against the attorney's law license.

This certification expires 30 days from the date, unless sooner revoked or rendered invalid by operation of rule or law.

Sincerely,

A handwritten signature in cursive script, appearing to read "L. Acevedo", followed by a horizontal line.

Linda A. Acevedo
Chief Disciplinary Counsel
LA/aa



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Jacqueline Bryant
Clerk of the Court
Transaction # 6546984 : csulezic

EXHIBIT 3

EXHIBIT 3

1 STAT

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

4 Case No. PR17-00445
5 Dept. No. 15

6 In the Matter of the:

7 SSJ's Issue Trust
8
9

10
11 STATE BAR OF NEVADA STATEMENT PURSUANT TO SUPREME COURT RULE
12 42 (3) (b)

13 THE STATE BAR OF NEVADA, in response to the application of
14 Petitioner, submits the following statement pursuant to SCR42(3):

15 SCR42(6)**Discretion.** The granting or denial of a motion to associate
16 counsel pursuant to this rule by the court is discretionary. The
17 court, arbitrator, mediator, or administrative or governmental
18 hearing officer may revoke the authority of the person permitted to
19 appear under this rule. Absent special circumstances, repeated
20 appearances by any person or firm of attorneys pursuant to this rule
21 shall be cause for denial of the motion to associate such person.

22 (a) **Limitation.** It shall be presumed, absent special
23 circumstances, and only upon showing of good cause, that
24 more than 5 appearances by any attorney granted under
25 this rule in a 3-year period is excessive use of this
26 rule.

27 (b) **Burden on applicant.** The applicant shall have the
28 burden to establish special circumstances and good cause
for an appearance in excess of the limitation set forth
in subsection 6(a) of this rule. The applicant shall set
forth the special circumstances and good cause in an
affidavit attached to the original verified application.

1. DATE OF APPLICATION: December 18, 2017

2. APPLYING ATTORNEY: Richard Kevin Spencer, Esq.

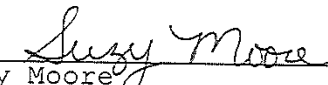
3. FIRM NAME AND ADDRESS: Spencer Law, P.C., 500 N. Akard Street,
Suite 2150, Dallas, TX 75201

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4. NEVADA COUNSEL OF RECORD: Mark J. Connot, Esq., Fox Rothschild,
LLP, 1980 Festival Plaza Drive, Suite., 700, Las Vegas, NV
89135

5. There is no record of previous applications for appearance by
petitioner within the past three (3) years.

DATED this January 16, 2018


Suzy Moore
Member Services Admin.
Pro Hac Vice Processor
STATE BAR OF NEVADA

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

MARK J. CONNOT (10010)
FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, Suite 700
Las Vegas, Nevada 89135
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mconnot@foxrothschild.com
and
R. Kevin Spencer (PHV Pending)
Texas Bar Card No. 00786254
Zachary E. Johnson (PHV Pending)
Texas Bar Card No. 24063978
SPENCER LAW, P.C.
500 N. Akard Street, Suite 2150
Dallas, Texas 75201
kevin@spencerlawpc.com
zach@spencerlawpc.com
Attorneys for Respondent Wendy A. Jaksick

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

In the Matter of the Administration of the
SSJ'S ISSUE TRUST,

CASE NO.: PR17-00445
DEPT. NO. 15

In the Matter of the Administration of the
SAMUEL S. JAKSICK, JR. FAMILY TRUST,

CASE NO.: PR17-00446
DEPT. NO. 15

WENDY JAKSICK,

Respondent and Counter-Petitioner,
v.

TODD B. JAKSICK, INDIVIDUALLY, AS CO-
TRUSTEE OF THE SAMUEL S. JAKSICK, JR.
FAMILY TRUST, AND AS TRUSTEE OF THE
SSJ'S ISSUE TRUST; MICHAEL S. KIMMEL,
INDIVIDUALLY AND AS CO-TRUSTEE OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST; AND STANLEY S. JAKSICK,
INDIVIDUALLY AND AS CO-TRUSTEE OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST; KEVIN RILEY, INDIVIDUALLY
AND AS FORMER TRUSTEE OF THE
SAMUEL S. JAKSICK, JR. FAMILY TRUST
AND TRUSTEE OF THE WENDY A.
JAKSICK 2012 BHC FAMILY TRUST,

Petitioners and Counter-Respondents.

**FIRST AMENDED COUNTER -
PETITION TO SURCHARGE
TRUSTEES FOR BREACH OF
FIDUCIARY DUTIES, FOR
REMOVAL OF TRUSTEES AND
APPOINTMENT OF INDEPENDENT
TRUSTEE(S), AND FOR
DECLARATORY JUDGMENT AND
OTHER RELIEF**

1 Counter-Petitioner Wendy A. Jaksick (“Wendy” or “Counter-Petitioner”) by and
2 through her attorneys of record, the law firm of Fox Rothschild LLP, complains against
3 Petitioners and Counter-Respondents and alleges as follows:

4 **PARTIES**

5 1. Counter-Petitioner Wendy A. Jaksick (“Wendy” or “Counter-Petitioner”) is an
6 individual who resides in Texas.

7 2. Counter-Respondent Todd B. Jaksick, in his Individual capacity (“Todd”), is an
8 individual who resides in Reno, Nevada.

9 3. Counter-Respondent Todd B. Jaksick, in his capacity as Co-Trustee of the
10 Samuel S. Jaksick, Jr. Family Trust (“Family Trust Co-Trustee Todd”), resides in Reno,
11 Nevada.

12 4. Counter-Respondent Todd B. Jaksick, in his capacity as Trustee of the SSJ’s
13 Issue Trust (“Issue Trust Trustee”), resides in Reno, Nevada.

14 5. Counter-Respondent Michael S. Kimmel, in his Individual capacity
15 (“Michael”), is an individual who resides in Reno, Nevada.

16 6. Counter-Respondent Michael S. Kimmel, in his capacity as Co-Trustee of the
17 Samuel S. Jaksick, Jr. Family Trust (“Family Trust Co-Trustee Michael”), resides in Reno,
18 Nevada.

19 7. Counter-Respondent Stanley S. Jaksick, in his Individual capacity (“Stanley”),
20 is an individual who resides in Reno, Nevada.

21 8. Counter-Respondent Stanley S. Jaksick, in his capacity as Co-Trustee of the
22 Samuel S. Jaksick, Jr. Family Trust (“Family Trust Co-Trustee Stanley”), resides in Reno,
23 Nevada.

24 9. Kevin Riley, Individually (“Kevin”), is an individual who resides in
25 Sacramento, California.

26 10. Kevin Riley, as former Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust
27 (“Former Family Trust Co-Trustee”), is an individual who resides in Sacramento, California.
28

11. Kevin Riley, as Trustee of the Wendy A. Jaksick 2012 BHC Family Trust (“BHC Trustee Kevin”), is an individual who resides in Sacramento, California.

12. Family Trust Co-Trustee Todd, Family Trust Co-Trustee Michael and Family Trust Co-Trustee Stanley shall collectively be referred to herein as the “Family Trust Co-Trustees”.

13. Family Trust Co-Trustees, Former Family Trust Trustee, Issue Trust Trustee and BHC Trust Trustee shall collectively be referred to herein as the “Trustees”.

14. Todd, Family Trust Co-Trustee Todd, Issue Trust Trustee, Michael, Family Trust Co-Trustee Michael, Stanley, Family Trust Co-Trustee Stanley, Kevin, Former Family Co-Trustee and BHC Trustee Kevin shall collectively be referred to herein as the “Counter-Respondents”.

15. The Court has proper venue pursuant to NRS 13.040.

INTERESTED PERSONS – THE FAMILY TRUST

16. The following individuals interested in the Samuel S. Jaksick, Jr. Family Trust are entitled to notice of this *Complaint*:

Name & Address	Age	Interest
Todd B. Jaksick 8600 Technology Way, Ste 110 Reno, Nevada 89521	Adult	Co-Trustee & Beneficiary
Michael S. Kemmel, Esq. Hoy Chrissinger Kimmel Vallas 50 West Liberty Street, Ste 840 Reno, Nevada 89501	Adult	Co-Trustee
Stanley S. Jaksick 8600 Technology Way, Ste 110 Reno, Nevada 89521	Adult	Co-Trustee & Beneficiary
Wendy A. Jaksick c/o R. Kevin Spencer Spencer Law, P.C. 500 N. Akard Street, Ste 2150 Dallas, Texas 75201	Adult	Beneficiary
Kevin Riley, Trustee of the Samuel S. Jaksick, Jr. Irrevocable Grandchild Trust No. 1 Rossmann MacDonald & Benetti, CPA’s 3838 Watt Avenue, Suite E-500 Sacramento, California 95821	Adult	Beneficiary
Kevin Riley, Trustee of the Samuel S.	Adult	Beneficiary

Jaksick, Jr. Irrevocable Grandchild Trust No. 2 Rossmann MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, California 95821		
Kevin Riley, Trustee of the Samuel S. Jaksick, Jr. Irrevocable Grandchild Trust No. 3 Rossmann MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, California 95821	Adult	Beneficiary
Kevin Riley, Trustee of the Samuel S. Jaksick, Jr. Irrevocable Grandchild Trust No. 4 Rossmann MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, California 95821	Adult	Beneficiary
Alexi Smrt 11 Bahama Court Mansfield, Texas 76063	Adult	Presumptive Remainder Beneficiary
Luke Jaksick c/o Wendy A. Jaksick c/o R. Kevin Spencer Spencer Law, P.C. 500 N. Akard Street, Ste 2150 Dallas, Texas 75201	Minor	Presumptive Remainder Beneficiary
Benjamin Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Minor	Presumptive Remainder Beneficiary
Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Minor	Presumptive Remainder Beneficiary
Regan Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Presumptive Remainder Beneficiary
Sydney Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Presumptive Remainder Beneficiary
Sawyer Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Presumptive Remainder Beneficiary

INTERESTED PERSONS – THE ISSUE TRUST

17. The following individuals interested in the SSJ's Issue Trust are entitled to notice of this *Complaint*:

Name & Address	Age	Interest
Todd B. Jaksick 8600 Technology Way, Ste 110 Reno, Nevada 89521	Adult	Trustee & Beneficiary
Stanley S. Jaksick 8600 Technology Way, Ste 110 Reno, Nevada 89521	Adult	Beneficiary
Wendy A. Jaksick c/o R. Kevin Spencer Spencer Law, P.C. 500 N. Akard Street, Ste 2150 Dallas, Texas 75201	Adult	Beneficiary
Alexi Smrt 11 Bahama Court Mansfield, Texas 76063	Adult	Beneficiary
Luke Jaksick c/o Wendy A. Jaksick c/o R. Kevin Spencer Spencer Law, P.C. 500 N. Akard Street, Ste 2150 Dallas, Texas 75201	Minor	Beneficiary
Benjamin Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Minor	Beneficiary
Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Minor	Beneficiary
Regan Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Beneficiary
Sydney Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Beneficiary
Sawyer Jaksick c/o Lisa Jaksick 5235 Bellazza Court Reno, Nevada 89519	Minor	Beneficiary

THE FAMILY TRUST

18. The Samuel S. Jaksick, Jr. Family Trust Agreement (As Restated) (the “Restated Family Trust Agreement”) establishing The Samuel S. Jaksick, Jr. Family Trust (the “Family Trust”) was executed by Samuel S. Jaksick, Jr. on June 29, 2006. *Please see a copy of the Family Trust attached as Exhibit “I” to the Petition for Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval of Accountings and Other*

1 *Trust Administration Matters, which was originally filed in Cause No.PR17-00445 (the*
2 *“Petition for Confirmation in Cause No.PR17-00445”).*

3 **THE PURPORTED SECOND AMENDMENT TO THE FAMILY TRUST**

4 19. On December 10, 2012, Samuel S. Jaksick, Jr. purportedly executed the Second
5 Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement Restated Pursuant to the
6 Third Amendment Dated June 29, 2006 (the “Purported Second Amendment”). *Please see a*
7 *copy of the Purported Second Amendment attached as Exhibits “3” to the Petition for*
8 *Confirmation in Cause No.PR17-00445.* Based upon information and belief, Wendy believes
9 the Purported Second Amendment may be invalid and she may contest it. However, at this
10 time, Wendy does not have sufficient information to proceed with a contest of the Purported
11 Second Amendment. Wendy reserves the right to amend this *Counter-Petition* to contest the
12 validity of the Purported Second Amendment once she obtains information necessary to fully
13 evaluate such claim.

14 **THE ISSUE TRUST**

15 20. The SSJ’s Issue Trust Agreement (the “Issue Trust Agreement”) establishing
16 The SSJ’s Issue Trust (the “Issue Trust”) was executed by Samuel S. Jaksick, Jr. on February
17 21, 2007. *Please see a copy of the Issue Trust attached as Exhibit “1” to the Petition for*
18 *Confirmation of Trustee and Admission of Trust to the Jurisdiction of the Court, and for*
19 *Approval of Accountings and Other Trust Administration Matters, which was originally filed in*
20 *Cause No. PR17-00446 (the “Petition for Confirmation in Cause No. PR17-00446”).*

21 **GENERAL ALLEGATIONS**

22 21. As demonstrated herein, Counter-Respondents have failed to provide Wendy
23 the information to which she is entitled and Counter-Respondents are also the persons with
24 knowledge of the facts, as well as the documents, that underlie each of their acts or omissions.
25 Accordingly, Wendy is unable to determine at this time the entire scope and extent of Counter-
26 Respondents’ breaches and other acts or omissions, and Wendy reserves the right to amend her
27 Counter-Petition as discovery proceeds. Subject to this disclaimer and the reservation of
28

1 Wendy's right to amend this Counter-Petition, Wendy alleges as follows:

2 22. Samuel S. Jaksick, Jr. Samuel S. Jaksick, Jr. ("Samuel") was a native Nevadan
3 who had a gift for finding and capitalizing on business and real estate opportunities in Nevada.
4 Samuel's success and reputation were due in large part to the prosperous and well known
5 planned communities he developed throughout Nevada. Over the course of his life, Samuel
6 amassed a substantial amount of wealth, real estate and other property rights.

7 23. During his life, Samuel was married three times. His first marriage was to
8 Gwendolyn Jaksick and that marriage ended in divorce. During his marriage to Gwendolyn,
9 Samuel had three (3) children Stanley S. Jaksick ("Stanley"), Todd B. Jaksick ("Todd") and
10 Wendy A. Jaksick ("Wendy"). Samuel's second marriage was to Rebecca Porter and that
11 marriage ended in divorce; no children were born of this marriage. Samuel's final marriage
12 was to Janene Jaksick ("Janene"). Samuel's final marriage ended when he predeceased Janene,
13 by approximately a year and a half. Samuel and Janene did not have any children together.

14 24. Samuel loved his wife, Janene, children and grandchildren very much. He
15 supported them throughout their lives and always made it clear he intended to support them
16 when he passed. He was also very proud of the property and wealth he had acquired and
17 intended that his family enjoy and benefit from that property for generations. Samuel engaged
18 in Estate planning and the creation and funding of two primary (2) trusts to accomplish his
19 objectives.

20 25. The Samuel S. Jaksick, Jr. Family Trust. Samuel executed The Samuel S.
21 Jaksick, Jr. Family Trust Agreement (As Restated) (the "Family Trust Agreement")
22 establishing The Samuel S. Jaksick, Jr. Family Trust (the "Family Trust") on June 29, 2006.
23 The Family Trust was funded with a significant amount of property at the time it was created.

24 26. The purpose of the Family Trust was to provide for Samuel during his life and,
25 upon his death, to provide for his wife through the funding of a Marital Trust and his children
26 through the funding of a Decedent's Trust. The Decedent's Trust essentially provides each of
27 Samuel's children a one-third interest in the Decedent's Trust and for the distribution of
28

1 income and principal for his children's health, education, support and maintenance.¹ The
2 Decedent's Trust also provides for discretionary distributions of certain principal for the health,
3 education, support and maintenance of his grandchildren.² However, Samuel's primary intent
4 and purpose to provide for his children is made clear by the Family Trust, which provides "the
5 primary concern of the Grantor is the proper health, education, support, and maintenance of the
6 Beneficiary, and the interest of the other beneficiaries in the trust are to be subordinate to those
7 of the Beneficiary."³

8 27. Samuel was designated as the initial Trustee of the Family Trust.⁴ If at any time
9 Samuel failed to serve as Trustee and failed to appoint a successor trustee, the Family Trust
10 provides that Stanley, Todd and another person designated in the Family Trust were to serve as
11 Co-Trustees.⁵

12 28. The Purported Second Amendment to the Family Trust. On December 10, 2012,
13 Samuel S. Jaksick, Jr. purportedly executed the Purported Second Amendment to the Family
14 Trust (the "Purported Second Amendment"). Although the Purported Second Amendment was
15 allegedly executed in 2012, Wendy was not aware of its existence until it was produced to her
16 after she retained counsel in 2016. The Purported Second Amendment, like many other
17 documents created during Todd's involvement with Samuel's Trusts and various businesses,
18 came out of nowhere and is contrary to Samuel's intent concerning Wendy as expressed by
19 Samuel over the years.

