

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

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

Electronically Filed  
Apr 13 2021 04:08 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**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**

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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 13<sup>th</sup> day of April, 2021.

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**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. 17**, 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:

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

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15 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
16  
17 IN AND FOR THE COUNTY OF WASHOE

18 In the Matter of the: Case No.: PR17-0445  
19 SSI's ISSUE TRUST. Dept. No.: 15  
20 \_\_\_\_\_/ Consolidated

21 In the Matter of the Administration of Case No.: PR17-0446  
22 THE SAMUEL S. JAKSICK, JR., FAMILY TRUST. Dept. No.: 15  
23 \_\_\_\_\_/

24  
25 **REPLY IN SUPPORT OF**  
26 **MOTION TO STRIKE VERIFIED MEMORANDUM OF COSTS**

27 TODD JAKSICK, as sole Trustee of the SSI's Issue Trust and as Co-Trustee of the Samuel  
28 S. Jaksick, Jr. Family Trust (the "Family Trust"), MICHAEL S. KIMMEL, individually and as  
29 Co-Trustee of the Family Trust and KEVIN RILEY, individually, as former Trustee of the Family  
30 Trust, and Trustee of the Wendy A. Jaksick 2012 BHC Family Trust (hereafter "Petitioners",  
31 "Trustees", or "Co-Trustees"), hereby file their Reply in Support of Motion to Strike Verified  
32 Memorandum of Costs.

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## MEMORANDUM OF POINTS AND AUTHORITIES

### I.

#### INTRODUCTION

In her Opposition, Wendy does not dispute that she is not the only prevailing party, and as such, at a minimum, any costs awarded to her necessarily must be offset by costs awarded to the other prevailing parties in this litigation. Further, she admits that she failed to provide the documentation required in order to determine whether her costs were reasonable and necessary as required by Nevada law. As such, it is well within the discretion of this Court to strike her Memorandum of Costs.

### II.

#### LAW AND ARGUMENT

##### A. Wendy's Memo of Costs is premature.

Wendy has provided Nevada caselaw in support of her position that she need not wait until judgment is entered to file her Memorandum of Costs. Accordingly, her filing may not be premature, however, it is incomplete and should be stricken as set forth in more detail in the analysis under Section II.C. below.

##### B. Wendy did not prevail on all claims and should not be considered the sole prevailing party.

In her Opposition, Wendy ignores that Todd, in his capacity as Co-Trustee of the Family Trust and as Trustee of the Issue Trust prevailed against Wendy on the following claims: (1) civil conspiracy and aiding and abetting; (2) aiding and abetting breach of fiduciary duty claim; (3) fraud; and (4) she failed on her pursuit of punitive damages. Accordingly, Todd as Co-Trustee of

1 the Family Trust and as Trustee of the Issue Trust was the prevailing party on three (3) of the four  
2 (4) claims she asserted against him. Todd in his trustee capacities is no less a prevailing party on  
3 these three (3) issues as Wendy is on her one (1) issue. *See Valley Elec. Ass'n v. Overfield*, 121  
4 Nev. 7, 10, 106 P.3d 1198, 1200 (2005) (“[T]he term ‘prevailing party’ is broadly construed so as  
5 to encompass plaintiffs, counterclaimants, and defendants.”).

6  
7 Moreover, Wendy misstates the Court’s Order After Equitable Trial by asserting that the  
8 Court “refus[ed] to confirm the Accountings, the ACPAs, the Indemnification Agreements.” In  
9 addressing these issues, the Court clearly stated that the jury “constructively approved and  
10 confirmed” the accountings, ACPAs and the indemnification agreements, and as such, the Court  
11 could not “supplant or alter a jury’s verdict by relying upon common facts to reach a different  
12 outcome”. *See* Order at 8:10-11; 14:1-3; 15:3-4. Regardless, Wendy was not the prevailing party  
13 on these issues.

14  
15 In her Opposition, Wendy completely ignores that she failed to prevail on any of her claims  
16 against Michael Kimmel and Kevin Riley. She cannot deny and as such admits that she did not  
17 prevail on her claims as against these parties (in their multiple capacities sued) and as such, would  
18 not be entitled to costs as against them. *See Peccole v. Luce & Goodfellow*, 66 Nev. 360, 366, 212  
19 P.2d 718, 721 (1949) (“Material allegations not properly denied, stand admitted.”). Accordingly,  
20 Riley and Kimmel are entitled to an award of costs in their favor against Wendy.

21  
22 As set forth in the Trustee’s original Motion to Strike, there is Nevada case law on the  
23 issue of multiple prevailing parties, as in the case of Todd as Co-Trustee of the Family Trust and  
24 as Trustee of the Issue Trust as against Wendy. The Court has the authority to either claim that  
25 neither party is the prevailing party and thus deny costs to both parties (*see New Shy Clown*  
26

1 *Casino, Inc. v. Baldwin*, 103 Nev. 269, 271, 737 P.2d 524, 525-26 (1987); or the Court may find  
2 that more than one party is the prevailing party and award costs to more than one party resulting  
3 in an offset (*see Friedman v. Friedman*, 128 Nev. 897, 381 P.3d 613 (2012)). The situation with  
4 costs as between Wendy and Todd as Co-Trustee of the Family Trust and as Trustee of the Issue  
5 Trust requires a finding that either no party prevailed and no costs are allowed or both parties  
6 prevailed and an offset of costs is warranted.  
7

8 With respect to the situation as between Wendy and the remaining defendants in all their  
9 different listed capacities, Wendy is NOT the prevailing party and is NOT entitled to her costs.  
10 Wendy failed to succeed any even one of her claims against these remaining defendants in their  
11 various capacities and she received none of the benefit she sought in bringing suit against them.  
12 Her costs as related to these defendants must be denied.  
13

14 **C. Wendy has failed to provide the required documentation to justify her costs.**

15 In her Opposition, Wendy admits that she failed to provide actual invoices for the costs  
16 submitted in her Memorandum of Costs. *See* Opp'n at 5:8-16. On that basis alone, the district  
17 court cannot award costs. Without actual invoices to back up the charges claimed by Wendy, there  
18 is no basis to determine whether the costs were **actual and reasonable**, and as such, there is no  
19 basis to award costs. *See Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 345 P.3d 1049  
20 (2015).  
21

22 Wendy has filed a motion for leave to supplement her memorandum of costs, which should  
23 be denied as untimely. Statutes creating time or manner restrictions are generally construed as  
24 mandatory unless they require performance within a "reasonable" time or provide specifically that  
25 "substantial compliance" is sufficient. *See Village Legue to Save Incline Assets, Inc. v. State ex*  
26

1 *rel. Board of Equalization*, 124 Nev. 1079, 1086-87, 194 P.3d 1254, 1259 (2008); *see also Barney*  
2 *v. Mt. Rose Heating & Air Conditioning*, 127 Nev. 1118, 373 P.3d 894 (2011) (finding that the  
3 district court abused its discretion by awarding costs when motion filed was untimely); *Valladares*  
4 *v. DMJ, Inc.*, 110 Nev. 1291 885 P.2d 580 (1994) (affirming the district court's decision to deny  
5 a motion to amend the memo of costs after expiration of the statutory deadline). Here, the statute  
6 at issue provides that a verified memorandum of costs must be submitted no later than five (5)  
7 days from entry of the judgment. As pointed out by Wendy, she may submit it earlier than the five  
8 (5) days after entry of judgment, however, she failed to cite any authority which would allow her  
9 to submit costs after the expiration of the five (5) day deadline set forth in the statute. Accordingly,  
10 her motion for leave to supplement her memorandum of costs should be denied.  
11

### 12 III.

### 13 CONCLUSION

14  
15 Based on the original motion and the arguments set forth above, the Co-Trustees  
16 respectfully request that this Court strike Wendy's Memo of Costs, and deny her request for costs  
17 based on her failure to provide documentation and justification for the costs as required under  
18 Nevada law.  
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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 13<sup>th</sup> day of April, 2020.

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**CERTIFICATE OF SERVICE**

I hereby certify that I am an employee of MAUPIN, COX & LeGOY, Attorneys at Law,  
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Dated this 13<sup>th</sup> day of April, 2020.