20 29. Based on Wendy's understanding of Samuel's intent, she does not believe
21 Samuel would have or did sign the Purported Second Amendment. Based on information and
22 belief, it is Wendy's understanding that Samuel's secretary often signed Samuel's name on

23 _____
24 ¹ Paragraphs D.4. and F.1. of Article II of the Family Trust Agreement.

25 ² Paragraph F.2. and F.1. of Article II of the Family Trust Agreement.

26 ³ Paragraph F.2. of Article II of the Family Trust Agreement.

27 ⁴ Paragraph A. of Article IV of the Family Trust Agreement.

28 ⁵ *Id.*

1 documents when Samuel was not present, and Todd or someone on Todd's behalf signed
2 Wendy's and her daughter's name on documents related to the Trusts. Additionally, there are
3 numerous documents related the Trusts, the administration of the Trusts and Samuel's
4 businesses Wendy believes Todd manufactured after the fact to suit his needs. Accordingly,
5 based upon information and belief, Wendy believes the Purported Second Amendment may be
6 invalid and she may contest it. However, at this time, Wendy does not have sufficient
7 information to proceed with a contest of the Purported Second Amendment. Wendy reserves
8 the right to amend this *Counter-Petition* to contest the validity of the Purported Second
9 Amendment once she obtains information necessary to fully evaluate such claim.

10 30. The SSJ's Issue Trust. Samuel executed The SSJ's Issue Trust Agreement (the
11 "Issue Trust Agreement") establishing The SSJ's Issue Trust (the "Issue Trust") on February
12 21, 2007. A copy of the Issue Trust Agreement is attached as *Exhibit "I"* to the *Petition for*
13 *Confirmation in Cause No. PR17-00445*.

14 31. The purpose of the Issue Trust was to hold, protect, and preserve family real
15 estate for the use and enjoyment of Samuel and his family for many generations.⁶ The terms of
16 the Issue Trust provide for the use of the trust property by Samuel's issue, but prohibit the
17 distribution of the income or principal from the Issue Trust until the earlier of such time as all
18 of Samuel's issue are deceased or the expiration of Nevada's perpetuity period (which is
19 currently 365 years).⁷ Samuel intended the Issue Trust hold, protect and preserve important
20 existing family property such as the approximately 20,000 acres of property known as the 49
21 Mountain Ranch. But Samuel also intended that the Issue Trust purchase and maintain homes
22 for each of his children. Samuel maintained one or more substantial life insurance policies
23 payable to the Issue Trust to fulfill its purpose and his intent. At the time of Samuel's death,
24 the Issue Trust was beneficiary of a life insurance policy insuring Samuel's life in the amount
25 of \$6 million.

26 _____
27 ⁶ Paragraph B. of Article II of the Issue Trust Agreement.

28 ⁷ Paragraphs B.3. and B.4. of Article II of the Issue Trust Agreement.

1 32. Todd was designated to serve as the sole Trustee of the Issue Trust (“Issue
2 Trustee”)⁸ and has served in that capacity since the Issue Trust was established in February
3 2007.

4 33. Samuel died in a tragic accident on April 21, 2013.

5 34. As a result of Samuel’s death, Todd, Stanley and Kevin Riley (“Kevin”) were
6 appointed and served as Co-Trustees of the Family Trust. On July 31, 2013, Kevin purportedly
7 resigned as Co-Trustee and Todd and Stanley served as two Co-Trustees until December 2016,
8 when Todd purportedly appointed Michael S. Kimmel (“Michael”) to serve as the third Co-
9 Trustee under the authority of the Purported Second Amendment. Interestingly, Todd’s
10 appointment was made not long after the Purported Second Amendment surfaced for the first
11 time. Todd, Stanley and Michael shall be known herein as the “Family Trust Co-Trustees”.

12 35. The Family Trust Co-Trustees and the Issue Trustee have refused to keep
13 Wendy informed and failed to fully disclose to her information concerning the assets and
14 property of the respective Trusts, their administration of the respective Trusts and the
15 transactions they were conducting on behalf of the respective Trusts. The Family Trust Co-
16 Trustees and Issue Trustee used their positions to control and utilize the assets and property of
17 the respective Trusts for their personal benefit at the expense of the Trusts, Wendy and
18 Wendy’s interest in the Trusts. As a result of such actions and breaches of fiduciary duties,
19 Wendy was forced to retain counsel to attempt to compel the Family Trust Co-Trustees and
20 Issue Trustee to comply with the obligations and fiduciary duties under the Trust, to keep
21 Wendy informed about the Trusts and their actions as Trustees, to fully disclose and to stop
22 self-dealing

23 36. The Lake Tahoe Property. In the 1970s, Samuel acquired the lakefront property
24 on Lake Tahoe located at 1011 Lakeshore Blvd., Incline Village, Nevada 89451 (the “Tahoe
25 Property”). The Tahoe Property was Samuel’s main residence until his death. Wendy and
26 Stanley were raised in the house during the 1980s before they left for college. When Samuel

27 _____
28 ⁸ Paragraph A. of Article IV of the Issue Trust Agreement.

1 executed the Family Trust, the Tahoe Property was listed on Schedule A as property initially
2 conveyed to the Trust.⁹ The terms of the Family Trust specifically address the Tahoe Property
3 and Samuel's intention that the Tahoe Property be retained and administered as a separate trust
4 for the benefit of his wife and children.¹⁰ In this respect the Family Trust provides as follows:

5 The Lake Tahoe Residence and Residential Funds shall be
6 retained and administered as a separate trust for the benefit of the
7 Surviving Spouse and the Grantor's children who are living on
8 the date of death of the Grantor and shall be held, administered,
9 and distributed as hereafter provided.

10 On the death of the Grantor, ... [a]t the expiration of the six (6)
11 month period set forth in the preceding sentence, the Surviving
12 Spouse and each of the Grantor's living children shall have the
13 right to use and occupy the Lake Tahoe Residence, rent free, for
14 such equal periods throughout each calendar year ... until such
15 time as the Lake Tahoe Residence is sold.¹¹

16 The Family Trust further provided that upon the sale of the Tahoe Property, the sales proceeds
17 shall be divided in three (3) equal shares for the benefit of his children. It was clear Samuel
18 intended that all his children would benefit equally from the use of the Tahoe Property while it
19 was administered as an asset of the Trust and from the proceeds upon its sale.

20 37. On December 5, 2011, the Tahoe Property was apparently transferred from the
21 Family Trust to SSJ, LLC, a single member limited liability company wholly owned by
22 Samuel. Just over a year later, on December 28, 2012, Todd, as Manager of SSJ, LLC, signed
23 and recorded a purported Grant, Bargain and Sale Deed purportedly transferring the Tahoe
24 Property to Incline TSS, Ltd. This was done just days after Samuel had open heart surgery in
25 Los Angeles, California and while he was still in the hospital there. Wendy believes the
26 purported transfer to of the Tahoe Property to Incline TSS, Ltd. may be invalid and she may
27 contest such transfer, but does not have the information at this point to make such
28 determination. Wendy reserves the right to contest this transfer as she obtains additional

⁹ Schedule A of the Family Trust Agreement.

¹⁰ Paragraphs D.2.a. and G. of Article II of the Family Trust Agreement.

¹¹ Paragraphs G. and G.1. of Article II of the Family Trust Agreement (emphasis added).

1 information through.

2 38. At some point, Todd and his family purportedly acquired a forty-six percent
3 (46%) interest in the Tahoe Property. The Tahoe Property was worth approximately \$15
4 million at the time of Samuel's death. To acquire a nearly fifty percent (50%) interest in the
5 Tahoe Property would have required Todd and his family to make a substantial payment and
6 no such payment was ever made. Additionally, transferring an interest in the Tahoe property to
7 Todd and his children was contrary to Samuel's intention for the property and does not make
8 any sense. Samuel included specific provisions in the Family Trust to protect and preserve the
9 Tahoe Property for use by his wife and all his children so that all of his children would benefit
10 from the property equally. It is clear that Todd simply took the interest in the Tahoe Property
11 for himself and his family. Accordingly, Wendy contests and disputes that Todd and his
12 family validly acquired and own forty-six percent (46%) of the Tahoe Property and disputes
13 and contests the validity of any records that purport to establish such ownership.

14 39. When Samuel died just four (4) months after the purported transfer of the Tahoe
15 Property to Incline TSS, Ltd., Todd realized he could not or did not want to make his and his
16 families' portion of the payments owed on the approximately \$6 million loan on the Tahoe
17 Property. As a result, Todd came up with a scheme to pay down the debt with the funds from
18 the \$6 million life insurance policy payable to the Issue Trust. The day after Samuel died,
19 Todd approached Stanley and Wendy and told them they should agree to use the \$6 million in
20 insurance proceeds payable to the Issue Trust to pay down the Tahoe Property loan. Todd
21 represented to Stanley and Wendy that paying down the debt would benefit all three of them as
22 owners of the property. Stanley and Wendy were led to believe that the three of them would
23 own equal interests in the Tahoe Property after the paydown of the debt. Todd never disclosed
24 to Stanley and Wendy that he and his family had acquired an interest in the Tahoe Property and
25 it was no longer wholly owned by the Family Trust. As a result, Stanley and Wendy signed a
26 consent agreeing to Todd's proposal.

27 40. Stanley and Wendy later discovered that Todd and his family apparently,
28

1 directly or indirectly, acquired the forty-six percent (46%) interest in the Tahoe Property and
2 that the Issue Trust owned the remaining fifty-four percent (54%). If Todd and his family did
3 own forty-six percent (46%) of the Tahoe Property and had Todd been forthright and not
4 misleading about it, Wendy, and presumably Stanley, would have never agreed to Todd's
5 proposal to pay down the Tahoe Property loan with the insurance proceeds from the Issue
6 Trust. Under such circumstances, paying down the Tahoe Property debt only benefits Todd
7 and his family while harming Stanley and Wendy. Todd and his family received the benefit of
8 the debt reduction on their interest in the property without having to contribute any funds to
9 pay down the debt.

10 41. Meanwhile, Wendy and Stanley lost the benefit and use of the \$6 million in life
11 insurance proceeds. The debt payment eliminated the \$6 million in liquidity Samuel intended
12 the Issue Trust use to purchase, own and maintain houses and other property for his children
13 during their lifetimes. Wendy's and Stan's and the family's use of the Tahoe Property is
14 subject to the total and absolute control of Todd as purported part owner and sole Trustee of
15 the remaining ownership interest. Retaining the \$6 million in insurance funds in the Issue
16 Trust for the benefit of all three children was in the best interest of Stanley and Wendy, not
17 paying towards the debt on a property over which Todd claims control. Distributing such
18 funds to pay down the Tahoe Property debt was only in the best interest of Todd and his family
19 and just another instance of Todd's efforts to gain personally at the expense of Wendy and
20 Stanley and completely contrary to the intent of the Decedent. Additionally, Todd was and is
21 now in complete control of the Tahoe Property, by the forty-six percent (46%) interest he
22 allegedly purportedly acquired and because he was and is the sole Trustee of the portion of the
23 property not owned by him and his family. Todd, as the sole Trustee of the Issue Trust,
24 breached his fiduciary duties to Wendy and Stanley as beneficiaries of the Issues Trust.

25 42. Wendy admits that she and Stanley signed a consent allowing the use of the \$6
26 million in insurance proceeds, but first, the consent they signed was the result of
27 misrepresentations and fraud by Todd and possibly others and, second, the consent they signed
28

1 is not the purported consent attached to *Exhibit "7"* to the *Petition for Confirmation in Cause*
2 *No. PR17-00446*. Whatever consent Stanley and Wendy signed was based on representations
3 made by Todd that were false and were made to induce Stanley and Wendy to agree to the
4 proposed debt payment and should be found invalid, ab initio, and set aside.

5 43. The Purported Indemnification Agreements. Samuel S. Jaksick, Jr., Individually
6 as Trustee of the Family Trust, and on behalf of his representative, executors, trustees,
7 successors and assigns and Todd B. Jaksick and Dawn Jaksick, Individually, TBJ SC Trust and
8 TBJ Investment Trust, and on behalf of their representatives, executors, trustees, successors
9 and assigns purportedly executed the Indemnification and Contribution Agreement on January
10 1, 2008 (the "Purported Indemnification"). A copy of the purported Indemnification
11 Agreement is attached as *Exhibit "10"* to the *Petition for Confirmation in Cause No. PR17-*
12 *00445*. Although the Purported Indemnification was allegedly created and executed in 2008,
13 and requires Samuel and the Family Trust to pay and indemnify Todd individually for various
14 obligations of Todd, the Family Trust and family businesses, no one was aware of the
15 existence of the Purported Indemnification until Todd produced it approximately two (2) years
16 after Samuel's death, when it became convenient for Todd to attempt to explain, allow or
17 exonerate his bad acts or bogus payments to himself or his avoidance of his obligations and
18 expenses. If such an agreement existed prior to Todd producing it, Stanley, Wendy, the
19 attorneys for the Trusts and the accountant would have known about it and Todd's reliance on
20 it long before Todd produced it. Wendy contends that the Purported Indemnification is invalid
21 because it was forged, altered or manufactured by Todd and possibly others and contests same
22 and contends it is not binding on anyone or the Family Trust. Wendy also contests all
23 transactions that occurred or obligations Todd avoided as a result of the Purported
24 Indemnification as such are invalid and should be set aside or, in the case of obligations Todd
25 avoided, such obligations should be enforced.

26 44. It appears Todd manufactured the purported Indemnification Agreement and is
27 using it to pay off any obligations he incurs in relation to the Trusts in addition to his personal
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obligations. The purported Indemnification Agreement attached as *Exhibit "10"* to the *Petition for Confirmation in Cause No. PR17-00445* has, apparently, been used by Todd and his family to fund his lifestyle, and includes the payment by the Family Trust of personal obligations of Todd including, but not limited to the following:

- a. Home Loan – WAMU: Mortgage Loan for 4505 Alpes Way in favor of Wells Fargo in the original principal amount of \$1,435,000.00 with monthly payments of \$7,281.67 with Todd, individually, as the 100% responsible party;
- b. Line of Credit: Home Equity in favor of Wells Fargo: The original principal amount of \$485,000.00 with approximate monthly payments of \$1,400.00 with Todd, individually, as the 100% responsible party;
- c. Mortgage Construction Loan in Favor of First Independent Bank: The original principal amount of \$3,060,000.00 with monthly payment on the 1st of each month of \$5,774.00 with maturity date of August 1, 2008, with Todd, individually, as the 100% responsible party; and
- d. Cadillac automobile loan: Note in favor of GMAC in the original principal amount of \$33,600.00 with monthly payments of \$700.00 due on the 20th of each month with maturity date of May 20, 2010, with Todd, individually, as the 100% responsible Party.

The Purported Indemnification Agreement attached as *Petition for Confirmation in Cause No. PR17-00445* further indicates that all of these personal obligations have been paid off. Accordingly, Todd appears to be relying on the Purported Indemnification as authority to use the Family Trust as his personal piggybank at the expense of the Family Trust and the beneficiaries. Todd never bothered in any capacity to inform Wendy of any such transactions prior to them occurring. These were all Todd's transactions by Todd that materially affected the interest of Wendy and Stanley.

45. Additionally, based on information and belief, Todd appears to be acquiring property of the Trusts, directly or indirectly, and paying for such property with a note instead

1 of cash. Todd then, apparently, uses the Purported Indemnification to avoid the obligation to
2 repay the note, ultimately acquiring the property without ever paying for it or forcing the
3 Family Trust to pay for it. Based on information and belief, it appears Todd used this scheme
4 when he acquired Samuel's cattle after his death. Based on information and belief, it also
5 appears Todd has acquired other trust property, including valuable water rights, this way, sold
6 the property to third-parties and then avoided or cancelled the note he used to acquire the
7 property and retained the money he received from the sale to the third-party.

8 46. Wendy was very recently informed that an alleged Indemnification and
9 Contribution Agreement similar to Todd's may have been executed in favor of Stanley
10 ("Stanley's Purported Indemnification"). Because Wendy believes that she and other family
11 members would have been aware of any such indemnity agreement long before now, pending
12 the discovery of additional information concerning same, Wendy contends any such Indemnity
13 Agreement is invalid and contests same.