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10 IN AND FOR THE COUNTY OF WASHOE

11  
12 In the Matter of the:

Case No.: PR17-0445

Dept. No.: 15

13 SSJ's ISSUE TRUST.

14 \_\_\_\_\_ / Consolidated

15 In the Matter of the Administration of

Case No.: PR17-0446

Dept. No.: 15

16 THE SAMUEL S. JAKSICK, JR., FAMILY TRUST.

17 \_\_\_\_\_ /  
18 **REQUEST FOR SUBMISSION OF MOTION TO STRIKE VERIFIED MEMORANDUM**  
19 **OF COSTS**

20 It is hereby requested that Petitioner's, TODD JAKSICK, as sole Trustee of the SSJ's Issue  
21 Trust and as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust (the "Family Trust"),  
22 MICHAEL S. KIMMEL, individually and as Co-Trustee of the Family Trust and KEVIN RILEY,  
23 individually, as former Trustee of the Family Trust, and Trustee of the Wendy A. Jaksick 2012  
24 BHC Family Trust (hereafter "Petitioners", "Trustees", or "Co-Trustees"), Motion to Strike  
25 Verified Memorandum of Costs, filed on March 26, 2020, be submitted for decision.  
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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 14<sup>th</sup> day of April, 2020.

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Dated this 14<sup>th</sup> day of April, 2020.

Ratie Allen  
EMPLOYEE

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
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9  
10 In the Matter of the Administration of the  
11 SSJ'S ISSUE TRUST.  
12 \_\_\_\_\_/

Case No. PR17-00445

Dept. No. 15

CONSOLIDATED

Case No. PR17-00446

13 In the Matter of the Administration of the  
14 SAMUEL S. JAKSICK, JR. FAMILY TRUST.  
15 \_\_\_\_\_/

Dept. No. 15

16 **ORDER DENYING WENDY JAKSICK'S COSTS**

17 Trustees Todd Jaksick, Michael Kimmel, and former trustee Kevin Riley move to  
18 strike Wendy Jaksick's verified memorandum of costs. This Court has read all arguments  
19 and authorities. This Court adopts the trustees' recitation of claims and parties. See  
20 Motion to Strike, pages 4-5.

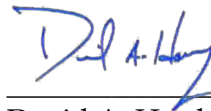
21 This Court agrees there is little decisional guidance regarding what a "significant  
22 issue" is or how to quantify the benefit Wendy achieved through litigation. Wendy did  
23 achieve some litigation success, but a qualitative and quantitative analysis weighs against  
24 awarding costs to Wendy as the prevailing party. This Court is also concerned that  
25 Wendy does not (and presumably cannot) segregate costs connected to her successful  
26 claim against Todd as trustee from the costs she incurred in her unsuccessful claims  
27 against Todd as individual and all other parties. This Court agrees that Wendy's  
28 requested costs are not proven as actual and reasonable. See Cadle Co. v. Woods &

1 Erickson, LLP, 131 Nev. 114, 345 P.3d 1049 (2015). This Court anticipated costs litigation  
2 when it awarded fees to Wendy's counsel. Like all other issues, the issue of awardable  
3 costs cannot be viewed in isolation; instead, it must be viewed as a small part of a larger  
4 whole. This Court's cost analysis is embedded in the fee award.

5 Here, several competing parties could argue for prevailing party status. Trustees  
6 Michael Kimmel and former trustee Kevin Riley are prevailing parties. Given the entirety  
7 of this case proceeding, this Court intends to conclude that neither Wendy Jaksick nor  
8 Todd Jaksick is the prevailing party. See New Shy Clown Casino, Inc. v. Baldwin, 103  
9 Nev. 269, 271, 737 P.2d 524 (1987). The problem this Court anticipates is that Messrs.  
10 Kimmel and Riley will be unable to clearly distinguish and articulate costs associated with  
11 their defense that do not overlap into the costs associated with Todd's defense. Thus, it is  
12 unlikely this Court will order Wendy to pay their costs. However, the only submitted  
13 matter before this Court is Wendy's memorandum of costs, which is denied.

14 **IT IS SO ORDERED.**

15 Dated: April \_\_\_\_, 2020.



---

17 David A. Hardy  
18 District Court Judge  
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1 CODE: 2545  
2 DONALD A. LATTIN, ESQ.  
3 Nevada Bar No. 693  
4 CAROLYN K. RENNER, ESQ.  
5 Nevada Bar No. 9164  
6 KRISTEN D. MATEONI, ESQ.  
7 Nevada Bar No. 14581  
8 MAUPIN, COX & LeGOY  
9 4785 Caughlin Parkway  
10 Reno, Nevada 89519  
11 Telephone: (775) 827-2000  
12 Facsimile: (775) 827-2185  
13 *Attorneys for Petitioners/Co-Trustees*

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: Case No.: PR17-0445  
13 Ssj's ISSUE TRUST. Dept. No.: 15  
14 \_\_\_\_\_/ Consolidated

15 In the Matter of the Administration of Case No.: PR17-0446  
16 THE SAMUEL S. JAKSICK, JR., FAMILY TRUST. Dept. No.: 15  
17 \_\_\_\_\_/

18 **NOTICE OF ENTRY OF ORDER DENYING WENDY JAKSICK'S COSTS**

19  
20 PLEASE TAKE NOTICE that on April 21, 2020, the above-entitled Court entered its Order  
21 Denying Wendy Jaksicks' Costs, a copy of which is attached hereto as Exhibit "1."

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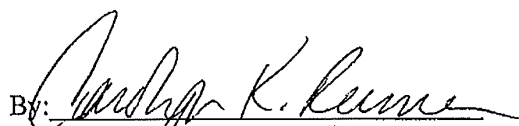
26 ///

**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 21<sup>st</sup> day of April, 2020.

MAUPIN, COX & LEGOY

By: 

Donald A. Lattin, NSB # 693  
Carolyn K. Renner, Esq., NSB #9164  
Kristen D. Matteoni, Esq. NSB #14581  
4785 Caughlin Parkway  
Reno, NV 89519  
Tel: (775) 827-2000  
Fax: (775) 827-2185  
[dlattin@mcllawfirm.com](mailto:dlattin@mcllawfirm.com)  
[crenner@mcllawfirm.com](mailto:crenner@mcllawfirm.com)  
[kmatteoni@mcllawfirm.com](mailto:kmatteoni@mcllawfirm.com)  
*Attorneys for the Co-Trustees*



**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:

Philip L. Kreitlein, Esq.  
Stephen C. Moss, Esq.  
Kreitlein Leeder Moss, Ltd.  
1575 Delucchi Lane, Suite 101  
Reno, Nevada 89502  
[philip@klmlawfirm.com](mailto:philip@klmlawfirm.com)  
*Attorneys for Stan Jaksick as Co-Trustee of  
the Samuel S. Jaksick, Jr. Family Trust*

Mark Connot, Esq.  
Fox Rothschild LLP  
1980 Festival Plaza Drive, #700  
Las Vegas, NV 89135  
[MConnot@foxrothschild.com](mailto:MConnot@foxrothschild.com)

*And*

R. Kevin Spencer, Esq. (Pro Hac Vice)  
Zachary E. Johnson, Esq. (Pro Hac Vice)  
Spencer & Johnson PLLC  
500 N. Akard Street, Suite 2150  
Dallas, TX 75201  
[kevin@dallasprobate.com](mailto:kevin@dallasprobate.com)  
[zach@dallasprobate.com](mailto:zach@dallasprobate.com)  
*Attorneys for Wendy A. Jaksick*

Kent R. Robison, Esq.  
Therese M. Shanks, Esq.  
Robison, Sharpe, Sullivan & Brust  
71 Washington Street  
Reno, Nevada 89503  
[krobison@rsslblaw.com](mailto:krobison@rsslblaw.com)  
[tshanks@rsslblaw.com](mailto:tshanks@rsslblaw.com)  
*Attorneys for Todd B. Jaksick, Individually,  
and as beneficiary, SSJ's Issue Trust and  
Samuel S. Jaksick, Jr., Family Trust*

Adam Hosmer-Henner, Esq.  
Sarah A. Ferguson, Esq.  
McDonald Carano Wilson LLP  
100 W. Liberty Street, 10th Floor  
Reno, NV 89501  
[ahosmerhenner@mcdonaldcarano.com](mailto:ahosmerhenner@mcdonaldcarano.com)  
[sferguson@mcdonaldcarano.com](mailto:sferguson@mcdonaldcarano.com)  
*Attorneys for Stan Jaksick, individually, and  
as beneficiary of the Samuel S. Jaksick, Jr.  
Family Trust and SSJ's Issue Trust*

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:

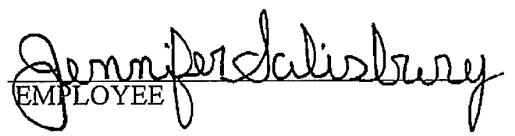
Alexi Smrt  
3713 Wrexham  
St. Frisco, TX 75034

Luke Jaksick  
Northern Arizona University  
324 E. Pine Knoll Drive #12319  
Flagstaff, AZ 86011

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Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Regan Jaksick Sydney Jaksick Sawyer Jaksick c/o Lisa Jaksick 5235 Bellazza Ct. Reno, Nevada 89519
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Dated this 21st day of April, 2020.

  
EMPLOYEE

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INDEX OF EXHIBITS

NO.    DESCRIPTION

PAGES

1.    Order Denying Wendy Jaksick's Costs

2

FILED  
Electronically  
PR17-00445  
2020-04-21 02:48:50 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7844363

# EXHIBIT 1

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# EXHIBIT 1

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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
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9  
10 In the Matter of the Administration of the  
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12 \_\_\_\_\_/

Case No. PR17-00445

Dept. No. 15

CONSOLIDATED

Case No. PR17-00446

13 In the Matter of the Administration of the  
14 SAMUEL S. JAKSICK, JR. FAMILY TRUST.  
15 \_\_\_\_\_/

Dept. No. 15

16 ORDER DENYING WENDY JAKSICK'S COSTS

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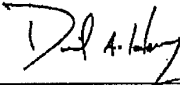
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12 unlikely this Court will order Wendy to pay their costs. However, the only submitted  
13 matter before this Court is Wendy's memorandum of costs, which is denied.

14 **IT IS SO ORDERED.**

15 Dated: April \_\_\_\_\_, 2020.

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18 David A. Hardy  
19 District Court Judge  
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**Jayne Ferretto**

---

**From:** eflex@washoecourts.us  
**Sent:** Tuesday, April 21, 2020 2:51 PM  
**To:** Kent Robison  
**Cc:** Jayne Ferretto  
**Subject:** NEF: CONS: TRUST: SSJ'S ISSUE TRUST: Notice of Entry of Ord: PR17-00445

\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

**PROOF OF SERVICE OF ELECTRONIC FILING**

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

**Judge:** HONORABLE DAVID A. HARDY

**Official File Stamp:** 04-21-2020:14:48:50  
**Clerk Accepted:** 04-21-2020:14:49:47  
**Court:** Second Judicial District Court - State of Nevada  
Civil  
**Case Title:** CONS: TRUST: SSJ'S ISSUE TRUST  
**Document(s) Submitted:** Notice of Entry of Ord  
- \*\*Continuation  
**Filed By:** Carolyn K. Renner, Esq

You may review this filing by clicking on the following link to take you to your [cases](#).

This notice was automatically generated by the courts auto-notification system.

---

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

PHILIP L. KREITLEIN, ESQ. for STANLEY JAKSICK, SAMUEL S. JAKSICK, JR. FAMILY TRUST  
SARAH FERGUSON, ESQ. for STANLEY JAKSICK, SSJ'S ISSUE TRUST, SAMUEL S. JAKSICK, JR. FAMILY TRUST  
STEPHEN C. MOSS, ESQ. for STANLEY JAKSICK, SAMUEL S. JAKSICK, JR. FAMILY TRUST  
ADAM HOSMER-HENNER, ESQ. for STANLEY JAKSICK  
THERESE M. SHANKS, ESQ. for INCLINE TSS, LTD., DUCK LAKE RANCH LLC, TODD B. JAKSICK, SAMMY SUPERCUB, LLC, SERIES A  
DONALD ALBERT LATTIN, ESQ. for MICHAEL S. KIMMEL, TODD B. JAKSICK, KEVIN RILEY  
CAROLYN K. RENNER, ESQ. for MICHAEL S. KIMMEL, TODD B. JAKSICK, KEVIN RILEY  
MARK J. CONNOT, ESQ. for WENDY A. JAKSICK

KENT RICHARD ROBISON, ESQ. for INCLINE TSS, LTD., DUCK LAKE RANCH LLC, TODD  
B. JAKSICK, SAMMY SUPERCUB, LLC, SERIES A

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

R. KEVIN SPENCER, ESQ. for WENDY A. JAKSICK  
ZACHARY JOHNSON, ESQ. for WENDY A. JAKSICK



1 **CODE: 1960**

Adam Hosmer-Henner, Esq. (NSBN 12779)

2 McDONALD CARANO

100 West Liberty Street, 10th Floor

3 Reno, Nevada 89501

Telephone: (775) 788-2000

4 [ahosmerhenner@mcdonaldcarano.com](mailto:ahosmerhenner@mcdonaldcarano.com)

*Attorneys for Stanley Jaksick,*

5 *Co-Trustee of the Family Trust*

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 Administration of the

10 SSJ ISSUE TRUST,

**CASE NO.: PR17-00445**

**DEPT. NO.: 15**

**CASE NO.: PR17-00446**

**DEPT. NO.: 15**

12 In the Matter of the Administration of the

13 SAMUEL S. JAKSICK, JR. FAMILY TRUST,

14 WENDY JAKSICK,

15 Respondent and Counter Petitioner,

16 v.

17 TODD B. JAKSICK, Individually, as Co-Trustee  
18 of the Samuel S. Jaksick, Jr. Family Trust, and as  
19 Trustee of the SSJ's Issue Trust, MICHAEL S.  
20 KIMMEL, Individually and as Co-Trustee of the  
21 Samuel S. Jaksick, Jr. Family Trust, and  
22 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,

23 Petitioners and Counter-Respondents.

24 STANLEY JAKSICK,

25 Respondent and Counter-Petitioner,

26 v.

27 TODD B. JAKSICK, Individually and as Co-  
28 Trustee of the Samuel S. Jaksick, Jr. Family  
Trust.

1 **VERIFIED MEMORANDUM OF ATTORNEY'S FEES BY STANLEY JAKSICK AS**  
2 **CO-TRUSTEE OF THE FAMILY TRUST**

3 Pursuant to Paragraph 3 of this Court's Judgment on Jury Verdict and Court Order on  
4 Equitable Claims, Apr. 1, 2020, Stanley Jaksick, as co-Trustee of the Family Trust, by and  
5 through his undersigned counsel, hereby submits this Verified Memorandum of Attorney's  
6 Fees. Paragraph 3 of the Judgment discusses "attorneys' fees paid by the Samuel S. Jaksick,  
7 Jr., Family Trust and SSJ's Issue Trust for legal services rendered on behalf of the Co-  
8 Trustees of the Samuel S. Jaksick, Jr., Family Trust and Trustee for the SSJ's Issue Trust."  
9 *Id.* Accordingly, Stanley Jaksick includes in this Verified Memorandum only those legal  
10 fees related to the representation of him in his capacity as co-Trustee of the Family Trust. As  
11 the Court noted in its Order After Equitable Trial, Stanley Jaksick, as co-trustee of the  
12 Family Trust, was "represented by Adam Hosmer-Henner and Philip Kreitlein." Ord.  
13 March. 12, 2020.

14 Exhibit 1 to the Verified Memorandum contains the attorney's fee report for  
15 McDonald Carano LLP. Exhibit 2 to the Verified Memorandum contains the attorney's fee  
16 report for Kreitlein Leeder Moss. As invoices containing these attorney's fee narratives have  
17 been previously provided to the Family Trust in largely unredacted format, Stanley Jaksick  
18 submits that full redactions are appropriate here given the Court's Judgment. However,  
19 should there be an objection from any other party or the Court, Stanley Jaksick will produce  
20 documentation with limited redactions as necessary.