14 47. Sale of Bright Holland, Co. Property. In 2016, Todd negotiated the sale of
15 certain property owned by Bright Holland, Co. known as the Fly Ranch (the "Fly Ranch
16 Property") to the Burning Man Project. It is believed that Fly Ranch Property sold for \$6.5
17 million. Wendy was never informed concerning the proposed sale and only learned of the sale
18 when she read about it in the news. Wendy was told she has a thirteen percent (13%) interest
19 in Bright Holland through her interest in the Wendy A. Jaksick 2012 BHC Family Trust, which
20 was apparently established by Samuel on December 17, 2012 (the "BHC Family Trust"). At
21 the time the BHC Family Trust was created, it was funded with thirteen shares of Bright
22 Holland, Co. stock accordingly to the trust agreement's schedule of assets. It is Wendy's
23 understanding that similar trusts were established for Todd and Stanley, and each child had an
24 equal amount of shares and interest in Bright Holland, Co.

25 48. Despite the substantial amount of funds received by the sale of the Fly Ranch
26 Property, the Trustee of the BHC Family Trust refused and continues to refuse to use any of
27 the funds for Wendy's benefit despite repeated requests by Wendy for distributions needed for
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1 her and her family's living expenses. Instead, Wendy was told the proceeds from the sale
2 would be held in escrow for the potential purchase of replacement property or would be used to
3 pay down debt. Apparently, Todd made the decision that no funds would be distributed to or
4 for Wendy's benefit from the sale despite his awareness that Wendy desperately needed the
5 funds for her and her family's living expenses. The is consistent with and appears to be a part
6 Todd's ongoing efforts and his scheme to minimize distributions to Wendy in order to starve
7 her and her family and force her to agree to a settlement of her interests in the Trusts for
8 substantial discounted sum. Todd clearly let his personal disdain for Wendy and her family in
9 his Individual capacity taint his judgment and ability to act in Wendy and her family's best
10 interest as her Trustees; and irreconcilable conflict of interest and bias. Additionally, Kevin, in
11 his Individual and Trustee capacities, has simply followed Todd's lead and failed to act in
12 Wendy's best interest.

13 49. Sale of Bronco Billy's Casino. Based information and belief, Samuel, through
14 the Family Trust, owned an eighteen percent (18%) interest in Bronco Billy's Casino ("Bronco
15 Billy's"). In 2015, Bronco Billy's was apparently sold for approximately \$30 million, netting
16 approximately \$5.4 million for the Family Trust's interest. Wendy expected her share of the
17 Family Trust would substantially benefit from its one-third interest in the sale proceeds.
18 However, despite Samuel's interest being held in the Family Trust, it was represented to
19 Wendy that she and her share of the Family Trust did not have an interest in Bronco Billy's.
20 Instead, apparently Todd and Stanly, directly or in trust, each owned fifty percent (50%) of
21 Samuel's interest in Bronco Billy's at the time of the sale. When Wendy complained about the
22 Bronco Billy's transaction, she was told she did not have an interest in Bronco Billy's and she
23 and her share of the Family Trust were not entitled to any of the proceeds of the sale because
24 she did not have a gaming license from the Colorado Division of Gaming; a ridiculous
25 response. In essence, Todd and Stanley stole Wendy's interest in the Trust and, in turn, in the
26 sale proceeds from Bronco Billy's.

27 50. This explanation makes no sense unless Samuel's eighteen percent (18%)
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1 interest in Bronco Billy's was transferred out of the Family Trust to Todd and Stanley before
2 the sale. If the sale occurred while the interest was held in Trust, the proceeds of the sale
3 would be paid to the Trust and equally apportioned between the children's share of the Trust,
4 without regard to any Colorado gaming license. The Family Trust owned the interest in
5 Bronco Billy's and would have received the proceeds of the sale, not Wendy in her individual
6 capacity; accordingly, there would be no reason Wendy or any of them would need a gaming
7 license. If, however, the interest was transferred out of the Family Trust before the sale, then
8 Todd and Stanley would have wrongly received a substantial benefit from the Family Trust at
9 the expense of Wendy's interest. Todd and Stanley could not have ended up with one-hundred
10 percent (100%) ownership in the interest in Bronco Billy's without wrongfully taking Wendy's
11 share of the Trust. They had to take her interest away from her without telling her. Such
12 action by the Co-Trustees would be a, per se, breach of the Trust Agreement and a breach of
13 their fiduciary duties to Wendy, unless her share of the Trust received other property in an
14 amount equal in value and liquidity.

15 51. Despite Wendy's requests, Co-Trustees have further breached their fiduciary
16 duties to Wendy by refusing to provide her with full disclosure and an accounting concerning
17 the Bronco Billy's transaction. She still does not know all of the details of the sale and the
18 transaction. Wendy has never received confirmation of what happened to the Family Trust's
19 interest in Bronco Billy's or that her share of the Family Trust was made whole as a result of
20 the Bronco Billy's sale, and, therefore, reasonably believes that it was not made whole.

21 52. This transaction is perfect example of the Co-Trustees' continued efforts to
22 manipulate the Family Trust and its property and to use their position of authority and control
23 over same for their personal benefit at the expense of the Trust, the beneficiaries of the Trust
24 and, particularly, at the expense off Wendy and her family. It is also consistent with and
25 appears to be a part of the Co-Trustees' ongoing scheme to minimize distributions to Wendy in
26 an effort to force her to agree to settle her interest in the Trusts.

27 53. The Purported Second Amendment to the Family Trust. On December 10, 2012,
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1 Samuel S. Jaksick, Jr. purportedly executed the Purported Second Amendment. Although the
2 Purported Second Amendment was allegedly executed in 2012, Wendy was not aware of its
3 existence until it was produced to her after she retained counsel in 2016. The Purported
4 Second Amendment, like many other documents created during Todd's involvement with
5 Samuel's Trusts and various businesses, came out of nowhere and is appears to be contrary to
6 Samuel's intent concerning Wendy as expressed by Samuel over the years.

7 54. Based on Wendy's understanding of Samuel's intent, she does not believe
8 Samuel would have or did sign the Purported Second Amendment. It is Wendy's
9 understanding that Samuel's secretary often signed Samuel's name on documents when
10 Samuel was not present, and Todd or someone on Todd's behalf signed Wendy's and her
11 daughter's name on documents related to the Trusts. Additionally, there are numerous
12 documents related the Trusts, the administration of the Trusts and Samuel's businesses Wendy
13 believes Todd manufactured after the fact to suit his needs. Accordingly, based upon
14 information and belief, Wendy believes the Purported Second Amendment may be invalid and
15 she may contest it. However, at this time, Wendy does not have sufficient information to
16 proceed with a contest of the Purported Second Amendment. Wendy reserves the right to
17 amend this *Counter-Petition* to contest the validity of the Purported Second Amendment once
18 she obtains information necessary to fully evaluate such claim.

19 CAUSES OF ACTION

20 **Count 1: Breach of Fiduciary Duties.**

21 55. Wendy incorporates by reference the foregoing paragraphs 1 through 54 as if
22 fully stated herein.

23 56. "The fiduciary obligations of a trustee are great."¹² "Perhaps the most
24 fundamental duty of a trustee is that he must display throughout the administration of the trust
25 complete loyalty to the interests of the beneficiary and must exclude all selfish interest and all
26

27 _____
28 ¹² *Riley v. Rockwell*, 103 Nev. 698, 701, 747 P.2d 903, 905 (1987).

1 consideration of the interests of third persons.”¹³

2 57. In Nevada a "trustee is a fiduciary who must act in good faith and with
3 fidelity to the beneficiary of the trust. He should not place himself in a position where it
4 would be for his own benefit to violate his duty to the beneficiary.”¹⁴Said fiduciary duties,
5 include, but are not limited to, the duty of full disclosure,¹⁵ fidelity,¹⁶ fairness, loyalty,
6 avoidance of self-dealing and utmost good faith.

7 58. NRS 164.015(1) provides that "[t]he court has exclusive jurisdiction of
8 proceedings initiated by the petition of an interested person concerning the internal
9 affairs of a nontestamentary trust. Proceedings which may be maintained under this
10 section are those concerning the administration and distribution of trusts, . . . including
11 petitions with respect to a nontestamentary trust for any appropriate relief provided with
12 respect to a testamentary trust in NRS 153.031."

13 59. N.R.S. 153.031 provides that a "beneficiary may petition the court regarding
14 any aspect of the affairs of the trust, including: . . . (g) Instructing the trustee; (h) Compelling

16 ¹³ BOGERT, TRUSTS AND TRUSTEES § 543 (2d ed. 1992); *see also* 76 AM. JUR. 2D
17 TRUSTS § 349 (2010) ("A trustee is a fiduciary of the highest order and is required to exercise
a high standard of conduct and loyalty in the administration of the trust.").

18 ¹⁴ *Bank of Nevada v. Speirs*, 95 Nev. 870, 874, 603 P.2d 1074, 1077 (1979).

19 ¹⁵ *See, e.g., Blue Chip Emerald LLC*, 299 A.D.2d 278, 279 (N.Y. 2005) ("[W]hen a
20 fiduciary, in furtherance of its individual interests, deals with the beneficiary of the duty
21 in a matter relating to the fiduciary relationship, the fiduciary is strictly obligated to make
'full disclosure' of all material facts."). *See also Zastrow v. Journal Communications, Inc.*,
22 718 N.W.2d 51, 61 (Wis. 2006) ("[I]f a trustee does not make a full disclosure of material
23 facts to a beneficiary, that conduct is a breach of the trustee's duty of loyalty. . . The law
24 concludes this breach is intentional."); *Flippo v. CSC Associates III, L.L.C.*, 547 S.E.2d
25 216, 222 (Va. 2001) (Even if a fiduciary's actions are legal, he is in breach when his legal
actions are for his own benefit and not for the beneficiary); *Taylor v. Nationsbank Corp.*,
481 S.E.2d 358, 361 (N.C. Ct. App. 1997) (Found many courts "have determined that a
trustee has a duty of full disclosure of all material facts for the protection of a beneficiary's
present and future interests in the trust.") (citations omitted); *Huie v. DeShazo*, 922 S.W.2d
920, 923 (Tex. 1996) (Trustees owe beneficiaries "a fiduciary duty of full disclosure of all
material facts known to them that might affect [the beneficiaries'] rights.") (citations
omitted); *Lind v. Webber*, 134 P. 461, 466 (Nev. 1913).

26 ¹⁶ *Bank of Nevada*, 95 Nev. at 873, 603 P.2d at 1076 ("A testamentary trustee is a fiduciary
27 who must act in good faith and with fidelity to the beneficiary of the trust. He should not
28 place himself in a position where it would be for his own benefit to violate his duty to the
beneficiary").

1 the trustee to report information about the trust or account, to the beneficiary; . . . (q)
2 Compelling compliance with the terms of the trust or other applicable law; . . ."

3 60. Similarly, N.R.S. 163.115 provides that "[i]f a trustee commits or threatens to
4 commit a breach of trust, a beneficiary or cotrustee of the trust may maintain a proceeding
5 for any of the following purposes that is appropriate: (a) To compel the trustee to perform
6 his or her duties; (b) To enjoin the trustee from committing the breach of trust; . . . (f) to set
7 aside the acts of the trustee; . . ."

8 61. Moreover, a party who knowingly participates in another's breach of fiduciary
9 duty may be liable for breach as a joint tortfeasor.¹⁷ Indeed, trustees are liable to beneficiaries
10 for the actions undertaken by a co-trustee unless they expressly disavow in writing and/or
11 attempt to prevent such breach. See N.R.S. 163.100.

12 62. The Trustees breached their fiduciary duties owed to Wendy by failing to fully
13 disclose and inform Wendy of all matters that materially affected the Trusts and the
14 beneficiaries at every step of their administration of the Trusts, by failing to act in the best
15 interest of the Trusts and their beneficiaries, by placing their own interests over and above the
16 interests of the Trusts and the beneficiaries, by self-dealing, by not being truthful, by failing to
17 act in good faith, by misrepresenting and deliberately withholding and refusing to provide
18 information and documents, by failing to timely and adequately account, by exhibiting extreme
19 carelessness, hostility and bias towards Wendy and her family and by acting in bad faith,
20 intentionally and with reckless indifference to the interests of the Trust and its beneficiaries
21 and by misappropriating assets of the Trusts. Such breaches have caused actual damages to the
22 Estate and its beneficiaries.

23 63. At a minimum, Trustees breached the following duties: (i) duty of full

24
25 ¹⁷ See *Kinzbach Tool Co. v. Corbett-Wallace Corp.*, 160 S.W.2d 509, 514 (Tex. 1942) (A party
26 who knowingly participates in another's breach of fiduciary duty may be liable for the breach as a
27 joint tortfeasor); RESTATEMENT (SECOND) OF TRUSTS § 326 (1959) ("A third person who,
28 although not a transferee of trust property, has notice that the trustee is committing a breach of trust
and participates therein is liable to the beneficiary for any loss caused by the breach of trust.");
BOGERT, TRUSTS AND TRUSTEES § 543 (2d ed. 1992) (Person who knowingly aids trustee in
committing a breach of his duties is liable to the beneficiary).

1 disclosure, (ii) duty of loyalty/fidelity, (iii) duty to not self-deal, (iv) duty of good faith and fair
2 dealing and to not take advantage of their beneficiaries and (v) misappropriation of trust assets

3 64. Accordingly, as a direct violation of the Trustees' breaches and conduct, Wendy
4 is entitled to surcharge the Trustees for damages resulting from such breaches and actions, the
5 amount of which will be proven at trial.¹⁸ The gamesmanship of the Trustees, and particularly
6 Todd, and their complete disregard for Wendy, her rights, constitutes a breach of fiduciary
7 duty, conspiracy and aiding and abetting. Accordingly, Wendy is entitled to surcharge the
8 Trustees for damages resulting from such breaches and actions.

9 **Count 2: Failure to Disclose and Adequately Account to Compel Accounting.**

10 65. Wendy incorporates by reference the foregoing paragraphs 1 through 64 as if
11 fully stated herein.

12 66. The law clearly and unequivocally imposes a duty upon a trustee to provide
13 clear and accurate accounts with respect to his administration of the Trust to the Trust's
14 beneficiaries. *See, e.g.*, RESTATEMENT OF TRUSTS (Second) § 172. A beneficiary's right to
15 an accounting is founded upon the fiduciary relationship that exists between the beneficiaries
16 and the trustee. Indeed, courts recognize that:

17 As a general matter of equity, the existence of a trust
18 relationship is accompanied as a matter of course by the
19 right of the beneficiary to demand of the fiduciary a full and
20 complete accounting at any proper time. . . . The scope of
21 each accounting depends of course upon the circumstances
22 of the individual case, and, as a general rule should include
23 all items of information in which the beneficiary has a
24 legitimate concern.

25 67. Pursuant to NRS 165.135, a trust accounting is required to contain the following
26 information:
27
28

25 ¹⁸ *See, e.g.*, RESTATEMENT (THIRD) OF TRUSTS § 70(b) (2007). *See also Pierce v. Lyman*,
26 3 Cal. Rptr. 2d 236, 241 (Cal. Ct. App. 1991) (Recognizing that "[t]he beneficiaries of a trust
27 may sue a trustee to recover profits or recoup losses resulting from a trustee's breach of the
28 duty of loyalty, the duty to avoid conflicts of interest, the duty to control and preserve trust
property, the duty to make trust property productive and the duty to dispose of improper
investments).

1 1. An Account must include:

2 a. A statement indicating the accounting period;

3 b. With respect to the trust principal:

4 i. The trust principal held at the beginning of the accounting
5 period, and in what form held, and the approximate
6 market value thereof at the beginning of the accounting
7 period;

8 ii. Additions to the trust principal during the accounting
9 period, with the dates and sources of acquisition;

10 iii. Investments collected, sold or charged off during the
11 accounting period;

12 iv. Investments made during the accounting period, with the
13 date, source and cost of each investment;

14 v. Any deductions from the trust principal during the
15 accounting period, with the date and purpose of each
16 deduction; and

17 vi. The trust principal, invested or uninvested, on hand at the
18 end of the accounting period, reflecting the approximate
19 market value thereof at that time;

20 c. With respect to trust income, the trust income:

21 i. On hand at the beginning of the accounting period, and in
22 what form held;

23 ii. Received during the accounting period, when and from
24 what source;

25 iii. Paid out during the accounting period, when, to whom
26 and for what purpose; and

27 iv. On hand at the end of the accounting period and how
28 invested;

d. A statement of unpaid claims with the reason for failure to pay
them; and

e. A brief summary of the account, which must include:

i. The beginning value of the trust estate:

a. For the first accounting, the beginning
value of the trust estate shall consist of the
total of all original assets contained in the
beginning inventory.

b. For accountings other than the first
account, the beginning value of the trust

1 estate for the applicable accounting period
2 must be the ending value of the prior
3 accounting.