21 As demonstrated by the Declarations of Adam Hosmer-Henner, Esq. and Philip L.  
22 Kreitlein, Esq., all of these fees were reasonably and necessarily incurred in the  
23 representation of Stanley Jaksick as co-Trustee of the Family Trust.

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**AFFIRMATION**

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

DATED: April 22, 2020

McDONALD CARANO

By /s/ Adam Hosmer-Henner  
Adam Hosmer-Henner, Esq. (NSBN 12779)  
100 West. Liberty Street, 10th Floor  
Reno, Nevada 89501  
*Attorneys for Stanley Jaksick,  
Co-Trustee of the Family Trust*

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1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD  
3 CARANO and that on April 22, 2020, I served the foregoing on the parties in said case by  
4 electronically filing via the Court's e-filing system. The participants in this case are registered e-  
5 filing users and notice of filing will be served on all parties by operation of the Court's CM/ECF  
6 system, and parties may access this filing through the Court's CM/ECF system.

7 Donald Lattin, Esq.  
8 Robert LeGoy, Esq.  
9 Brian C. McQuaid, Esq.  
10 Carolyn Renner, Esq.  
11 Maupin Cox & LeGoy  
12 4785 Caughlin Parkway  
13 Reno, NV 89520

Kent Robison, Esq.  
Therese M. Shanks, Esq.  
Robison, Sharp, Sullivan & Brust  
71 Washington Street  
Reno, NV 89503

11 Mark J. Connot, Esq.  
12 Fox Rothschild, LLP  
13 1980 Festival Plaza Drive, # 700  
14 Las Vegas, NV 89135

Philip L. Kreitlein, Esq.  
Kreitlein Law Group, Ltd.  
1575 Delucci Lane, Ste. 101  
Reno, NV 89502

14 R. Kevin Spencer, Esq.  
15 Zachary E. Johnson, Esq.  
16 Brendan P. Harvell, Esq.  
17 Spencer Law, P.C.  
18 500 N. Akard St., Suite 2150  
19 Dallas, TX 75201

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

21 DATED: April 22, 2020.

22 By /s/ Jill Nelson  
23 An Employee of McDonald Carano  
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**INDEX OF EXHIBITS**

<b>EXHIBIT #</b>	<b>DESCRIPTION</b>	<b>NUMBER OF PAGES</b>
1	McDonald Carano LLP Summary of Fees	9
2	Kreitlein, Leeder, Moss, Ltd. Summary of Fees	35

FILED  
Electronically  
PR17-00445  
2020-04-22 05:21:32 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7846627

# Exhibit 1

# Exhibit 1



# Time Report

Stanley Jaksick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4)

Billed  
04/22/2020

Date	SM/Task	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
01/31/2019	0249	Hosmer-Henner Adam	10	Partner	1	8.00	3,600.00	450.00	8.00	3,600.00	450.00	A00		12384620	Billed
02/01/2019	0249	Hosmer-Henner Adam	10	Partner	1	8.50	3,825.00	450.00	8.50	3,825.00	450.00	A00		12384620	Billed
02/04/2019	0249	Hosmer-Henner Adam	10	Partner	1	6.50	2,925.00	450.00	6.50	2,925.00	450.00	A00		12384620	Billed
02/05/2019	0249	Hosmer-Henner Adam	10	Partner	1	9.00	4,050.00	450.00	9.00	4,050.00	450.00	A00		12384620	Billed
02/05/2019	0249	Hosmer-Henner Adam	10	Partner	1	5.60	2,520.00	450.00	5.60	2,520.00	450.00	A00		12384620	Billed
02/07/2019	0249	Hosmer-Henner Adam	10	Partner	1	4.90	2,205.00	450.00	4.90	2,205.00	450.00	A00		12384620	Billed
02/08/2019	0249	Hosmer-Henner Adam	10	Partner	1	4.50	2,025.00	450.00	4.50	2,025.00	450.00	A00		12384620	Billed
02/11/2019	0249	Hosmer-Henner Adam	10	Partner	1	2.50	1,125.00	450.00	2.50	1,125.00	450.00	A00		12384620	Billed
02/12/2019	0249	Hosmer-Henner Adam	10	Partner	1	3.70	1,665.00	450.00	3.70	1,665.00	450.00	A00		12384620	Billed
02/13/2019	0249	Hosmer-Henner Adam	10	Partner	1	6.30	2,835.00	450.00	6.30	2,835.00	450.00	A00		12384620	Billed
02/14/2019	0249	Hosmer-Henner Adam	10	Partner	1	9.20	4,140.00	450.00	9.20	4,140.00	450.00	A00		12384620	Billed
02/15/2019	0249	Hosmer-Henner Adam	10	Partner	1	5.00	2,250.00	450.00	5.00	2,250.00	450.00	A00		12384620	Billed
02/18/2019	0249	Hosmer-Henner Adam	10	Partner	1	4.50	2,025.00	450.00	4.50	2,025.00	450.00	A00		12384620	Billed
02/19/2019	0249	Hosmer-Henner Adam	10	Partner	1	8.50	3,825.00	450.00	8.50	3,825.00	450.00	A00		12384620	Billed
02/20/2019	0249	Hosmer-Henner Adam	10	Partner	1	9.00	4,050.00	450.00	9.00	4,050.00	450.00	A00		12384620	Billed
02/21/2019	0249	Hosmer-Henner Adam	10	Partner	1	8.70	3,915.00	450.00	8.70	3,915.00	450.00	A00		12384620	Billed
02/22/2019	0249	Hosmer-Henner Adam	10	Partner	1	1.50	675.00	450.00	1.50	675.00	450.00	A00		12384620	Billed
02/25/2019	0249	Hosmer-Henner Adam	10	Partner	1	8.50	3,825.00	450.00	8.50	3,825.00	450.00	A00		12384620	Billed

# Time Report

Stanley Jaksick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4)

Billed  
9/22/2020

Date	SM/Task	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
02/26/2019	0249	Hosmer-Henner Adam	10	Partner	1	9.70	4,365.00	450.00	9.70	4,365.00	450.00	A00		12384620	Billed
02/27/2019	0249	Hosmer-Henner Adam	10	Partner	1	10.50	4,725.00	450.00	10.50	4,725.00	450.00	A00		12384620	Billed
02/27/2019	2261	Latino, Chelsea	20	Associate	0	2.00	0.00	0.00	0.00	0.00	0.00	A00		12384620	Billed
02/28/2019	0249	Hosmer-Henner Adam	10	Partner	1	9.50	4,275.00	450.00	9.50	4,275.00	450.00	A00		12384620	Billed
03/01/2019	0249	Hosmer-Henner Adam	10	Partner	1	4.00	1,800.00	450.00	4.00	1,800.00	450.00	A00		12384620	Billed
03/03/2019	0249	Hosmer-Henner Adam	10	Partner	1	3.10	1,395.00	450.00	3.10	1,395.00	450.00	A00		12384620	Billed
03/04/2019	0249	Hosmer-Henner Adam	10	Partner	1	15.50	6,975.00	450.00	15.50	6,975.00	450.00	A00		12384620	Billed
03/05/2019	0249	Hosmer-Henner Adam	10	Partner	1	3.60	1,620.00	450.00	3.60	1,620.00	450.00	A00		12384620	Billed
03/05/2019	0249	Hosmer-Henner Adam	10	Partner	1	0.70	315.00	450.00	0.70	315.00	450.00	A00		12388128	Billed
03/06/2019	0249	Hosmer-Henner Adam	10	Partner	1	3.50	1,575.00	450.00	3.50	1,575.00	450.00	A00		12388128	Billed
03/12/2019	0249	Hosmer-Henner Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12388128	Billed
03/14/2019	0249	Hosmer-Henner Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12388128	Billed
03/15/2019	0249	Hosmer-Henner Adam	10	Partner	1	3.50	1,575.00	450.00	3.50	1,575.00	450.00	A00		12388128	Billed
03/18/2019	0249	Hosmer-Henner Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12388128	Billed
03/19/2019	0249	Hosmer-Henner Adam	10	Partner	1	1.40	630.00	450.00	1.40	630.00	450.00	A00		12388128	Billed
03/20/2019	0249	Hosmer-Henner Adam	10	Partner	1	0.70	315.00	450.00	0.70	315.00	450.00	A00		12388128	Billed
03/21/2019	0249	Hosmer-Henner Adam	10	Partner	1	5.30	2,385.00	450.00	5.30	2,385.00	450.00	A00		12388128	Billed
03/22/2019	0249	Hosmer-Henner Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12388128	Billed

# Time Report

Stanley Jaksick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4)

Billed  
04/22/2020

Date	SM/Task	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
03/27/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12388128	Billed
03/29/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.20	990.00	450.00	2.20	990.00	450.00	A00		12388128	Billed
04/01/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.50	675.00	450.00	1.50	675.00	450.00	A00		12388128	Billed
04/03/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12388128	Billed
04/04/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12388128	Billed
04/08/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.80	360.00	450.00	0.80	360.00	450.00	A00		12388128	Billed
04/11/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.00	900.00	450.00	2.00	900.00	450.00	A00		12388128	Billed
04/17/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12388128	Billed
04/18/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.70	315.00	450.00	0.70	315.00	450.00	A00		12388128	Billed
04/19/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12388128	Billed
04/23/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.00	1,350.00	450.00	3.00	1,350.00	450.00	A00		12388128	Billed
04/24/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12388128	Billed
05/01/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.20	540.00	450.00	1.20	540.00	450.00	A00		12390913	Billed
05/02/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.30	585.00	450.00	1.30	585.00	450.00	A00		12390913	Billed
05/03/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.10	945.00	450.00	2.10	945.00	450.00	A00		12390913	Billed
05/06/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.30	1,035.00	450.00	2.30	1,035.00	450.00	A00		12390913	Billed
05/07/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.50	1,575.00	450.00	3.50	1,575.00	450.00	A00		12390913	Billed
05/08/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12390913	Billed
05/09/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.70	1,215.00	450.00	2.70	1,215.00	450.00	A00		12390913	Billed

# Time Report

Stanley Jakstick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4)

Billed  
04/22/2020

Date	SM/Task	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
05/10/2019	0249	Hosmer-Henner, Adam	10	Partner	1	5.50	2,475.00	450.00	5.50	2,475.00	450.00	A00		12390913	Billed
05/13/2019	0249	Hosmer-Henner, Adam	10	Partner	1	5.70	2,565.00	450.00	5.70	2,565.00	450.00	A00		12390913	Billed
05/14/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.20	1,440.00	450.00	3.20	1,440.00	450.00	A00		12390913	Billed
05/16/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.50	1,575.00	450.00	3.50	1,575.00	450.00	A00		12390913	Billed
05/17/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.10	495.00	450.00	1.10	495.00	450.00	A00		12390913	Billed
05/20/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12390913	Billed
05/21/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.70	1,665.00	450.00	3.70	1,665.00	450.00	A00		12390913	Billed
05/21/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.30	135.00	450.00	0.30	135.00	450.00	A00		12390913	Billed
05/23/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.50	1,125.00	450.00	2.50	1,125.00	450.00	A00		12390913	Billed
05/24/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12390913	Billed
05/28/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.30	1,035.00	450.00	2.30	1,035.00	450.00	A00		12390913	Billed
05/29/2019	0249	Hosmer-Henner, Adam	10	Partner	1	4.00	1,800.00	450.00	4.00	1,800.00	450.00	A00		12390913	Billed
06/03/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.90	405.00	450.00	0.90	405.00	450.00	A00		12390913	Billed
06/16/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.00	900.00	450.00	2.00	900.00	450.00	A00		12390913	Billed
06/17/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.60	1,620.00	450.00	3.60	1,620.00	450.00	A00		12390913	Billed
06/18/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.70	765.00	450.00	1.70	765.00	450.00	A00		12390913	Billed
06/19/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.50	1,125.00	450.00	2.50	1,125.00	450.00	A00		12390913	Billed
06/24/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12390913	Billed

# Time Report

Stanley Jaksick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4)

Billed  
04/22/2020

Date	SM/Task	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
07/01/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.50	1,575.00	450.00	3.50	1,575.00	450.00	A00		12392257	Billed
07/09/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.60	720.00	450.00	1.60	720.00	450.00	A00		12392257	Billed
07/08/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.10	945.00	450.00	2.10	945.00	450.00	A00		12392257	Billed
07/15/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.40	630.00	450.00	1.40	630.00	450.00	A00		12392257	Billed
07/17/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.50	675.00	450.00	1.50	675.00	450.00	A00		12392257	Billed
07/18/2019	0249	Hosmer-Henner, Adam	10	Partner	1	4.00	1,800.00	450.00	4.00	1,800.00	450.00	A00		12392257	Billed
07/22/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.50	1,575.00	450.00	3.50	1,575.00	450.00	A00		12392257	Billed
07/23/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.00	1,350.00	450.00	3.00	1,350.00	450.00	A00		12392257	Billed
07/24/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.30	1,035.00	450.00	2.30	1,035.00	450.00	A00		12392257	Billed
07/24/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.50	675.00	450.00	1.50	675.00	450.00	A00		12392257	Billed
07/25/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12392257	Billed
07/26/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.70	1,665.00	450.00	3.70	1,665.00	450.00	A00		12392257	Billed
07/29/2019	0249	Hosmer-Henner, Adam	10	Partner	1	4.80	2,160.00	450.00	4.80	2,160.00	450.00	A00		12392257	Billed
07/30/2019	0249	Hosmer-Henner, Adam	10	Partner	1	5.20	2,340.00	450.00	5.20	2,340.00	450.00	A00		12392257	Billed
07/31/2019	0249	Hosmer-Henner, Adam	10	Partner	1	9.50	4,275.00	450.00	9.50	4,275.00	450.00	A00		12392257	Billed
08/02/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.50	675.00	450.00	1.50	675.00	450.00	A00		12393847	Billed
08/05/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12393847	Billed
08/06/2019	0249	Hosmer-Henner, Adam	10	Partner	1	3.30	1,485.00	450.00	3.30	1,485.00	450.00	A00		12393847	Billed

# Time Report

Stanley Jaksick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4)

Billed  
04/22/2020

Date	SM/Task	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
08/07/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.00	900.00	450.00	2.00	900.00	450.00	A00		12393847	Billed
08/12/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12393847	Billed
08/13/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12393847	Billed
08/16/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.30	135.00	450.00	0.30	135.00	450.00	A00		12393847	Billed
08/20/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.30	135.00	450.00	0.30	135.00	450.00	A00		12393847	Billed
08/21/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.90	405.00	450.00	0.90	405.00	450.00	A00		12393847	Billed
08/23/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.80	360.00	450.00	0.80	360.00	450.00	A00		12393847	Billed
08/28/2019	0249	Hosmer-Henner, Adam	10	Partner	1	4.60	2,070.00	450.00	4.60	2,070.00	450.00	A00		12393847	Billed
08/29/2019	0249	Hosmer-Henner, Adam	10	Partner	1	11.00	4,950.00	450.00	11.00	4,950.00	450.00	A00		12393847	Billed
09/03/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12396659	Billed
09/04/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.70	315.00	450.00	0.70	315.00	450.00	A00		12396659	Billed
09/09/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12396659	Billed
09/13/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.40	180.00	450.00	0.40	180.00	450.00	A00		12396659	Billed
09/24/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12396659	Billed
09/25/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.30	135.00	450.00	0.30	135.00	450.00	A00		12396659	Billed
09/26/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.80	360.00	450.00	0.80	360.00	450.00	A00		12396659	Billed
10/01/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.30	135.00	450.00	0.30	135.00	450.00	A00		12396774	Billed
10/02/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	450.00	450.00	1.00	450.00	450.00	A00		12396774	Billed

# Time Report

Stanley Jaksick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4)