- 4 ii. The total of all receipts received during the accounting
5 period, excluding capital items.
6 iii. The total of all gains on sales or other disposition of
7 assets, if any, during the accounting period.
8 iv. The total of disbursements and distributions during the
9 accounting period.
10 v. The total of all losses on sales or other disposition of
11 assets, if any, during the accounting period.
12 vi. The total value of the trust assets remaining on hand at
13 the end of the accounting period.

- 14 2. A summary of the account pursuant to paragraph (e) of subsection
15 1 must be in substantially the following form:

16 . . .

- 17 3. In lieu of segregating the report on income and principal pursuant
18 to subsection 1, the trustee may combine income and principal
19 activity in the account so long as the combined report on income
20 and principal does not materially impeded a beneficiary's ability to
21 evaluate the charges to or credits against the beneficiary's interest.

22 68. The Counter-Respondents have failed to fully disclose and account to Wendy
23 for many years. The purported "Trust Accountings" included with the *Petition for*
24 *Confirmation in Cause No. PR17-00445* and the *Petition for Confirmation in Cause No. PR17-*
25 *00445* do not satisfy the statutory requirements, and, as result, the Trustees have failed their
26 obligations under Nevada law. Additionally, it is impossible to evaluate and/or fully
27 understand the Trust assets and Trust administration without the records and information relied
28 on to prepare the purported "Trust Accountings."

29 69. Despite Wendy's objections to the "Trust Accountings" and the Trustees'
30 failure to provide her with the backup for the Trust Accountings, the Trustees have made no
31 effort to amend or supplement the accountings to comply with Nevada law or to provide
32 Wendy with the support and additional information necessary for Wendy to fully understand
33 the Trust Accountings and the Trustees' administration of the Trusts. As a result, Trustees
34 have breached and continue to breach their fiduciary duties of full disclosure and the resulting

1 attorneys' fees and costs are damaging Wendy and the Trusts.

2 70. The Trustees should be compelled to prepare and file accountings for each
3 Trusts that comply with the statue and provide Wendy and the other beneficiaries a full
4 understanding of the assets and administration of the Trusts. Additionally, the Trustees
5 breaches of fiduciary duty of full disclosure and to render proper statutory accountings for the
6 Trusts, warrant this Court entering an order surcharging the Trustees.

7 **Count 3: Civil Conspiracy and Aiding and Abetting.**

8 71. Wendy incorporates by reference the foregoing paragraphs 1 through 70 as if
9 fully stated herein.

10 72. "[C]ivil conspiracy is a combination of two or more persons who, by some
11 concerted action, intend to accomplish some unlawful objective for the purpose of harming
12 another which results in damage."¹⁹ "[L]iability attaches for civil aiding and abetting if the
13 defendant substantially assists or encourages another's conduct in breaching a duty to a
14 third person."²⁰ Furthermore, NRS 163.110 holds trustees equally liable for actions of co-
15 trustees.

16 73. Wendy asserts that the Trustees, acting in their Individual and Trustee
17 capacities, have conspired and/or aided and abetted the Trustees to the extent they
18 undertook any actions, which resulted in a breach of the Trustees' fiduciary duties. As a
19 direct violation of the Trustees' breach of fiduciary duties, the other Trustees, in their
20 Trustee capacities or in their individual capacities, are liable to Wendy for damages
21 resulting from the Trustees' breaches, the amount of which will be proven at trial.

22 74. To the extent Kevin claims he had resigned as Co-Trustee of the Family
23 Trust or the BHC Family Trust and was not serving as Trustee of these Trusts at the time
24 any of the acts complained of herein occurred is of no significance. Wendy asserts that the
25 Trustees and Kevin, acting as in his individual capacity, conspired and/or aided and abetted the
26

27 ¹⁹ *Collins v. Union Federal Say. & Loan Ass-n*, 99 Nev. 284, 303, 662 P.2d 610, 622 (1983).

28 ²⁰ *Dow Chemical Co. v. Mahlum*, 114 Nev. 1468, 1490, 970 P.2d 98, 112 (1998), *disapproved on other grounds by GES, Inc. v. Corbitt*, 117 Nev. 265, 21 P.3d 11 (2001).

1 Trustees to the extent he undertook any actions, which resulted in a breach of the Trustees'
2 fiduciary duties. Kevin, in his individual capacity, is liable to Petitioner for damages resulting
3 from the Trustees breaches, the amount of which will be proven at trial.

4 75. For the additional reasons as set forth herein, the Trustees, in their Individual
5 and Trustee capacities, are further liable to Wendy for civil conspiracy and aiding and abetting,
6 the amount of damages, of which, will be proven at trial.

7 **Count 4: Aiding and Abetting Breaches of Fiduciary Duty.**

8 76. Wendy incorporates by reference the foregoing paragraphs 1 through 75 as if
9 fully stated herein.

10 77. The Trustees each had a fiduciary relationship with relationship, and owed
11 fiduciary duties to, Wendy.

12 78. The Counter-Respondents were aware of the fiduciary relationships each of the
13 Trustees had with Wendy as well as the fiduciary duties each of the Trustees owed to Wendy.

14 79. The Counter-Respondents knew or should have known that each of the Trustees
15 breached their fiduciary duties to Wendy.

16 80. The Counter-Respondents provided substantial assistance to each other in
17 breaching their fiduciary duties by, among other things, aiding, abetting, participating in and/or
18 assisting with their fraudulent actions/statements and other wrongful conduct.

19 81. The Counter-Respondents acted intentionally and/or in concert with each other
20 to provide substantial assistance in each Trustees' breaching of their fiduciary duties toward
21 Wendy.

22 82. As a direct and proximate result of the actions of Counter-Respondents, Wendy
23 has been substantially damaged.

24 **Count 5: Actual Fraud.**

25 83. Wendy incorporates by reference the foregoing paragraphs 1 through 82 as if
26 fully stated herein.

27 84. The elements of intentional misrepresentation are: (1) A false representation
28

1 made by the defendant; (2) defendant's knowledge or belief that its representation was false or
2 that defendant has an insufficient basis of information for making the representation; (3)
3 defendant intended to induce plaintiff to act or refrain from acting upon the misrepresentation;
4 and (4) damage to the plaintiff as a result of relying on the misrepresentation.²¹

5 85. Todd, in his Individual and Trustee capacities, made material and intentional
6 misrepresentations to Wendy, which were false, which Todd knew were false when made,
7 which were intended to be acted upon by Wendy, were relied upon by Wendy and resulted in
8 damages to Wendy.

9 86. Wendy has suffered injury and has been damaged by Todd's efforts, actions and
10 fraudulent conduct, and these damages were directly caused by such actions and due to
11 Wendy's reliance on Todd's misrepresentations and false representations. Todd, in his
12 Individual and Trustee capacities, should be held liable for all damages resulting therefrom.

13 87. The purported consent, in which Wendy and Stanley agreed to pay down the
14 Tahoe Property loan with the \$6 million in life insurance proceeds, was executed as the result
15 of one or more intentional misrepresentations made by Todd, in his Individual and Trustee
16 capacities, to Wendy and Stanley, and, therefore, should be set aside and declared void as if it
17 were never signed.

18 **Count 6: Removal of Trustees and Appointment of Independent Trustee(s).**

19 88. Wendy incorporates by reference the foregoing paragraphs 1 through 87 as if
20 fully stated herein.

21 89. N.R.S. 156.070 provides for the removal and appointment of Trustees as
22 follows:

23 The trustee shall, when directed by the court, account to it for all
24 his or her acts as trustee, and the court may, from time to time,
25 upon good cause shown, remove any trustee, and appoint another
in his or her place.

26 90. Wendy requests the Trustees be removed by the Court for the breaches of
27

28 ²¹ *Barmettler v. Reno Air, Inc.*, 114 Nev. 441, 447, 956 P.2d 1382, 1386 (1998).

1 fiduciary duties and other actions described herein, as well as, their strong bias against Wendy
2 and her family that has created an irreconcilable conflict in their administration of the Trusts.
3 Upon the Trustees removal, Wendy requests the Court appoint Nevada State Bank, the
4 successor trustee named in Article IV, Paragraph A(1) of the Family Trust, or some other
5 qualified independent trustee(s).

6 **Count 7: Unjust Enrichment and Constructive Trust.**

7 91. Wendy incorporates by reference the foregoing paragraphs 1 through 90 as if
8 fully stated herein.

9 92. “Unjust enrichment occurs whenever a person has and retains a benefit which in
10 equity and good conscience belongs to another. Unjust enrichment is the unjust retention of a
11 benefit to the loss of another, or the retention of money or property of another against the
12 fundamental principles of justice or equity and good conscience.”²²

13 93. Trustees took actions in the administration of the Trusts that resulted in Trustees
14 receiving personal benefits and control of property of the Trusts. Because of such actions,
15 breaches of fiduciary duty, the misapplication of property of the Trusts, the creation and
16 reliance on invalid Purported Indemnification and other invalid documents; Todd, in his
17 Individual and Trustee capacities, and persons acting on his behalf and others fraudulently
18 inducing Wendy and/or Stanley to sign purported documents; and because of the fiduciary
19 and/or confidential relationship between Trusts and Wendy, a constructive trust, for the benefit
20 of the Trusts and/or Wendy, should be imposed upon any benefit or property acquired as a
21 result of the transactions described herein or any unfair transaction with the Trusts, because
22 Todd, Todd’s family, Stanley, Michael, Kevin and possibly others have been unjustly enriched.

23 **Count 8: Trustees Should be Precluded from Using Assets of the Trust to Defend this**
24 **Matter.**

25 94. Wendy incorporates by reference the foregoing paragraphs 1 through 93 as if
26 fully stated herein.

27
28 ²² *Nevada Indus. Dev., Inc. v. Benedetti*, 103 Nev. 360, 363, 741 P.2d 802, 804 (1987).

1 95. A trustee is not entitled to payment of attorney's fees and expenses of litigation
2 from the assets of the trust when the trustee breached the trust, unless a benefit was conferred
3 upon the trust as a result of the trustee's actions.²³ As demonstrated herein, the Trustees have,
4 at a minimum, breached the following duties (i) duty of full disclosure, (ii) duty of
5 loyalty/fidelity, (iii) duty to not self-deal, (iv) duty of good faith and fair dealing and to not
6 take advantage of their beneficiaries and (v) misappropriation of trust assets. Trustees defense
7 of such actions, which are all the fruits of their own illegal and fraudulent conduct, is done in
8 bad-faith and without just cause. Additionally, it is clear based on the Trustees actions that
9 hold a strong bias against Wendy and her family that has created an irreconcilable conflict in
10 their administration of the Trusts. Based on the numerous breaches of fiduciary duty and
11 conflicts of interest, it is in the best interests of the Trusts that any and all attorney's fees and
12 costs incurred by the Trustees, in their Individual and Trustee capacities, in defending this
13 matter be paid from the Trustees' own personal resources and not assets of the Trusts, as they
14 are the only persons that would benefit from using trust assets to defend their wrongful and
15 self-serving actions.²⁴

16
17 ²³ See, e.g., *Estate of Bowlds*, 120 Nev. 990, 102 P.3d 593 (Dec. 2004) (Citing *Matter of Estate of*
18 *Rohrich*, 496 N.W.2d 566, 571 (N.D. 1993) (An attorney's services must benefit the estate to
19 justify compensation from estate assets)). See also *Gump*, 1 Cal. App.4th at 605, 2 Cal.Rptr.2d at
20 278.

21 ²⁴ "In the court's discretion, fees incurred by the trustee in defending against a beneficiary's claim
22 of breach [of duty] may not be payable from the trust during the pendency of the litigation."
23 Bogert's Trusts and Trustees § 971 (footnote omitted).

24 See also *Sierra v. Williamson*, 784 F. Supp. 2d 774, 777 (W.D. Ky. 2011) ("[W]hether a
25 trustee is entitled to attorney's fees from the trust corpus is not a matter of right, but is
26 warranted where the trustees were not at fault in the litigation and the amount of attorney
27 expenses was reasonable . . . the Court believes that the proper procedure is to allow [the
28 trustees] to seek reimbursement from the Trust after the conclusion of this case, assuming [the
trustees] are successful and their expenses reasonable."

 See also *Sierra*, 784 F. Supp. 2d at 778 ("Delaying reimbursement of trustees until after
litigation is warranted because 'the need to protect beneficiaries from self-interested trustees
outweighs the innocent trustee's need for immediate payment of its attorney's fees.") (citation
omitted).

 See also *Wells Fargo Bank v. Sup. Ct.*, 22 Cal. 4th 201, 213 n.4, 990 P.2d 591, 599 ri.4
(2000) ("The better practice may be for a trustee to seek reimbursement after any litigation with
beneficiaries concludes, initially retaining separate counsel with personal funds."). See, also,
Jacob v. Davis, 128 Md. App. 433, 466, 738 A.2d 904, 921 (1999) ("The general rule is that at

1 96. In the instant case, the actions of the Trustees, in their Individual and Trustee
2 capacities, are so intertwined that it would be extremely difficult to segregate out the legal
3 services being provided between the various capacities. Additionally, the Trustees have
4 significant wealth and otherwise have the means to defend themselves in this matter.

5 97. To authorize the Trustees to utilize assets of the trust to defend themselves in
6 this matter would further deplete the assets of the Trusts. This is also true in light of the fact
7 that the Trusts have been drained of liquid assets by the Trustee breaches of fiduciary duties
8 and payment of Todd's obligations under the Purported Indemnity Agreement that has been
9 contested.

10 98. As such, the Trustees, in their Individual and Trustee capacities, should not only
11 be precluded from continuing to pay their legal fees from the Trusts, but they also should be
12 compelled to reimburse the Trusts for all legal fees paid to date.

13 **Count 9: Disgorgement of Trustee Fees.**

14 99. Wendy incorporates by reference the foregoing paragraphs 1 through 98 as if
15 fully stated herein.

16 N.R.S. 153.031(3) provides:

17 If the court grants any relief to the petitioner, the court may, in
18 its discretion, order any or all of the following additional relief
19 if the court determines that such additional relief is appropriate
20 to redress or avoid an injustice:

- 21 (a) Order a reduction in the trustee's compensation.
22 (b) Order the trustee to pay to the petitioner or any other
23 party all reasonable costs incurred by the party to adjudicate the
24 affairs of the trust pursuant to this section, including, without
25 limitation, reasonable attorney's fees. The trustee may not be
26 held personally liable for the payment of such costs unless the
27 court determines that the trustee was negligent in the
28 performance of or breached his or her fiduciary duties.

100. Wendy believes that the Trustees' have been paying themselves trustee's

trustee is entitled to attorneys' fees paid from the trust *if it successfully defends* an action
brought by the beneficiary." (citations omitted; emphasis added); Restatement (Third) of
Trusts § 88, cmt. d ("*To the extent the trustee is successful* in defending against charges of
misconduct, the trustee is normally entitled to indemnification for reasonable attorneys' fees
and other costs") (emphasis added).

1 compensation.

2 101. Based upon the various breaches of fiduciary duties as set forth herein, this
3 Court should enter an order requiring Family Co-Trustees' and Issue Co-Trustee's to disgorge
4 any and all trustee compensation they have been paid.

5 102. Clearly, the Trustees' actions in engaging litigation counsel and incurring
6 significant legal fees, does not benefit the Trusts and does not amount to good faith based on
7 the Trustees' various breaches of fiduciary duties as set forth herein. This Court should compel
8 the Trustees to obtain reimbursement on behalf of the Trusts of the entire retainers paid to their
9 litigation counsel from the Trusts.

10 103. Additionally, such conduct constitutes a further breach by yet again depriving
11 the Trust of the use of such funds.

12 **Count 10: Contest of Purported Consent Agreement.**

13 104. Wendy incorporates by reference the foregoing paragraphs 1 through 103 as if
14 fully stated herein.

15 105. NRS 30.030 and NRS 30.040 provide that any person whose rights, status or
16 other legal relations are affected by contract may have determined any question of construction
17 or validity arising under the contract and obtain a declaration of rights, status or other relations
18 thereunder

19 106. Wendy contests the purported consent attached to *Exhibit "7"* to the *Petition for*
20 *Confirmation in Cause No. PR17-00446* (the "Purported Consent"), because it is not the
21 version of the consent that she signed, or, in the alternative, it was signed based on
22 representations made by Todd, in his Individual and Trustee capacities, that were false and
23 were made to induce Stanley and Wendy to agree to the proposed debt payment. As a result,
24 the Purported Consent should be found invalid, ab initio, and set aside.

25 107. Wendy also contests all actions taken by Todd, in his Individual and Trustee
26 capacities, associated with the Purported Consent and requests the Court declare all such
27 actions invalid.

Count 11: Contest of Purported Indemnity Agreement.

108. Wendy incorporates by reference the foregoing paragraphs 1 through 107 as if fully stated herein.

109. NRS 30.030 and NRS 30.040 provide that any person whose rights, status or other legal relations are affected by contract may have determined any question of construction or validity arising under the contract and obtain a declaration of rights, status or other relations thereunder.

110. Wendy contests the Purported Indemnification Amendment and contends it should be should be set aside and declared invalid because it was manufactured and forged by Todd or someone at Todd's behest and was never signed by Samuel.

111. Wendy also contests all actions taken by Todd, in his Individual and Trustee capacities, under the Purported Indemnification and all transactions that occurred or obligations Todd, in his Individual and Trustee capacities, avoided as a result of the Purported Indemnification and requests the Court declare all such are invalid and should be set aside or, in the case of obligations of Todd that were avoided, in either his Individual and Trustee capacities, such obligations should be enforced.

Count 12: Wendy is Entitled to be Awarded Attorneys' Fees and Costs.

112. Wendy incorporates by reference the foregoing paragraphs 1 through 111 as if fully stated herein

113. Wendy is additionally entitled to recover damages, including attorneys' fees and costs incurred by her to avoid, minimize, or reduce the damage caused by wrongful conduct of the Trustees. NRS 153.031(3)(b) and 164.005 provide that if the court grants any relief to a beneficiary, the court may order the trustee to pay the beneficiary all reasonable costs incurred by petitioner to adjudicate the affairs of the trust, including, without limitation, reasonable attorney's fees, and the trustee may be held personally liable for the payment of such costs if the trustee was negligent in the performance of his or her fiduciary duties.

114. This remedy is warranted given that the Trustees' blatant breaches of fiduciary duties and refusals to remedy such breaches, including failing to properly account, have cost Wendy substantial attorneys' fees and costs. As a result, this Court should award Wendy's attorneys' fees and costs from the Trustees' personal assets as contemplated by Nevada law or, in the alternative, from the Trusts.

115. Wendy is also entitled to recover costs incurred in pursuing declaratory relief sought herein related the documents, Trusts and administration/construction of the Trusts. NRS 30 and 30.120.

Count 13: Declaratory Judgment – No Contest Provision

116. Wendy incorporates by reference the foregoing paragraphs 1 through 116 as if fully stated herein.

117. NRS 30.030 and NRS 30.060 provide that any person interested as or through a trustee in the administration of a trust may have a declaration of rights or legal relations in respect thereto to direct the trustees to do or abstain from doing any particular act in their fiduciary capacity or to determine any question arising in the administration of a trust, including questions of the construction of trusts and other writings. NRS 30.060.

118. The following three paragraphs taken verbatim from each referenced document are relevant to the requested declaratory judgment.

- a. The following no-contest provision appears in Article VIII, Section O (page 52) of the **Family Trust**:

INCONTESTABILITY. If any beneficiary under this Trust Agreement, singularly or in conjunction with any other person, contests in any court the validity of this Trust Agreement or of the Will of the Grantor, or seeks to obtain an adjudication in any proceeding in any court that this Trust Agreement or any of its provisions of that such Will or any of its provisions are void, or seeks to otherwise void, nullify, or set aside this Trust Agreement or any of its provisions, then the right of the beneficiary to take any interest given to the beneficiary under this Trust Agreement is to be determined as it would have been determined had the beneficiary died prior to the date of execution of this Trust Agreement.

1 This paragraph shall be referred to herein as the “Family Trust No Contest
2 Provision”.

- 3 b. The following no-contest provision appears in Article VIII, Section O (page 36)
4 of the **Issue Trust**:

5 **INCONTESTABILITY. If any beneficiary under this**
6 **Trust Agreement, singularly or in conjunction with**
7 **any other person, contests in any court the validity of**
8 **this Trust Agreement, the Will of the Grantor, or The**
9 **Samuel S. Jaksick, Jr. Family Trust Agreement, or**
10 **seeks to obtain an adjudication in any proceeding in**
11 **any court that this Trust Agreement, the Will of**
12 **Grantor, or The Samuel S. Jaksick, Jr. Family Trust**
13 **Agreement, or any of the provisions of those**
14 **documents are void, or seeks otherwise to void,**
15 **nullify, or set aside this Trust Agreement or any of its**
16 **provisions, then the right of the beneficiary to take**
17 **any interest given to the beneficiary under this Trust**
18 **Agreement is to be determined as it would have been**
19 **determined had the beneficiary died prior to the date**
20 **of execution of this Trust Agreement.**

21 This paragraph shall be referred to herein as the “Issue Trust No Contest
22 Provision”.

- 23 c. The following Exemption & Immunity from the No-Contest Provision of the
24 Family Trust appears at Article II, Section D, Paragraph 4, Subparagraph d
25 (Page 11) of the **Family Trust** provides:

26 **It is the sole intent and desire of the Grantor that the**
27 **reductions and reallocations described in this**
28 **subparagraph D.4.d. are the only actions and/or**
remedies to be pursued against Wendy Ann Jaksick
Smrt. Accordingly, the Trustees and beneficiaries are
instructed not to pursue any additional form of legal
actions or otherwise against Wendy Ann Jaksick
Smrt, either in their capacity as Co-Trustee or
beneficiary, and any such action(s) shall be construed
as a contest of the provisions of this Trust Agreement
for [sic] subject to paragraph O. of Article VIII below.
(emphasis added).

This paragraph shall be referred to herein as the “Exemption & Immunity
Provision”.

119. Wendy requests that the Court examine the language in the original Family
Trust Agreement, the Purported Second Amendment, the Issue Trust Agreement and Samuel’s
Will and grant a declaratory judgment pursuant to NRS 30.030 and NRS 30.060 of the rights or
legal relations of the Parties and to construe such language. Wendy requests that the Court

1 enter a judgment declaring that:

- 2 a.) Any lawsuit or legal action filed by the Trustees of the Family Trust
- 3 against Wendy, other than one relating to “the reductions and
- 4 reallocations described in this subparagraph D.4.d”, is a contest that
- 5 violates the Family Trust No Contest Provision;
- 6 b.) Todd Jaksick, as Co-Trustee, has filed a lawsuit in violation of the
- 7 Exemption & Immunity Provision;
- 8 c.) Todd Jaksick, as Co-Trustee, has filed a lawsuit that violates the Family
- 9 Trust No Contest Provision;
- 10 d.) Todd Jaksick, as Co-Trustee, has filed a lawsuit that violates the Issue
- 11 Trust No Contest Provision;
- 12 e.) As a result of Todd Jaksick, as Co-Trustee, violating the Family Trust
- 13 No Contest Provision or the Issue Trust No Contest Provision or both, he
- 14 has forfeited his office as Co-Trustee of the Family Trust and Trustee of
- 15 the Issue Trust and should be immediately removed in such capacity;
- 16 f.) Todd Jaksick, as a beneficiary of the Family Trust or the Issue Trust or
- 17 both, has filed a lawsuit in violation of the Exemption & Immunity
- 18 Provision;
- 19 g.) Todd Jaksick, as a beneficiary of the Family Trust or the Issue Trust or
- 20 both, has filed a lawsuit that violates the Family Trust No Contest
- 21 Provision;
- 22 h.) Todd Jaksick, as a beneficiary of the Family Trust or the Issue Trust or
- 23 both, has filed a lawsuit that violates the Issue Trust No Contest
- 24 Provision;
- 25 i.) As a result of Todd Jaksick, Individually, violating the Family Trust No
- 26 Contest Provision or the Issue Trust No Contest Provision or both, he, in
- 27 his Individual capacity, has forfeited his right to inherit from the Family
- 28 Trust and the Issue Trust and from the Decedent’s Estate via his Will;
- j.) Because Todd Jaksick, in his Individual capacity, has forfeited his right
- to inherit from the Family Trust and the Issue Trust and from the
- Decedent’s Estate via his Will, he shall be treated as if he died prior to
- the execution of the Family Trust Agreement;
- k.) Michael S. Kimmel, as Co-Trustee, has filed a lawsuit in violation of the
- Exemption & Immunity Provision;
- l.) Michael S. Kimmel, as Co-Trustee, has filed a lawsuit that violates the
- Family Trust No Contest Provision;
- m.) Michael S. Kimmel, as Co-Trustee, has filed a lawsuit that violates the
- Issue Trust No Contest Provision;
- n.) As a result of Michael S. Kimmel, as Co-Trustee, violating the Family
- Trust No Contest Provision or the Issue Trust No Contest Provision or
- both, he has forfeited his office as Co-Trustee and should be immediately
- removed in such capacity;
- o.) Wendy has not contested the Decedent’s Will or any provision thereof,
- directly or indirectly;
- p.) Wendy has not contested the Family Trust Agreement or any provision
- thereof, directly or indirectly;
- q.) Wendy has not contested the Issue Trust Agreement or any provision

- 1 thereof, directly or indirectly;
- 2 r.) Other than actions or remedies regarding “the reductions and
- 3 reallocations described in this subparagraph D.4.d”, it was the Grantor’s
- 4 intent that Wendy be completely exempt from the application of the
- 5 Family Trust No Contest Provision;
- 6 s.) Other than actions or remedies regarding “the reductions and
- 7 reallocations described in this subparagraph D.4.d”, Wendy is
- 8 completely exempt from the application of the Family Trust No Contest
- 9 Provision;
- 10 t.) Other than actions or remedies regarding “the reductions and
- 11 reallocations described in this subparagraph D.4.d”, Wendy cannot
- 12 violate the Family Trust No Contest Provision or the Issue Trust No
- 13 Contest Provision;
- 14 u.) Other than actions or remedies regarding “the reductions and
- 15 reallocations described in this subparagraph D.4.d”, Wendy is
- 16 completely immune from any legal action by any of the Trustees of the
- 17 Family Trust, per the Exemption & Immunity Provision;
- 18 v.) Other than actions or remedies regarding “the reductions and
- 19 reallocations described in this subparagraph D.4.d”, Wendy is
- 20 completely immune from any legal action by a beneficiary of the Family
- 21 Trust, per the Exemption & Immunity Provision;
- 22 w.) Strict construction requires the Second Amendment to the original Trust
- 23 Agreement to specifically state a contest to the Second Amendment itself
- 24 is required in order to trigger the Family Trust No Contest Provision or
- 25 the Issue Trust No Contest Provision of the Decedent’s Will; and
- 26 x.) The Family Trust No Contest Provision does not apply to any contest to
- 27 the Second Amendment to the original Family Trust Agreement.
- 28

Wendy requests the Court construe the Family Trust No Contest Provision, the Issue Trust No Contest Provision and Samuel’s Will and declare the rights and legal relations of the Parties as stated above, declare that Todd Jaksick and Michael S. Kimmel as Co-Trustees of the Family Trust and the Issue Trust violated the Family Trust No Contest Provision, the Issue Trust No Contest Provision and forfeited their office, remove Todd Jaksick and Michael S. Kimmel from office, declare Todd Jaksick forfeited his right to inherit from the Family Trust, the Issue Trust and the Decedent’s Estate and that he shall be treated as if died prior to the execution of the Family Trust and the Issue Trust and that he predeceased the Decedent.

DAMAGES

1. Wendy is entitled to recover her damages alleged above from the Counter-Respondents, jointly and severally, and any and all other remedies available at law or equity,

1 including without limitation pre- and post-judgment interest pursuant to applicable law.

2 **PRAYER FOR RELIEF**

3 WHEREFORE, Wendy seeks a judgment against Counter Respondents:

4 1. For surcharge of the Trustees and recovery from Counter-Respondents, jointly
5 and severally, for all actual, compensatory damages, including consequential damages,
6 punitive damages, and pre-judgment and post judgment interest to which she is justly entitled,
7 which amounts are in excess of \$10,000;

8 2. Finding Aiding and Abetting;

9 3. Finding Civil Conspiracy;

10 4. Finding Aiding and Abetting Breach of Fiduciary Duties;

11 5. Finding Fraud,

12 6. Compelling the Trustees to properly account;

13 7. For the removal of the Trustees and the appointment of one or more
14 Independent Co-Trustees;

15 8. For a constructive trust and a finding of unjust enrichment and for the
16 recoupment of any benefits conferred upon the Counter-Respondents as result of their service
17 as Trustees and their wrongful actions;

18 9. Prohibiting the Counter-Respondents from paying their attorneys' fees and costs
19 from the Trust, and an order disgorging the amounts already paid to their attorneys;

20 10. For the Counter-Respondents to reimburse the Trust for all legal fees, accountant
21 fees and all costs paid from the Trusts;

22 11. For Declaratory Relief as requested in ¶ 119 herein;

23 12. Declaring the Consent Agreement signed by Wendy and Stan in association
24 with the pay down of the Tahoe Property loan invalid and void;

25 13. Declaring the Purported Indemnification in favor of Todd void;

26 14. Declaring all actions taken by Todd, in his Individual and Trustee capacities,
27 under the Purported Indemnification are invalid and should be set aside or, in the case of
28

obligations of Todd, that were avoided, in either his Individual and Trustee capacities, such obligations shall be enforced;

15. For reasonable attorney fees and costs of Wendy; and

16. For such other and further relief as the court deems proper.

Counter-Petitioner requests a jury trial.

AFFIRMATION STATEMENT

Pursuant to NRS 239B.030

The undersigned does hereby affirm that this *First Amended Counter-Petition* filed by Wendy A. Jaksick in the above-captioned matter does not contain the social security number of any person.

DATED this 23rd day of February, 2018.

FOX ROTHSCHILD LLP

By: /s/ Mark J. Connot

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and

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Attorneys for Respondent Wendy A. Jaksick

VERIFICATION

That undersigned verifies under penalty of perjury that after diligent inquiry of the facts and review of pertinent documents, the **FIRST AMENDED COUNTER-PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY DUTIES, FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF** is true as to the best of his knowledge, except for those matters stated on information and belief, and that as to such matters the undersigned believes it to be true.

/s/ Zachary E. Johnson
Zachary E. Johnson

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 23rd day of February, 2018, I served a true and correct copy of **FIRST AMENDED COUNTER-PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY DUTIES, FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF** in the manners and at the locations described below by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada, to the attorney(s)/party(ies) listed below:

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/s/ Doreen Loffredo
An Employee of Fox Rothschild LLP

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Attorneys for Respondent Wendy A. Jaksick

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

In the Matter of the Administration of the
SSJ'S ISSUE TRUST,

CASE NO.: PR17-00445
DEPT. NO. 15

In the Matter of the Administration of the
SAMUEL S. JAKSICK, JR. FAMILY TRUST,

CASE NO.: PR17-00446
DEPT. NO. 15

WENDY JAKSICK,
Respondent and Counter-Petitioner,
v.

ORDER ADMITTING TO PRACTICE

TODD B. JAKSICK, INDIVIDUALLY, AS CO-
TRUSTEE OF THE SAMUEL S. JAKSICK, JR.
FAMILY TRUST, AND AS TRUSTEE OF THE
SSJ'S ISSUE TRUST; MICHAEL S. KIMMEL,
INDIVIDUALLY AND AS CO-TRUSTEE OF
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TRUST; AND STANLEY S. JAKSICK,
INDIVIDUALLY AND AS CO-TRUSTEE OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST; KEVIN RILEY, INDIVIDUALLY
AND AS FORMER TRUSTEE OF THE
SAMUEL S. JAKSICK, JR. FAMILY TRUST
AND TRUSTEE OF THE WENDY A.
JAKSICK 2012 BHC FAMILY TRUST,

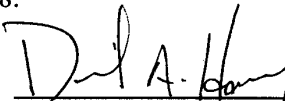
Petitioners and Counter-Respondents.

ORDER ADMITTING TO PRACTICE

ZACHARY EVERETT JOHNSON, ESQ., having filed his Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a Certificate of Good Standing for the State of Texas, and the State Bar of Nevada Statement; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

ORDERED, that said application is hereby granted, and ZACHARY EVERETT JOHNSON, ESQ. is hereby admitted to practice in the above entitled Court for the purposes of the above entitled matter only.

DATED this 13 day of March, 2018.


DISTRICT JUDGE

Submitted by:

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)
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Attorneys for Respondent Wendy A. Jaksick

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Attorneys for Respondent Wendy A. Jaksick

SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

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AND TRUSTEE OF THE WENDY A.
JAKSICK 2012 BHC FAMILY TRUST,

Petitioners and Counter-Respondents.