Billed  
04/22/2020

Date	SM/Task	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
10/07/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.20	540.00	450.00	1.20	540.00	450.00	A00		12396774	Billed
10/10/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.70	315.00	450.00	0.70	315.00	450.00	A00		12396774	Billed
10/15/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12396774	Billed
10/16/2019	0249	Hosmer-Henner, Adam	10	Partner	1	2.00	900.00	450.00	2.00	900.00	450.00	A00		12396774	Billed
10/18/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12396774	Billed
10/21/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.30	135.00	450.00	0.30	135.00	450.00	A00		12396774	Billed
10/22/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.70	315.00	450.00	0.70	315.00	450.00	A00		12396774	Billed
10/23/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.40	180.00	450.00	0.40	180.00	450.00	A00		12396774	Billed
10/24/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12396774	Billed
10/28/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.20	90.00	450.00	0.20	90.00	450.00	A00		12396774	Billed
11/06/2019	0249	Hosmer-Henner, Adam	10	Partner	1	1.30	585.00	450.00	1.30	585.00	450.00	A00		12399120	Billed
11/14/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12399120	Billed
12/09/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12399167	Billed
12/12/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.20	90.00	450.00	0.20	90.00	450.00	A00		12399167	Billed
12/13/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	225.00	450.00	0.50	225.00	450.00	A00		12399167	Billed
12/18/2019	0249	Hosmer-Henner, Adam	10	Partner	1	0.30	135.00	450.00	0.30	135.00	450.00	A00		12399167	Billed
01/06/2020	0249	Hosmer-Henner, Adam	10	Partner	1	0.70	350.00	500.00	0.70	350.00	500.00	A00		12401365	Billed
01/07/2020	0249	Hosmer-Henner, Adam	10	Partner	1	0.40	200.00	500.00	0.40	200.00	500.00	A00		12401365	Billed

# Time Report

Stanley Jaksick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4)

Billed  
04/22/2020

Date	SMTask	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
01/16/2020	0249	Hosmer-Henner, Adam	10	Partner	1	0.70	350.00	500.00	0.70	350.00	500.00	A00		12401365	Billed
01/30/2020	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	250.00	500.00	0.50	250.00	500.00	A00		12401365	Billed
02/07/2020	0249	Hosmer-Henner, Adam	10	Partner	1	1.00	500.00	500.00	1.00	500.00	500.00	A00		12403162	Billed
02/10/2020	0249	Hosmer-Henner, Adam	10	Partner	1	1.50	750.00	500.00	1.50	750.00	500.00	A00		12403162	Billed
02/12/2020	0249	Hosmer-Henner, Adam	10	Partner	1	3.50	1,750.00	500.00	3.50	1,750.00	500.00	A00		12403162	Billed
02/13/2020	0249	Hosmer-Henner, Adam	10	Partner	1	3.70	1,850.00	500.00	3.70	1,850.00	500.00	A00		12403162	Billed
02/17/2020	0249	Hosmer-Henner, Adam	10	Partner	1	3.00	1,500.00	500.00	3.00	1,500.00	500.00	A00		12403162	Billed
02/18/2020	0249	Hosmer-Henner, Adam	10	Partner	1	5.30	2,650.00	500.00	5.30	2,650.00	500.00	A00		12403162	Billed
02/19/2020	0249	Hosmer-Henner, Adam	10	Partner	1	1.70	850.00	500.00	1.70	850.00	500.00	A00		12403162	Billed
02/20/2020	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	250.00	500.00	0.50	250.00	500.00	A00		12403162	Billed
02/26/2020	0249	Hosmer-Henner, Adam	10	Partner	1	1.50	750.00	500.00	1.50	750.00	500.00	A00		12403162	Billed
03/03/2020	0249	Hosmer-Henner, Adam	10	Partner	1	0.50	250.00	500.00	0.50	250.00	500.00	A00		12404910	Billed
03/12/2020	0249	Hosmer-Henner, Adam	10	Partner	1	4.50	2,250.00	500.00	4.50	2,250.00	500.00	A00		12404910	Billed
03/16/2020	0249	Hosmer-Henner, Adam	10	Partner	1	3.70	1,850.00	500.00	3.70	1,850.00	500.00	A00		12404910	Billed
03/17/2020	0249	Hosmer-Henner, Adam	10	Partner	1	4.00	2,000.00	500.00	4.00	2,000.00	500.00	A00		12404910	Billed
03/23/2020	0249	Hosmer-Henner, Adam	10	Partner	1	2.00	1,000.00	500.00	2.00	1,000.00	500.00	A00		12404910	Billed
03/24/2020	0249	Hosmer-Henner, Adam	10	Partner	1	1.50	750.00	500.00	1.50	750.00	500.00	A00		12404910	Billed
03/25/2020	0249	Hosmer-Henner, Adam	10	Partner	1	3.50	1,750.00	500.00	3.50	1,750.00	500.00	A00		12404910	Billed



## Time Report

Stanley Jaksick / CO-TRUSTEE OF THE SAMUEL S. JAKSICK, JR. (19453-4) Billed  
04/22/2020

Date	SMTask	Attorney Name	Staff Level	Description	Rate	Orig Hrs	Orig Amt	Orig Rate	Rev Hrs	Rev Amt	Rev Rate	Service	Activity	Invoice	Status
03/27/2020		0249 Hosmer-Henner Adam	10	Partner	1	1.00	500.00	500.00	1.00	500.00	500.00	A00		12404910	Billed
03/30/2020		0249 Hosmer-Henner Adam	10	Partner	1	0.50	250.00	500.00	0.50	250.00	500.00	A00		12404910	Billed
03/31/2020		0249 Hosmer-Henner Adam	10	Partner	1	0.60	300.00	500.00	0.60	300.00	500.00	A00		12404910	Billed
<b>Report Totals</b>						<b>400.60</b>	<b>181,560.00</b>		<b>398.60</b>	<b>181,560.00</b>					

FILED  
Electronically  
PR17-00445  
2020-04-22 05:21:32 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7846627

# Exhibit 2

# Exhibit 2

KREITLEIN LEEDER MOSS, LTD.  
1575 Delucchi Lane, Suite 101

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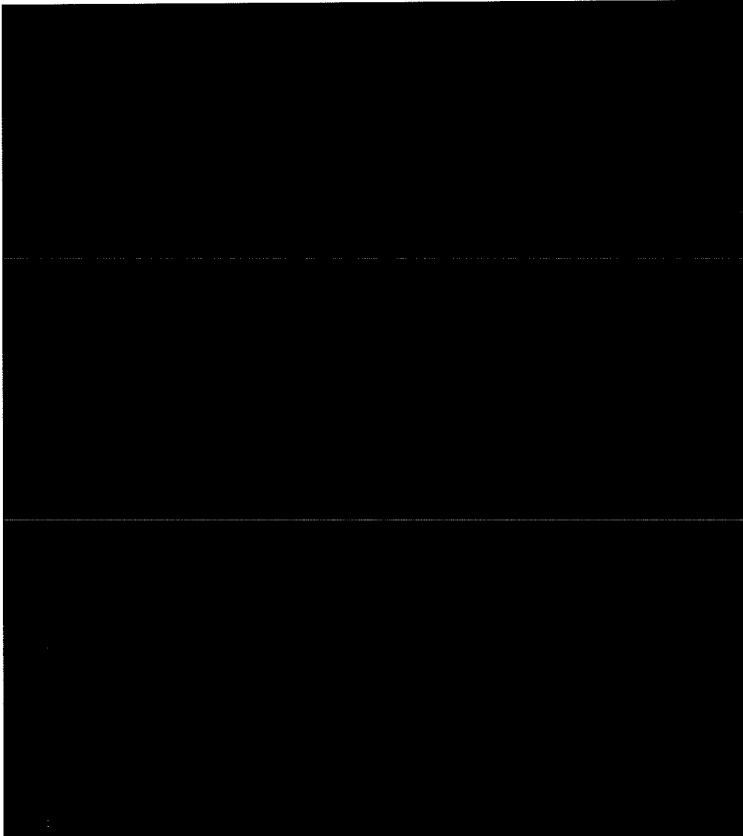
Reno, NV 89502  
Phone: (775) 786-2222  
Fax: (775) 786-2478

Invoice submitted to:  
Jaksick, Stan S.  
20 Sharps Circle  
Reno, NV 89519-8009