ORDER ADMITTING TO PRACTICE

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

ORDER ADMITTING TO PRACTICE

RICHARD KEVIN SPENCER, ESQ., having filed his Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a Certificate of Good Standing for the State of Texas, and the State Bar of Nevada Statement; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

ORDERED, that said application is hereby granted, and RICHARD KEVIN SPENCER, ESQ. is hereby admitted to practice in the above entitled Court for the purposes of the above entitled matter only.

DATED this 13th day of March, 2018.


DISTRICT JUDGE

Submitted by:

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)

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SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

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AND TRUSTEE OF THE WENDY A.
JAKSICK 2012 BHC FAMILY TRUST,

Petitioners and Counter-Respondents.

NOTICE OF ENTRY OF ORDER

1 NOTICE is hereby given that an **ORDER ADMITTING TO PRACTICE** was entered
2 in the above-entitled action on March 13, 2018, a copy of which is attached hereto.

3 **AFFIRMATION STATEMENT**

4 Pursuant to NRS 239B.030

5 The undersigned does hereby affirm that this Notice of Entry of Order in the above-
6 captioned matter does not contain the social security number of any person.

7 DATED this 13th day of March, 2018.

8 **FOX ROTHSCHILD LLP**

9
10
11 By: /s/ Mark J. Connot

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28 kevin@spencerlawpc.com
zach@spencerlawpc.com
Attorneys for Respondent Wendy A. Jaksick

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 13th day of March, 2018, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** in the manners and at the locations described below:

- x service was made upon each of the parties listed below via electronic service through the Second Judicial District Court's Efiling system
- x by placing same to be deposited for mailing the United States Mail, in a sealed envelope, first class, postage prepaid in Las Vegas, Nevada

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Attorneys for Stanley S. Jaksick

/s/ Doreen Loffredo
An Employee of Fox Rothschild LLP

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Attorneys for Respondent Wendy A. Jaksick

SECOND JUDICIAL DISTRICT COURT
WASHOE COUNTY, NEVADA

In the Matter of the Administration of the
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CASE NO.: PR17-00445
DEPT. NO. 15

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SAMUEL S. JAKSICK, JR. FAMILY TRUST,

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AND TRUSTEE OF THE WENDY A.
JAKSICK 2012 BHC FAMILY TRUST,

Petitioners and Counter-Respondents.

ORDER ADMITTING TO PRACTICE

ZACHARY EVERETT JOHNSON, ESQ., having filed his Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a Certificate of Good Standing for the State of Texas, and the State Bar of Nevada Statement; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

ORDERED, that said application is hereby granted, and ZACHARY EVERETT JOHNSON, ESQ. is hereby admitted to practice in the above entitled Court for the purposes of the above entitled matter only.

DATED this 13 day of March, 2018.


DISTRICT JUDGE

Submitted by:

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

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SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

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Petitioners and Counter-Respondents.

NOTICE OF ENTRY OF ORDER

1 NOTICE is hereby given that an **ORDER ADMITTING TO PRACTICE** was entered
2 in the above-entitled action on March 13, 2018, a copy of which is attached hereto.

3 **AFFIRMATION STATEMENT**

4 Pursuant to NRS 239B.030

5 The undersigned does hereby affirm that this Notice of Entry of Order in the above-
6 captioned matter does not contain the social security number of any person.

7 DATED this 13th day of March, 2018.

8 **FOX ROTHSCHILD LLP**

9
10
11 By: /s/ Mark J. Connot

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27 Dallas, Texas 75201
28 kevin@spencerlawpc.com
zach@spencerlawpc.com
Attorneys for Respondent Wendy A. Jaksick

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 13th day of March, 2018, I served a true and correct copy of the foregoing **NOTICE OF ENTRY OF ORDER** in the manners and at the locations described below:

- x service was made upon each of the parties listed below via electronic service through the Second Judicial District Court's Efiling system
- x by placing same to be deposited for mailing the United States Mail, in a sealed envelope, first class, postage prepaid in Las Vegas, Nevada

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SECOND JUDICIAL DISTRICT COURT

WASHOE COUNTY, NEVADA

In the Matter of the Administration of the
SSJ'S ISSUE TRUST,

CASE NO.: PR17-00445
DEPT. NO. 15

In the Matter of the Administration of the
SAMUEL S. JAKSICK, JR. FAMILY TRUST,

CASE NO.: PR17-00446
DEPT. NO. 15

WENDY JAKSICK,

Respondent and Counter-Petitioner,
v.

TODD B. JAKSICK, INDIVIDUALLY, AS CO-
TRUSTEE OF THE SAMUEL S. JAKSICK, JR.
FAMILY TRUST, AND AS TRUSTEE OF THE
SSJ'S ISSUE TRUST; MICHAEL S. KIMMEL,
INDIVIDUALLY AND AS CO-TRUSTEE OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST; AND STANLEY S. JAKSICK,
INDIVIDUALLY AND AS CO-TRUSTEE OF
THE SAMUEL S. JAKSICK, JR. FAMILY
TRUST; KEVIN RILEY, INDIVIDUALLY
AND AS FORMER TRUSTEE OF THE
SAMUEL S. JAKSICK, JR. FAMILY TRUST
AND TRUSTEE OF THE WENDY A.
JAKSICK 2012 BHC FAMILY TRUST,

Petitioners and Counter-Respondents.

ORDER ADMITTING TO PRACTICE

FOX ROTHSCHILD LLP
1980 Festival Plaza Drive, #700
Las Vegas, Nevada 89135

ORDER ADMITTING TO PRACTICE

RICHARD KEVIN SPENCER, ESQ., having filed his Motion to Associate Counsel under Nevada Supreme Court Rule 42, together with a Verified Application for Association of Counsel, a Certificate of Good Standing for the State of Texas, and the State Bar of Nevada Statement; said application having been noticed, no objections having been made, and the Court being fully apprised in the premises, and good cause appearing, it is hereby

ORDERED, that said application is hereby granted, and RICHARD KEVIN SPENCER, ESQ. is hereby admitted to practice in the above entitled Court for the purposes of the above entitled matter only.

DATED this 13th day of March, 2018.


DISTRICT JUDGE

Submitted by:

FOX ROTHSCHILD LLP

/s/ Mark J. Connot

MARK J. CONNOT (10010)

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Attorneys for Respondent Wendy A. Jaksick

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SSJ's Issue Trust and Samuel S. Jaksick, Jr., Family Trust

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the Matter of the:
SSJ's ISSUE TRUST.

CASE NO.: PR17-00445

DEPT. NO.: 15

In the Matter of the:
SAMUEL S. JAKSICK, JR., FAMILY TRUST.

CASE NO.: PR17-00446

WENDY JAKSICK,

DEPT. NO.: 15

Respondent and Counter-Petitioner,

v.

TODD B. JAKSICK, Individually, as Co-Trustee of the Samuel S. Jaksick Jr. Family Trust, and as Trustee of the SSJ's Issue Trust; MICHAEL S. KIMMEL, Individually and as Co-Trustee of the Samuel S. Jaksick Jr. Family Trust; STANLEY S. JAKSICK, Individually and as Co-Trustee of the Samuel S. Jaksick Jr. Family Trust; KEVIN RILEY, Individually, as Former Trustee of the Samuel S. Jaksick Jr. Family Trust, and as Trustee of the Wendy A. Jaksick 2012 BHC Family Trust,

Petitioners and Counter-Respondents.

**TODD B. JAKSICK'S ANSWER AND
OBJECTIONS TO FIRST AMENDED
COUNTER-PETITION TO SURCHARGE
TRUSTEES FOR BREACH OF
FIDUCIARY DUTIES, FOR REMOVAL
OF TRUSTEES AND APPOINTMENT OF
INDEPENDENT TRUSTEE(S), AND FOR
DECLARATORY JUDGMENT AND
OTHER RELIEF**

1 **TODD B. JAKSICK'S ANSWER AND OBJECTIONS TO FIRST AMENDED COUNTER-**
2 **PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY DUTIES,**
3 **FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT**
4 **TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF**

5 Counter-Respondent Todd B. Jaksick ("Todd"), by and through his attorneys Robison,
6 Sharp, Sullivan & Brust, responds and objects to the Counter-Petition filed by Interested Party and
7 Petitioner Wendy Jaksick ("Wendy") as follows:

8 **PARTIES**

9 1. Paragraph 1 contains no allegations against Todd. Therefore, he need not respond
10 to same.

11 2. Todd admits the allegations in Paragraph 2.

12 3. Paragraph 3 contains no allegations against Todd in his individual capacity.
13 Therefore, he does not respond to same in this answer and objection.

14 4. Paragraph 4 contains no allegations against Todd in his individual capacity.
15 Therefore, he does not respond to same in this answer and objection.

16 5. Paragraph 5 contains no allegations against Todd. Therefore, he need not respond
17 to same.

18 6. Paragraph 6 contains no allegations against Todd. Therefore, he need not respond
19 to same.

20 7. Paragraph 7 contains no allegations against Todd. Therefore, he need not respond
21 to same.

22 8. Paragraph 8 contains no allegations against Todd. Therefore, he need not respond
23 to same.

24 9. Paragraph 9 contains no allegations against Todd. Therefore, he need not respond
25 to same.

26 10. Paragraph 10 contains no allegations against Todd. Therefore, he need not respond
27 to same.

28 11. Paragraph 11 contains no allegations against Todd. Therefore, he need not respond
to same.

12. Paragraph 12 contains no allegations against Todd. Therefore, he need not respond to same.

13. Paragraph 13 contains no allegations against Todd. Therefore, he need not respond to same.

14. Paragraph 14 contains no allegations against Todd. Therefore, he need not respond to same.

15. Todd admits the allegations in Paragraph 15.

INTERESTED PERSONS – THE FAMILY TRUST

16. Todd does not object to the allegations in Paragraph 16.

INTERESTED PERSONS – THE ISSUE TRUST

17. Todd does not object to the allegations in Paragraph 17.

THE FAMILY TRUST

18. Todd denies the allegations in Paragraph 18.

19. Todd objects to the allegations in Paragraph 19. Samuel S. Jaksick, Jr. ("Sam") executed the Second Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement (the "Second Amendment"). The Second Amendment is valid. Wendy has already contested the validity of the Second Amendment, despite her refusal to assert a formal claim. She should not be permitted a chance to amend her Counter-Petition to add any claims related to the validity of the Second Amendment.

THE ISSUE TRUST

20. Todd does not object to the allegations in Paragraph 20.

GENERAL ALLEGATIONS

21. Todd denies the allegations in Paragraph 21.

22. Todd does not object to the allegations in Paragraph 22.

23. Todd does not object to the allegations in Paragraph 23.

24. Todd objects to the allegations in Paragraph 24, as these allegations are inconsistent with Sam's estate planning documents.

25. Todd does not object to the allegations in Paragraph 25.

1 26. Todd objects to the allegations in Paragraph 26, to the extent these allegations are
2 inconsistent with Sam's estate planning documents.

3 27. Todd admits the allegations in Paragraph 27.

4 28. Todd denies the allegations in Paragraph 28.

5 29. Todd denies the allegations in Paragraph 29.

6 30. Todd does not object to the allegations in Paragraph 30.

7 31. Todd objects to the allegations in Paragraph 31, to the extent these allegations are
8 inconsistent with the terms of the Issue Trust.

9 32. Todd admits the allegations in Paragraph 32.

10 33. Todd admits the allegation in Paragraph 33.

11 34. Todd objects to the allegations in Paragraph 34 to the extent these allegations
12 contain false accusations and/or attack the validity of the Second Amendment.

13 35. Todd denies the allegations in Paragraph 35.

14 36. Todd objects to the allegations in Paragraph 36 to the extent these allegations are
15 inconsistent with Sam's estate planning documents and contracts to which Sam, and/or entities in
16 which Sam had an interest, were parties.

17 37. Todd admits that the Tahoe Property was transferred from the Family Trust to SSJ,
18 LLC. Todd admits that SSJ, LLC transferred the Tahoe Property to Incline TSS, Ltd. Todd denies
19 the remaining allegations in Paragraph 37.

20 38. Todd denies the allegations in Paragraph 38.

21 39. Todd denies the allegations in Paragraph 39.

22 40. Todd denies the allegations in Paragraph 40.

23 41. Todd denies the allegations in Paragraph 41.

24 42. Todd denies the allegations in Paragraph 42.

25 43. Todd admits that Sam, individually and as Trustee, entered into an Indemnification
26 Agreement in 2008 that requires Sam and the Family Trust to indemnify the debts listed in Exhibit
27 A of the Indemnification Agreement. Todd denies the remaining allegations in Paragraph 43.

28 44. Todd denies the allegations in Paragraph 44.

- 1 a. Todd admits that the Home Loan -WAMU is included in the
2 Indemnification Agreement.
- 3 b. Todd admits that the Line of Credit with Well Fargo is included in the
4 Indemnification Agreement.
- 5 c. Todd admits that the Mortgage Construction Loan in favor of First
6 Independent Bank is included in the Indemnification Agreement;
- 7 d. Todd admits that the Cadillac Automobile Loan is included in the
8 Indemnification Agreement.
- 9 45. Todd denies the allegations in Paragraph 45.
- 10 46. Todd admits that Stanley has a similar Indemnification Agreement. Todd denies
11 the remaining allegations in Paragraph 46.
- 12 47. Paragraph 47 does not contain any allegations against Todd in his individual
13 capacity; therefore, Todd does not need to respond to this allegation in this answer and objection.
- 14 48. To the extent Paragraph 48 does not contain any allegations against Todd in his
15 individual capacity, Todd does not need to respond to this allegation in this answer and objection.
16 Todd denies the remaining allegations in Paragraph 48.
- 17 49. Todd denies the allegations in Paragraph 49.
- 18 50. Todd denies the allegations in Paragraph 50.
- 19 51. Todd denies the allegations in Paragraph 51.
- 20 52. Todd denies the allegations in Paragraph 52.
- 21 53. Todd denies the allegations in Paragraph 53.
- 22 54. Todd objects to the allegations in Paragraph 54. Samuel S. Jaksick, Jr. ("Sam")
23 executed the Second Amendment to the Samuel S. Jaksick, Jr. Family Trust Agreement (the
24 "Second Amendment"). The Second Amendment is valid. Wendy has already contested the
25 validity of the Second Amendment, despite her refusal to assert a formal claim. She should not be
26 permitted a chance to amend her Counter-Petition to add any claims related to the validity of the
27 Second Amendment.

CAUSES OF ACTION

Count 1: Breach of Fiduciary Duties.

55. Todd incorporates the preceding paragraphs as if fully set forth herein.

56. Paragraph 56 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

57. Paragraph 57 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

58. Paragraph 58 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

59. Paragraph 59 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

60. Paragraph 60 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

61. Paragraph 61 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

62. Todd denies the allegations in Paragraph 62.

63. Todd denies the allegations in Paragraph 63.

64. Todd denies the allegations in Paragraph 64.

Count 2: Failure to Disclose and Adequately Account to Compel Accounting.

65. Todd incorporates the preceding paragraphs as if fully set forth herein.

66. Paragraph 66 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

67. Paragraph 67 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

68. Todd denies the allegations in Paragraph 68.

69. Todd denies the allegations in Paragraph 69.

70. Todd denies the allegations in Paragraph 70.

///

1 **Count 3: Civil Conspiracy and Aiding and Abetting.**

2 71. Todd incorporates the preceding paragraphs as if fully set forth herein.

3 72. Paragraph 72 contains legal conclusions and not factual allegations. Therefore,
4 Todd need not respond.

5 73. Todd denies the allegations in Paragraph 73.

6 74. Todd denies the allegations in Paragraph 74.

7 75. Todd denies the allegations in Paragraph 75.

8 **Count 4: Aiding and Abetting Breaches of Fiduciary Duty**

9 76. Todd incorporates the preceding paragraphs as if fully set forth herein.

10 77. Todd denies the allegations in Paragraph 77.

11 78. Todd denies the allegations in Paragraph 78.

12 79. Todd denies the allegations in Paragraph 79.

13 80. Todd denies the allegations in Paragraph 80.

14 81. Todd denies the allegations in Paragraph 81.

15 82. Todd denies the allegations in Paragraph 82.

16 **Count 5: Actual Fraud.**

17 83. Todd incorporates the preceding paragraphs as if fully set forth herein.

18 84. Paragraph 84 contains legal conclusions and not factual allegations. Therefore,
19 Todd need not respond.

20 85. Todd denies the allegations in Paragraph 85.

21 86. Todd denies the allegations in Paragraph 86.

22 87. Todd denies the allegations in Paragraph 87.

23 **Count 6: Removal of Trustees and Appointment of Independent Trustee(s).**

24 88. Todd incorporates the preceding paragraphs as if fully set forth herein.

25 89. Paragraph 89 contains legal conclusions and not factual allegations. Therefore,
26 Todd need not respond.

27 90. Todd denies the allegations in Paragraph 90.

28 **Count 7: Unjust Enrichment and Constructive Trust.**

1 91. Todd incorporates the preceding paragraphs as if fully set forth herein.

2 92. Paragraph 92 contains legal conclusions and not factual allegations. Therefore,
3 Todd need not respond.

4 93. Todd denies the allegations in Paragraph 93.

5 **Count 8: Trustees Should be Precluded From Using Assets of the Trust to Defend this**
6 **Matter.**

7 94. Todd incorporates the preceding paragraphs as if fully set forth herein.

8 95. Todd denies the allegations in Paragraph 95.

9 96. Todd denies the allegations in Paragraph 96.

10 97. Todd denies the allegations in Paragraph 97.

11 98. Todd denies the allegations in Paragraph 98.

12 **Count 9: Disgorgement of Trustee Fees.**

13 99. Todd incorporates the preceding paragraphs as if fully set forth herein. Paragraph
14 99 contains legal conclusions and not factual allegations. Therefore, Todd need not respond.

15 100. Todd denies the allegations in Paragraph 100.

16 101. Todd denies the allegations in Paragraph 101.

17 102. Todd denies the allegations in Paragraph 102.

18 103. Todd denies the allegations in Paragraph 103.

19 **Count 10: Contest of Purported Consent Agreement**

20 104. Todd incorporates the preceding paragraphs as if fully set forth herein.

21 105. Paragraph 105 contains legal conclusions and not factual allegations. Therefore,
22 Todd need not respond.

23 106. Todd denies the allegations in Paragraph 106.

24 107. Todd denies the allegations in Paragraph 107.

25 **Count 11: Contest of the Purported Indemnity Agreement**

26 108. Todd incorporates the preceding paragraphs as if fully set forth herein. \

27 109. Paragraph 109 contains legal conclusions and not factual allegations. Therefore,
28 Todd need not respond.

1 110. Todd denies the allegations in Paragraph 110.

2 111. Todd denies the allegation sin Paragraph 111.

3 **Count 12: Wendy is Entitled to be Awarded Attorneys' Fees and Costs.**

4 112. Todd incorporates the preceding paragraphs as if fully set forth herein.

5 113. Todd denies the allegations in Paragraph 113.

6 114. Todd denies the allegations in Paragraph 114.

7 115. Todd denies the allegations in Paragraph 115.

8 **Count 13: Declaratory Judgment – No Contest Provision.**

9 116. Todd incorporates the preceding paragraphs as if fully set forth herein.

10 117. Paragraph 117 contains legal conclusions and not factual allegations. Therefore,
11 Todd need not respond.

12 118. Todd objects to the allegations in Paragraph 118 as incomplete excerpts.

13 119. Todd denies the allegations in Paragraph 119.

14 **AFFIRMATIVE DEFENSES**

15 1. Wendy's claims are barred by their respective statute of limitation.

16 2. Wendy's claims are barred by the doctrine of laches.

17 3. Wendy's Counter-Petition fails to state a claim upon which relief may be granted.

18 4. Wendy's claims are barred by the doctrine of unclean hands.

19 5. Wendy's claims are barred by the doctrine of estoppel.

20 6. Wendy's claims are barred by the doctrine of unjust enrichment.

21 7. Wendy consented to the conduct of which she now complains.

22 8. Wendy ratified the conduct of which she now complains.

23 9. Wendy's claims are barred by the doctrine of waiver.

24 10. Wendy has released the claims asserted in her Counter-Petition.

25 11. Wendy has suffered no actual injury for which she is entitled to damages.

26 12. Wendy lacks standing to bring her Counter-Petition.

27 13. At all times, Counter-Respondent's conduct was done in good faith.

28 14. Attorney fees are not recoverable by Wendy.

- 1 15. Wendy's claims are barred as a matter of law as her Counter-Petition makes
2 numerous blatantly false claims.
- 3 16. Wendy failed to join necessary parties.
- 4 17. Wendy should be barred from recovering because her acts are in violation of public
5 policy.
- 6 18. Wendy's claim for damages must be reduced for setoffs.
- 7 19. Wendy failed to plead her fraud claims with specificity.
- 8 20. Wendy has failed to mitigate her damages.
- 9 21. Wendy's damages, if any, were caused by a third party.
- 10 22. Wendy lacks reasonable grounds to attack the Trust and has violated the no contest
11 clause warranting a dismissal of her claims at trial.
- 12 23. Wendy is guilty of spoliation of evidence.
- 13 24. Wendy's negligence exceeds any negligence of Petitioner.
- 14 25. Wendy's breach of duties bars all claims.
- 15 26. Wendy has never justifiably relied on statements made by Todd.
- 16 27. Wendy's fraudulent conduct bars all of her claims.
- 17 28. Agents of a trust cannot conspire where they act in their official capacities on behalf
18 of the trust.
- 19 29. Todd's actions, conduct and activities were all done based upon reasonable reliance
20 on reasonable advice of counsel.
- 21 30. Pursuant to the provisions of Rule 11 of the Nevada Rules of Civil Procedure, at the
22 time of the filing of this response and objection, all possible affirmative defenses may not have
23 been alleged inasmuch as insufficient facts and other relevant information may not have been
24 available after reasonable inquiry and, therefore, Todd reserves the right to amend this response
25 and objection to allege additional affirmative defenses if subsequent investigation warrants same.


26
27 **AFFIRMATION**
 Pursuant to NRS 239B.030

28 The undersigned does hereby affirm that this document does not contain the social security

1 number of any person.

2 DATED this 9th day of April, 2018.

3 ROBISON, SHARP, SULLIVAN & BRUST
4 A Professional Corporation
5 71 Washington Street
6 Reno, Nevada 89503

7 
8 KENT R. ROBISON
9 THERESE M. SHANKS
10 Attorneys for Todd B. Jaksick, Beneficiary
11 SSJ's Issue Trust and
12 Samuel S. Jaksick, Jr., Family Trust
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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCp 5(b), I certify that I am an employee of ROBISON, SHARP,
3 SULLIVAN & BRUST, and that on this date I caused to be served a true copy of the **TODD B.**
4 **JAKSICK'S ANSWER AND OBJECTIONS TO FIRST AMENDED COUNTER-**
5 **PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY DUTIES,**
6 **FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT**
7 **TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF** on all
8 parties to this action by the method(s) indicated below:

9 _____ by placing an original or true copy thereof in a sealed envelope, with sufficient
10 postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

11 X by using the Court's CM/ECF electronic service system courtesy copy addressed to:

12 Donald A. Lattin, Esq.
13 L. Robert LeGoy, Jr., Esq.
14 Brian C. McQuaid, Esq.
15 Carolyn K. Renner, Esq.
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25 *SSJ's Issue Trust and Samuel S. Jaksick, Jr., Family Trust*

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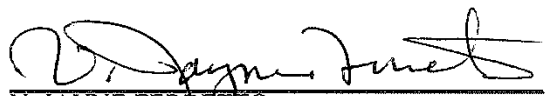
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Attorneys for Respondent Wendy A. Jaksick

- ☐ by electronic email addressed to the above.
- ☐ by personal delivery/hand delivery addressed to:
- ☐ by facsimile (fax) addressed to:
- ☐ by Federal Express/UPS or other overnight delivery addressed to:

DATED: This 9th day of April, 2018.


V. JAYNE FERRETTO
Employee of Robison, Sharp, Sullivan & Brust

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8 *Attorneys for Petitioners*

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

11 In the Matter of the:
12 SSJ's ISSUE TRUST.

Case No.: PR17-0445
Dept. No.: 15

Consolidated

13 _____ /
14 In the Matter of the Administration of
15 THE SAMUEL S. JAKSICK, JR., FAMILY
TRUST.

Case No.: PR17-0446
Dept. No.: 15

16 _____ /
17 WENDY JAKSICK,

18 Respondence and Counter-Petitioner,

19 v.

20 TODD B. JAKSICK, Individually, as Co-Trustee of
21 the Samuel S. Jaksick, Jr. Family Trust, and as
22 Trustee of the SSJ's Issue Trust; MICHAEL S.
23 KIMMEL, Individually and as Co-Trustees of The
24 Samuel S. Jaksick, Jr. Family Trust; and STANLEY
25 S. JAKSICK, Individually and as Co-Trustee of The
26 Samuel S. Jaksick, Jr. Family Trust; KEVIN
RILEY, Individually and as Former Trustee of the
Samuel S. Jaksick, Jr. Family Trust and Trustee of
the Wendy A. Jaksick 2012 BHC Family Trust,

**TODD B. JAKSICK AND MICHAEL S.
KIMMEL'S ANSWER TO FIRST
AMENDED COUNTER-PETITION TO
SURCHARGE TRUSTEES FOR
BREACH OF FIDUCIARY DUTIES,
FOR REMOVAL OF TRUSTEES AND
APPOINTMENT OF INDEPENDENT
TRUSTEE(S), AND FOR
DECLARATORY JUDGMENT AND
OTHER RELIEF**

Petitioners and Counter-Respondents.

1 **TODD B. JAKSICK AND MICHAEL S. KIMMEL’S ANSWER TO FIRST AMENDED**
2 **COUNTER-PETITION TO SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY**
3 **DUTIES, FOR REMOVAL OF TRUSTEES AND APPOINTMENT OF INDEPENDENT**
4 **TRUSTEE(S), AND FOR DECLARATORY JUDGMENT AND OTHER RELIEF**

5 Todd B. Jaksick (“Todd”), as sole Trustee of the SSJ Issue Trust and as Co-Trustee of the
6 Samuel S. Jaksick, Jr. Family Trust and Michael S. Kimmel (“Mike”), as Co-Trustee of the Samuel
7 S. Jaksick, Jr. Family Trust, by and through their attorneys of record, the law firm of Maupin, Cox
8 & LeGoy, responds to the First Amended Counter-Petition filed by Respondent and Counter-
9 Petitioner, Wendy Jaksick (“Wendy”), as follows:

10 **PARTIES**

11 1. Answering paragraph 1, Todd and Mike are without knowledge and information
12 sufficient to form a belief as to the trust of the allegations contained therein and on that basis deny
13 the same.

- 14 2. Answering paragraph 2, Todd and Mike admit the allegations contained therein.
15 3. Answering paragraph 3, Todd and Mike admit the allegations contained therein.
16 4. Answering paragraph 4, Todd and Mike admit the allegations contained therein.
17 5. Answering paragraph 5, Todd and Mike admit the allegations contained therein.
18 6. Answering paragraph 6, Todd and Mike admit the allegations contained therein.
19 7. Answering paragraph 7, Todd and Mike admit the allegations contained therein.
20 8. Answering paragraph 8, Todd and Mike admit the allegations contained therein.
21 9. Answering paragraph 9, Todd and Mike admit the allegations contained therein.
22 10. Answering paragraph 10, Todd and Mike admit the allegations contained therein.
23 11. Answering paragraph 11, Todd and Mike admit the allegations contained therein.
24 12. Answering paragraph 12, Todd and Mike admit the allegations contained therein.

1 13. Answering paragraph 13, Todd and Mike admit the allegations contained therein.

2 14. Answering paragraph 14, Todd and Mike admit the allegations contained therein.

3 15. Answering paragraph 15, Todd and Mike admit the allegations contained therein.

4 **INTEREST PARTIES-THE FAMILY TRUST**

5 16. Answering paragraph 16, Todd and Mike are without knowledge and information
6 sufficient to form a belief as to the truth of the allegations contained therein and on that basis deny
7 the same.

8 **INTEREST PERSONS-THE ISSUE TRUST**

9 17. Answering paragraph 17, Todd and Mike are without knowledge and information
10 sufficient to form a belief as to the truth of the allegations contained therein and on that basis deny
11 the same.

12 **THE FAMILY TRUST**

13 18. Answering paragraph 18, Todd and Mike admit the allegations contained therein.

14 **THE PURPORTED SECOND AMENDMENT TO THE FAMILY TRUST**

15 19. Answering paragraph 19, Todd and Mike admit that Sam executed the Second
16 Amendment to the Trust and it is a valid legal document. Todd and Mike deny the remaining
17 allegations contained therein.

18 **THE ISSUE TRUST**

19 20. Answering paragraph 20, Todd and Mike admit the allegations contained therein.

20 **GENERAL ALLEGATIONS**

21 21. Answering paragraph 21, Todd and Mike deny the allegations contained therein
22 and allege that Trustees have at all times kept Wendy informed of Trust business and complied
23 with all fiduciary responsibilities.

- 1 22. Answering paragraph 22, Todd and Mike admit the allegations contained therein.
- 2 23. Answering paragraph 23, Todd and Mike admit the allegations contained therein.
- 3 24. Answering paragraph 24, Todd and Mike admit that Sam loved his children and
4 that the various Trust documents and amendments speak for themselves. Todd and Mike deny any
5 remaining allegations contained therein.
- 6 25. Answering paragraph 25, Todd and Mike admit the allegations contained therein.
- 7 26. Answering paragraph 26, Todd and Mike deny the allegations contained therein
8 and allege as follows: The Family Trust and the Second Amendment (both valid legal documents)
9 speak for themselves as to how Sam intended to dispose of his assets.
- 10 27. Answering paragraph 27, Todd and Mike admit the allegations contained therein.
- 11 28. Answering paragraph 28, Todd and Mike deny the allegations contained therein
12 and allege as follows: The Second Amendment is a valid legal amendment to the Family Trust and
13 speaks for itself (in conjunction with the Family Trust) as to how the assets are to be maintained
14 and distributed.
- 15 29. Answering paragraph 29, Todd and Mike deny the allegations contained therein.
- 16 30. Answering paragraph 30, Todd and Mike admit the allegations contained therein.
- 17 31. Answering paragraph 31, Todd and Mike deny the allegations contained therein
18 and allege as follows: The Issue Trust is a valid legal Trust document and it speaks for itself as to
19 the maintaining and distributing of assets in the Issue Trust.
- 20 32. Answering paragraph 32, Todd and Mike admit the allegations contained therein.
- 21 33. Answering paragraph 33, Todd and Mike admit the allegations contained therein.
- 22 34. Answering paragraph 34, Todd and Mike admit that Todd, Todd and Mike were
23 appointed as Co-Trustees. Todd and Mike deny the remaining allegations contained therein.
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1 35. Answering paragraph 35, Todd and Mike deny the allegations contained therein
2 and allege as follows: The Co-Trustees have kept Wendy informed of all Trust business and have
3 fulfilled all fiduciary responsibilities.

4 36. Answering paragraph 36, Todd and Mike admit Sam acquired the Lake Tahoe
5 Residence. Todd and Mike deny the remaining allegations contained therein.
6

7 37. Answering paragraph 37, Todd and Mike admit the Tahoe residence was
8 transferred from the Family Trust to the Issue Trust and then to Incline TSS, Ltd. Todd and Mike
9 deny the remaining allegations contained therein.

10 38. Answering paragraph 38, Todd and Mike deny the allegations contained therein.

11 39. Answering paragraph 39, Todd and Mike deny the allegations contained therein.

12 40. Answering paragraph 40, Todd and Mike deny the allegations contained therein.

13 41. Answering paragraph 41, Todd and Mike deny the allegations contained therein.

14 42. Answering paragraph 42, Todd and Mike deny the allegations contained therein.

15 43. Answering paragraph 43, Todd and Mike admit that Indemnifications exist, and the
16 documents speak for themselves. Todd and Mike deny the remaining allegations.
17

18 44. Answering paragraph 44, Todd and Mike deny the allegations contained therein as
19 they relate to either the Family Trust, the Second Amendment to the Family Trust or Issue Trust.
20

21 45. Answering paragraph 45, Todd and Mike deny the allegations contained therein as
22 they relate to either the Family Trust, the Second Amendment to the Family Trust or Issue Trust.

23 46. Answering paragraph 46, Todd and Mike are without knowledge and information
24 sufficient to form a belief as the trust of the allegations contained therein and on that basis deny
25 the same.
26

47. Answering paragraph 47, Todd and Mike admit that Bright Holland, Co. sold Fly Ranch for \$6.5 Million. Todd and Mike deny the remaining allegations contained therein.

48. Answering paragraph 48, Todd and Mike deny the allegations contained therein.

49. Answering paragraph 49, Todd and Mike admit that Bronco Billy's Casino was sold with Wendy's consent and knowledge. Todd and Mike are without knowledge and information sufficient to form a belief as the trust of the remaining allegations contained therein and on that basis deny the same.