April 21, 2020

In Reference To: Account: 1433.02  
Probate

Professional Services

		<u>Rate</u>	<u>Amount</u>
10/4/2017 PLK		250.00/hr	100.00
10/9/2017 SCM		250.00/hr	500.00
PLK		250.00/hr	750.00
10/10/2017 SCM		250.00/hr	500.00
PLK		250.00/hr	300.00
PAR		125.00/hr	137.50
10/11/2017 SCM		250.00/hr	250.00
PLK		250.00/hr	125.00
10/12/2017 PLK		250.00/hr	75.00

	<u>Rate</u>	<u>Amount</u>
10/17/2017 PLK	250.00/hr	50.00
10/18/2017 PLK	250.00/hr	75.00
10/24/2017 PLK	250.00/hr	100.00
11/22/2017 PLK	250.00/hr	200.00
12/13/2017 PLK	250.00/hr	50.00
12/20/2017 PLK	250.00/hr	100.00
12/21/2017 PLK	250.00/hr	50.00
12/28/2017 PLK	250.00/hr	500.00
1/2/2018 PLK	250.00/hr	75.00
1/3/2018 PLK	250.00/hr	400.00
1/4/2018 PLK	250.00/hr	375.00
1/9/2018 PLK	250.00/hr	75.00
1/30/2018 PLK	250.00/hr	500.00
2/5/2018 PLK	250.00/hr	100.00
2/6/2018 PLK	250.00/hr	75.00

	<u>Rate</u>	<u>Amount</u>
2/12/2018 PLK	250.00/hr	450.00
2/22/2018 PLK	250.00/hr	50.00
3/5/2018 PLK	300.00/hr	90.00
3/6/2018 PLK	300.00/hr	90.00
3/7/2018 PLK	300.00/hr	300.00
3/19/2018 PLK	300.00/hr	600.00
3/21/2018 PLK	300.00/hr	240.00
3/23/2018 PLK	300.00/hr	360.00
3/30/2018 PLK	300.00/hr	60.00
4/13/2018 PLK	300.00/hr	150.00
4/18/2018 PLK	300.00/hr	300.00
PLK	300.00/hr	120.00
4/24/2018 PLK	300.00/hr	90.00
4/25/2018 PLK	300.00/hr	90.00
4/26/2018 PLK	300.00/hr	210.00
4/30/2018 PLK	300.00/hr	90.00

	<u>Rate</u>	<u>Amount</u>
5/3/2018 PLK	300.00/hr	90.00
5/4/2018 PLK	300.00/hr	120.00
5/7/2018 PLK	300.00/hr	90.00
5/8/2018 PLK	300.00/hr	450.00
5/9/2018 PLK	300.00/hr	120.00
5/11/2018 PLK	300.00/hr	150.00
5/14/2018 PLK	300.00/hr	150.00
5/15/2018 PLK	300.00/hr	90.00
5/17/2018 PLK	300.00/hr	120.00
5/18/2018 PLK	300.00/hr	60.00
5/21/2018 PLK	300.00/hr	120.00
5/22/2018 PLK	300.00/hr	360.00

	<u>Rate</u>	<u>Amount</u>
5/23/2018 PLK	300.00/hr	150.00
5/24/2018 PLK	300.00/hr	180.00
5/25/2018 PLK	300.00/hr	630.00
5/29/2018 PLK	300.00/hr	90.00
5/31/2018 PLK	300.00/hr	420.00
6/1/2018 PLK	300.00/hr	330.00
6/4/2018 PLK	300.00/hr	1,650.00

	<u>Rate</u>	<u>Amount</u>
6/4/2018 PLK	300.00/hr	330.00
6/5/2018 PLK	300.00/hr	2,580.00
6/6/2018 PLK	300.00/hr	2,760.00
6/7/2018 PLK	300.00/hr	120.00
6/8/2018 PLK	300.00/hr	690.00
6/11/2018 PLK	300.00/hr	270.00
6/13/2018 PLK	300.00/hr	210.00
6/18/2018 PLK	300.00/hr	90.00
6/21/2018 PLK	300.00/hr	90.00



	<u>Rate</u>	<u>Amount</u>
7/3/2018 PLK	300.00/hr	120.00
7/4/2018 PLK	300.00/hr	660.00
7/5/2018 PLK	300.00/hr	450.00
PLK	300.00/hr	120.00
7/6/2018 PLK	300.00/hr	120.00
7/9/2018 PLK	300.00/hr	90.00
7/10/2018 PLK	300.00/hr	150.00
7/11/2018 PLK	300.00/hr	240.00
7/12/2018 PLK	300.00/hr	90.00
7/16/2018 PLK	300.00/hr	390.00
7/17/2018 PLK	300.00/hr	1,290.00
7/19/2018 PLK	300.00/hr	90.00

	<u>Rate</u>	<u>Amount</u>
7/20/2018 PLK	300.00/hr	120.00
7/23/2018 PLK	300.00/hr	120.00
7/24/2018 PLK	300.00/hr	150.00
7/27/2018 PLK	300.00/hr	690.00
7/30/2018 PLK	300.00/hr	120.00
7/31/2018 PLK	300.00/hr	750.00
8/1/2018 PLK	300.00/hr	780.00
8/2/2018 PLK	300.00/hr	870.00
8/3/2018 PLK	300.00/hr	90.00
8/4/2018 PLK	300.00/hr	360.00

	<u>Rate</u>	<u>Amount</u>
8/6/2018 PLK	300.00/hr	2,790.00
8/7/2018 PLK	300.00/hr	2,400.00
PLK	300.00/hr	240.00
8/8/2018 PLK	300.00/hr	2,670.00
8/9/2018 PLK	300.00/hr	2,760.00
8/10/2018 PLK	300.00/hr	1,890.00
8/13/2018 PLK	300.00/hr	2,820.00
8/14/2018 PLK	300.00/hr	2,400.00
8/15/2018 PLK	300.00/hr	2,400.00
8/16/2018 PLK	300.00/hr	1,770.00
8/17/2018 PLK	300.00/hr	990.00
8/20/2018 PLK	300.00/hr	150.00

	<u>Rate</u>	<u>Amount</u>
8/21/2018 PLK	300.00/hr	300.00
PLK	300.00/hr	150.00
8/23/2018 PLK	300.00/hr	540.00
8/24/2018 PLK	300.00/hr	90.00
8/28/2018 PLK	300.00/hr	1,020.00
8/29/2018 PLK	300.00/hr	90.00
8/30/2018 PLK	300.00/hr	660.00
8/31/2018 PLK	300.00/hr	360.00
9/4/2018 PLK	300.00/hr	1,200.00
9/5/2018 PLK	300.00/hr	90.00

	<u>Rate</u>	<u>Amount</u>
9/6/2018 PLK	300.00/hr	90.00
9/9/2018 PLK	300.00/hr	90.00
9/11/2018 PLK	300.00/hr	240.00
9/13/2018 PLK	300.00/hr	90.00
9/14/2018 PLK	300.00/hr	1,200.00
9/17/2018 PLK	300.00/hr	270.00
9/19/2018 PLK	300.00/hr	240.00
9/20/2018 PLK	300.00/hr	690.00
9/21/2018 PLK	300.00/hr	990.00
9/24/2018 PLK	300.00/hr	600.00
9/25/2018 PLK	300.00/hr	240.00
9/26/2018 PLK	300.00/hr	540.00
10/1/2018 PLK	300.00/hr	120.00
10/2/2018 PLK	300.00/hr	270.00
10/3/2018 PLK	300.00/hr	300.00

	<u>Rate</u>	<u>Amount</u>
10/4/2018 PLK	300.00/hr	240.00
10/5/2018 PLK	300.00/hr	180.00
10/8/2018 PLK	300.00/hr	270.00
10/9/2018 PLK	300.00/hr	750.00
10/10/2018 PLK	300.00/hr	360.00
PLK	300.00/hr	120.00
10/11/2018 PLK	300.00/hr	1,260.00
10/12/2018 PLK	300.00/hr	420.00
10/15/2018 PLK	300.00/hr	780.00
10/16/2018 PLK	300.00/hr	390.00
10/17/2018 PLK	300.00/hr	570.00