50. Answering paragraph 50, Todd and Mike are without knowledge and information sufficient to form a belief as the truth of the allegations contained therein and on that basis deny the same.

51. Answering paragraph 51, Todd and Mike deny the allegations contained therein.

52. Answering paragraph 52, Todd and Mike deny the allegations contained therein.

53. Answering paragraph 53, Todd and Mike deny the allegations contained therein.

54. Answering paragraph 54, Todd and Mike are without knowledge and information sufficient to form a belief as the trust of the allegations contained therein and on that basis deny the same.

CAUSES OF ACTION

Count 1: Breach of Fiduciary Duties.

55. Answering paragraph 55, Todd and Mike refer to and by such reference incorporated herein each, every and all of their answers to the paragraphs above as if the same were fully set forth at this point.

56. Answering paragraph 56, this allegation contains legal conclusions and therefore Todd and Mike deny the allegations contained therein.

1 57. Answering paragraph 57, this allegation contains legal conclusions and therefor
2 Todd and Mike deny the allegations contained therein.

3 58. Answering paragraph 58, this allegation contains legal conclusions and therefor
4 Todd and Mike deny the allegations contained therein.

5 59. Answering paragraph 59, this allegation contains legal conclusions and therefor
6 Todd and Mike deny the allegations contained therein.

7 60. Answering paragraph 60, this allegation contains legal conclusions and therefor
8 Todd and Mike deny the allegations contained therein.

9 61. Answering paragraph 61, this allegation contains legal conclusions and therefor
10 Todd and Mike deny the allegations contained therein.

11 62. Answering paragraph 62, Todd and Mike deny the allegations contained therein.

12 63. Answering paragraph 63, Todd and Mike deny the allegations contained therein.

13 64. Answering paragraph 64, Todd and Mike deny the allegations contained therein.

14 **Count 2: Failure to Disclose and Adequately Account to Compel Accounting.**

15 65. Answering paragraph 65, Todd and Mike refer to and by such reference
16 incorporated herein each, every and all of their answers to the paragraphs above as if the same
17 were fully set forth to this point.

18 66. Answering paragraph 66, this allegation contains legal conclusions and therefor
19 Todd and Mike deny the allegations contained therein.

20 67. Answering paragraph 67, this allegation contains legal conclusions and therefor
21 Todd and Mike deny the allegations contained therein.

22 68. Answering paragraph 68, Todd and Mike deny the allegations contained therein.

23 69. Answering paragraph 69, Todd and Mike deny the allegations contained therein.

1 70. Answering paragraph 70, Todd and Mike deny the allegations contained therein.

2 **Count 3: Civil Conspiracy and Aiding and Abetting.**

3 71. Answering paragraph 71, Todd and Mike refer to and by such reference
4 incorporated herein each, every and all of their answers to the paragraphs above as if they were
5 fully set forth at this point.

6 72. Answering paragraph 72, this allegation contains legal conclusions and therefor
7 Todd and Mike deny the allegations contained therein.

8 73. Answering paragraph 73, Todd and Mike deny the allegations contained therein.

9 74. Answering paragraph 74, Todd and Mike deny the allegations contained therein.

10 75. Answering paragraph 75, Todd and Mike deny the allegations contained therein.

11 **Count 4: Aiding and Abetting Breaches of Fiduciary Duty**

12 76. Answering paragraph 76, Todd and Mike refer to and by such reference
13 incorporated herein each, every all of their answers to the paragraphs above as if they were fully
14 set forth as this point.

15 77. Answering paragraph 77, Todd and Mike admit the allegations contained therein.

16 78. Answering paragraph 78, Todd and Mike admit the allegations contained therein.

17 79. Answering paragraph 79, Todd and Mike deny the allegations contained therein.

18 80. Answering paragraph 80, Todd and Mike deny the allegations contained therein.

19 81. Answering paragraph 81, Todd and Mike deny the allegations contained therein.

20 82. Answering paragraph 82, Todd and Mike deny the allegations contained therein.

1 **Count 5: Actual Fraud.**

2 83. Answering paragraph 83, Todd and Mike refer to and by such reference incorporate
3 herein each, every and all of their answers to the paragraphs above as if the same were fully set
4 forth at this point.

5 84. Answering paragraph 84, this allegation contains legal conclusions and therefor
6 Todd and Mike deny the allegations contained therein.

7 85. Answering paragraph 85, Todd and Mike deny the allegations contained therein.

8 86. Answering paragraph 86, Todd and Mike deny the allegations contained therein.

9 87. Answering paragraph 87, Todd and Mike deny the allegations contained therein.

10 **Count 6: Removal of Trustees and Appointment of Independent Trustee(s).**

11 88. Answering paragraph 88, Todd and Mike refer to and by such reference incorporate
12 herein each, every and all of their answers to the paragraphs above as if the same were fully set
13 forth at this point.

14 89. Answering paragraph 89, this allegation contains legal conclusions and therefor
15 Todd and Mike deny the allegations contained therein.

16 90. Answering paragraph 90, Todd and Mike deny the allegations contained therein.

17 **Count 7: Unjust Enrichment and Constructive Trust.**

18 91. Answering paragraph 91, Todd and Mike refer to and by such reference incorporate
19 herein each, every and all of their answers to the paragraphs above as if the same were fully set
20 forth at this point.

21 92. Answering paragraph 92, this allegation contains legal conclusions and therefor
22 Todd and Mike deny the allegations contained therein.

23 93. Answering paragraph 93, Todd and Mike deny the allegations contained therein.

1 **Count 8: Trustees Should be Precluded from Using Assets of the Trust to Defend this Matter.**

2 94. Answering paragraph 94, Todd and Mike refer to and by such reference incorporate
3 herein each, every and all of their answers to the paragraphs above as if the same were fully set
4 forth at this point.

5 95. Answering paragraph 95, Todd and Mike deny the allegations contained therein.

6 96. Answering paragraph 96, Todd and Mike deny the allegations contained therein.

7 97. Answering paragraph 97, Todd and Mike deny the allegations contained therein.

8 98. Answering paragraph 98, Todd and Mike deny the allegations contained therein.

9
10 **Count 9: Disgorgement of Trustee Fees.**

11 99. Answering paragraph 99, Todd and Mike refer to and by such reference incorporate
12 herein each, every and all of their answers to the paragraphs above as if the same were fully set
13 forth at this point. The statute referenced therein speaks for itself.

14 100. Answering paragraph 100, Todd and Mike deny the allegations contained therein.

15 101. Answering paragraph 101, Todd and Mike deny the allegations contained therein.

16 102. Answering paragraph 102, Todd and Mike deny the allegations contained therein.

17 103. Answering paragraph 103, Todd and Mike deny the allegations contained therein.

18
19 **Count 10: Contest of Purported Consent Agreement.**

20 104. Answering paragraph 104, Todd and Mike refer to and by such reference
21 incorporate herein each, every and all of their answers to the paragraphs above as if the same were
22 fully set forth at this point.

23 105. Answering paragraph 105, this allegation contains legal conclusions and therefor
24 Todd and Mike deny the allegations contained therein.

25 106. Answering paragraph 106, Todd and Mike deny the allegations contained therein.

1 107. Answering paragraph 107, Todd and Mike deny the allegations contained therein.

2 **Count 11: Contest of Purported Indemnity Agreement.**

3 108. Answering paragraph 108, Todd and Mike refer to and by such reference
4 incorporate herein each, every and all of their answers to the paragraphs above as if the same were
5 fully set forth at this point.

6 109. Answering paragraph 109, this allegation contains legal conclusions and therefor
7 Todd and Mike deny the allegations contained therein.

8 110. Answering paragraph 110, Todd and Mike deny the allegations contained therein.

9 111. Answering paragraph 111, Todd and Mike deny the allegations contained therein.

10 **Count 12: Wendy is Entitled to be Awarded Attorneys' Fees and Costs**

11 112. Answering paragraph 112, Todd and Mike refer to and by such reference
12 incorporate herein each, every and all of their answers to the paragraphs above as if the same were
13 fully set forth at this point.

14 113. Answering paragraph 113, Todd and Mike deny the allegations contained therein.

15 114. Answering paragraph 114, Todd and Mike deny the allegations contained therein.

16 115. Answering paragraph 115, Todd and Mike deny the allegations contained therein.

17 **Count 13: Declaratory Judgment- No Contest Provision**

18 116. Answering paragraph 116, Todd and Mike refer to and by such reference
19 incorporate herein each, every and all of their answers to the paragraphs above as if the same were
20 fully set forth at this point.

21 117. Answering paragraph 117, this allegation contains legal conclusions and therefor
22 Todd and Mike deny the allegations contained therein.

23 118. Answering paragraph 118, Todd and Mike admit the allegations contained therein.

119. Answering paragraph 119, Todd and Mike deny the allegations contained therein.

DAMAGES

1. Answering paragraph 1, Todd and Mike deny the allegations contained therein.

AFFIRMATIVE DEFENSES

1. Wendy's claims are barred by their respective statutes of limitations.

2. Wendy's claims are barred by the doctrine of laches.

3. Wendy's Counter-Petition fails to state a claim upon which relief may be granted.

4. Wendy's claims are barred by the doctrine of unclean hands.

5. Wendy's claims are barred by the doctrine of estoppel.

6. Wendy's claims are barred by the doctrine of unjust enrichment.

7. Wendy consented to the conduct of which she now complains.

8. Wendy ratified and executed written consents regarding the conduct of which she now complains.

9. Wendy's claims are barred by the doctrine of waiver.

10. Wendy has released the claims asserted in her Counter-Petition.

11. Wendy has suffered no actual injury for which she is entitled to damages.

12. Wendy lacks standing to bring her Counter-Petition.

13. At all times, Counter-Respondents' conduct was done in good faith.

14. Attorney fees are not recoverable by Wendy.

15. Wendy's claims are barred as a matter of her Counter-Petition makes numerous blatantly false and unsubstantiated claims.

16. Wendy failed to join necessary parties.

1 17. Wendy should be barred from recovering because her acts are in violation of
2 public policy.

3 18. Wendy's claim for damages much be reduced for setoffs.

4 19. Wendy failed to plead her fraud claims with specificity as required by NRCP.

5 20. Wendy has failed to mitigate her damages.

6 21. Wendy's damages, if any, were caused by a third party.

7 22. Wendy lacks reasonable grounds to attack the Trust and has violated the no
8 contest clause warranting a dismissal of her claims at trial.

9

10 23. Wendy is guilty of spoliation of evidence.

11 24. Wendy's negligence exceeds any negligence of Petitioners.

12 25. Wendy's breach of duties bars all claims.

13 26. Wendy has never justifiably relied on statements made by any person acting in the
14 capacity as a Trustee.

15

16 27. Wendy's fraudulent conduct bars all of her claims.

17 28. Agents of a trust cannot conspire where they act in their official capacities on
18 behalf of the trust.

19

20 29. The Trustee's actions, conduct and activities were all done based upon reasonable
21 reliance on reasonable advice of counsel.

22 30. Pursuant to the provisions of Rule 11 of the Nevada Rules of Civil Procedure, at
23 the time of the filing of this response, all possible affirmative defenses may not have been
24 alleged inasmuch as insufficient facts and other relevant information may not have been
25 available after reasonable inquiry and, therefore, Todd and Mike reserves the right to amend this
26 response to allege additional affirmative defenses if subsequent investigation warrants same.


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NRS 239B.030 Affirmation

Pursuant to NRS 239B.030, the undersigned hereby affirms that this document does not contain the Social Security Number of any person.

Dated this 13th day of April, 2018.

MAUPIN, COX & LEGOY

By: 
Donald A. Lattin, NSB # 693
Brian C. McQuaid, Esq., NSB # 7090
Carolyn K. Renner, Esq., NSB #9164
4785 Caughlin Parkway
Reno, NV 89519
Attorneys for Petitioners

[illegible]

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c/o Lisa Jaksick 5235 Bellazza Ct. Reno, Nevada 89519	Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511
Kevin Riley, CPA Rossman MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, CA 95821	

Dated this 13th day of April, 2018.

Kaitlin A. Jaksick
EMPLOYEE

1 DONALD A. LATTIN, ESQ.
Nevada Bar No. 693
2 BRIAN C. MCQUAID, ESQ.
Nevada Bar No. 7090
3 CAROLYN K. RENNER, ESQ.
Nevada Bar No. 9164
4 MAUPIN, COX & LeGOY
5 4785 Caughlin Parkway
Reno, Nevada 89519
6 Telephone: (775) 827-2000
7 Facsimile: (775) 827-2185
Attorneys for Petitioners

8
9 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
10
11 IN AND FOR THE COUNTY OF WASHOE

12 In the Matter of the:
13 SSJ's ISSUE TRUST.

Case No.: PR17-0445
Dept. No.: 15

14 In the Matter of the Administration of
15 THE SAMUEL S. JAKSICK, JR., FAMILY
16 TRUST.

Consolidated

Case No.: PR17-0446
Dept. No.: 15

17 WENDY JAKSICK,

NOTICE OF APPEARANCE

18 Respondence and Counter-Petitioner,

19 v.

20 TODD B. JAKSICK, Individually, as Co-Trustee of
21 the Samuel S. Jaksick, Jr. Family Trust, and as
22 Trustee of the SSJ's Issue Trust; MICHAEL S.
23 KIMMEL, Individually and as Co-Trustees of The
24 Samuel S. Jaksick, Jr. Family Trust; and STANLEY
25 S. JAKSICK, Individually and as Co-Trustee of The
26 Samuel S. Jaksick, Jr. Family Trust; KEVIN
RILEY, Individually and as Former Trustee of the
Samuel S. Jaksick, Jr. Family Trust and Trustee of
the Wendy A. Jaksick 2012 BHC Family Trust,

Petitioners and Counter-Respondents.

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NOTICE OF APPEARANCE


Kevin Riley, individually, as former Trustee of the Samuel S. Jaksick, Jr. Family Trust and Trustee of the Wendy A. Jaksick 2012 BHC Family Trust, by and through his attorneys of record, DONALD A. LATTIN, ESQ, BRIAN C. MCQUAID, ESQ., and CAROLYN K. RENNER, ESQ., hereby submits this Notice of Appearance.

NRS 239B.030 Affirmation

Pursuant to NRS 239B.030, the undersigned hereby affirms that this document does not contain the Social Security Number of any person.

Dated this 17th day of April, 2018.

MAUPIN, COX & LEGOY

By: 
Donald A. Lattin, NSB # 693
Brian C. McQuaid, Esq., NSB # 7090
Carolyn K. Renner, Esq., NSB #9164
4785 Caughlin Parkway
Reno, NV 89519
Attorneys for Petitioners

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of MAUPIN, COX & LeGOY, Attorneys at Law,
and in such capacity and on the date indicated below I served the foregoing document(s) as follows:

Via E-Flex Electronic filing System:

<p>Phil Kreitlein, Esq. Steve Moss, Esq. Kreitlein Law Group 470 E. Plumb Lane, #310 Reno, Nevada 89502 <i>Attorneys for Stan Jaksick</i></p>	<p>Kent R. Robison, Esq. Therese M. Shanks, Esq. Robison, Sharpe, Sullivan & Brust 71 Washington Street Reno, Nevada 89503 <i>Attorneys for Todd B. Jaksick</i></p>
<p>Mark Connot, Esq. Fox Rothschild LLP 1980 Festival Plaza Drive, #700 Las Vegas, NV 89135 <i>and Pro Hac Vice</i></p>	<p>Adam Hosmer-Henner, Esq. McDonald Carano Wilson LLP 100 W. Liberty Street, 10th Floor Reno, NV 89501 <i>Attorneys for Stan Jaksick</i></p>
<p>R. Kevin Spencer, Esq. Zachary E. Johnson, Esq. Brendan P. Harvell, Esq. Spencer Law, P.C. 500 N. Akard Street Suite 2150 Dallas, TX 75201 <i>Attorneys for Wendy A. Jaksick</i></p>	

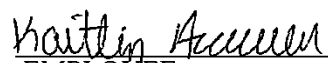
Via placing an original or true copy thereof in a sealed envelope with sufficient postage
affixed thereto, in the United States mail at Reno Nevada, addressed to:

<p>Alexi Smith 11 Bahama Court Mansfield, Texas 76063</p>	<p>Luke Jaksick c/o Wendy A. Jaksick P.O. Box 2345 Allen, Texas 75013</p>
<p>Regan Jaksick Sydney Jaksick Sawyer Jaksick</p>	

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c/o Lisa Jaksick 5235 Bellazza Ct. Reno, Nevada 89519	Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511
Kevin Riley, CPA Rossman MacDonald & Benetti, CPA's 3838 Watt Avenue, Suite E-500 Sacramento, CA 95821	

Dated this 17th day of April, 2018.


EMPLOYEE