	<u>Rate</u>	<u>Amount</u>
10/18/2018 PLK	300.00/hr	420.00
10/22/2018 PLK	300.00/hr	270.00
10/23/2018 PLK	300.00/hr	840.00
10/24/2018 PLK	300.00/hr	270.00
10/25/2018 PLK	300.00/hr	540.00
10/29/2018 PLK	300.00/hr	3,600.00
10/30/2018 PLK	300.00/hr	2,100.00
10/31/2018 PLK	300.00/hr	2,100.00
11/1/2018 PLK	300.00/hr	570.00
11/7/2018 PLK	300.00/hr	240.00
11/13/2018 PLK	300.00/hr	540.00
11/14/2018 PLK	300.00/hr	540.00

	<u>Rate</u>	<u>Amount</u>
11/15/2018 PLK	300.00/hr	1,020.00
11/16/2018 PLK	300.00/hr	1,110.00
11/17/2018 PLK	300.00/hr	2,550.00
11/19/2018 PLK	300.00/hr	270.00
11/20/2018 PLK	300.00/hr	660.00
11/21/2018 PLK	300.00/hr	600.00
PLK	300.00/hr	600.00
11/26/2018 PLK	300.00/hr	540.00
11/27/2018 PLK	300.00/hr	420.00
11/28/2018 PLK	300.00/hr	450.00
11/29/2018 PLK	300.00/hr	840.00
11/30/2018 PLK	300.00/hr	480.00



	<u>Rate</u>	<u>Amount</u>
12/3/2018 PLK	300.00/hr	240.00
12/4/2018 PLK	300.00/hr	540.00
PLK	300.00/hr	420.00
12/5/2018 PLK	300.00/hr	870.00
12/6/2018 PLK	300.00/hr	990.00
12/7/2018 PLK	300.00/hr	330.00
12/10/2018 PLK	300.00/hr	450.00
12/11/2018 PLK	300.00/hr	1,230.00
12/12/2018 PLK	300.00/hr	150.00

	<u>Rate</u>	<u>Amount</u>
12/12/2018 PLK	300.00/hr	600.00
12/13/2018 PLK	300.00/hr	540.00
12/14/2018 PLK	300.00/hr	570.00
12/17/2018 PLK	300.00/hr	480.00
12/18/2018 PLK	300.00/hr	720.00
12/19/2018 PLK	300.00/hr	690.00
12/20/2018 PLK	300.00/hr	720.00
12/21/2018 PLK	300.00/hr	570.00

	<u>Rate</u>	<u>Amount</u>
12/24/2018 PLK	300.00/hr	180.00
12/26/2018 PLK	300.00/hr	690.00
12/27/2018 PLK	300.00/hr	180.00
PLK	300.00/hr	600.00
12/28/2018 PLK	300.00/hr	570.00
12/30/2018 PLK	300.00/hr	90.00
12/31/2018 PLK	300.00/hr	1,170.00
1/2/2019 PLK	300.00/hr	3,000.00

	<u>Rate</u>	<u>Amount</u>
1/3/2019 PLK	300.00/hr	2,760.00
1/4/2019 PLK	300.00/hr	3,000.00
1/5/2019 PLK	300.00/hr	2,370.00
1/6/2019 PLK	300.00/hr	120.00
1/7/2019 PLK	300.00/hr	1,560.00
1/8/2019 PLK	300.00/hr	1,320.00
1/9/2019 PLK	300.00/hr	180.00
1/10/2019 PLK	300.00/hr	1,650.00

	<u>Rate</u>	<u>Amount</u>
1/11/2019 PLK	300.00/hr	1,530.00
1/14/2019 PLK	300.00/hr	2,010.00
1/15/2019 PLK	300.00/hr	960.00
1/16/2019 PLK	300.00/hr	930.00
1/17/2019 PLK	300.00/hr	870.00
PLK	300.00/hr	840.00
1/18/2019 PLK	300.00/hr	1,230.00

	<u>Rate</u>	<u>Amount</u>
1/21/2019 PLK	300.00/hr	2,430.00
1/22/2019 PLK	300.00/hr	2,640.00
1/23/2019 PLK	300.00/hr	660.00
1/24/2019 PLK	300.00/hr	2,700.00
PAR	125.00/hr	137.50
1/25/2019 PLK	300.00/hr	1,170.00
1/28/2019 PLK	300.00/hr	1,680.00
1/29/2019 PLK	300.00/hr	2,760.00

	<u>Rate</u>	<u>Amount</u>
1/30/2019 PLK	300.00/hr	2,160.00
1/31/2019 PLK	300.00/hr	1,650.00
2/1/2019 PLK	300.00/hr	3,300.00
2/4/2019 PLK	300.00/hr	2,040.00

	<u>Rate</u>	<u>Amount</u>
2/5/2019 PLK	300.00/hr	2,640.00
2/6/2019 PLK	300.00/hr	870.00
2/8/2019 PLK	300.00/hr	1,560.00
2/11/2019 PLK	300.00/hr	1,230.00
2/12/2019 PLK	300.00/hr	690.00
2/13/2019 PLK	300.00/hr	2,370.00
2/14/2019 PLK	300.00/hr	2,400.00



	<u>Rate</u>	<u>Amount</u>
2/15/2019 PLK	300.00/hr	1,770.00
2/16/2019 PLK	300.00/hr	360.00
2/18/2019 PLK	300.00/hr	720.00
2/19/2019 PLK	300.00/hr	2,250.00
2/20/2019 PLK	300.00/hr	1,170.00
2/21/2019 PLK	300.00/hr	660.00
2/22/2019 PLK	300.00/hr	1,980.00
2/25/2019 PLK	300.00/hr	360.00
2/26/2019 PLK	300.00/hr	300.00
2/27/2019 PLK	300.00/hr	2,400.00
3/1/2019 PLK	300.00/hr	4,350.00
PLK	300.00/hr	660.00
3/5/2019 PLK	300.00/hr	180.00

	<u>Rate</u>	<u>Amount</u>
3/6/2019 PLK	300.00/hr	390.00
3/11/2019 PLK	300.00/hr	360.00
3/12/2019 PLK	300.00/hr	270.00
3/14/2019 PLK	300.00/hr	450.00
3/15/2019 PLK	300.00/hr	870.00
3/18/2019 PLK	300.00/hr	930.00
3/19/2019 PLK	300.00/hr	1,260.00

	<u>Rate</u>	<u>Amount</u>
3/20/2019 PLK	300.00/hr	570.00
3/21/2019 PLK	300.00/hr	990.00
3/22/2019 PLK	300.00/hr	870.00
3/25/2019 PLK	300.00/hr	660.00
3/26/2019 PLK	300.00/hr	240.00
3/27/2019 PLK	300.00/hr	240.00
3/28/2019 PLK	300.00/hr	180.00
3/29/2019 PLK	300.00/hr	120.00

	<u>Rate</u>	<u>Amount</u>
4/1/2019 PLK	300.00/hr	240.00
4/2/2019 PLK	300.00/hr	120.00
4/3/2019 PLK	300.00/hr	450.00
4/4/2019 PLK	300.00/hr	150.00
4/5/2019 PLK	300.00/hr	270.00
4/8/2019 PLK	300.00/hr	120.00
4/10/2019 PLK	300.00/hr	270.00
4/11/2019 PLK	300.00/hr	240.00
4/12/2019 PLK	300.00/hr	120.00
4/15/2019 PLK	300.00/hr	330.00
4/16/2019 PLK	300.00/hr	150.00
4/17/2019 PLK	300.00/hr	150.00
4/19/2019 PLK	300.00/hr	300.00

	<u>Rate</u>	<u>Amount</u>
4/22/2019 PLK	300.00/hr	540.00
4/23/2019 PLK	300.00/hr	240.00
4/24/2019 PLK	300.00/hr	90.00
4/30/2019 PLK	300.00/hr	90.00
5/1/2019 PLK	300.00/hr	540.00
5/2/2019 PLK	300.00/hr	540.00
5/3/2019 PLK	300.00/hr	150.00
5/6/2019 PLK	300.00/hr	360.00
5/7/2019 PLK	300.00/hr	870.00
5/8/2019 PLK	300.00/hr	630.00
5/9/2019 PLK	300.00/hr	390.00

	<u>Rate</u>	<u>Amount</u>
5/10/2019 PLK	300.00/hr	150.00
5/13/2019 PLK	300.00/hr	1,170.00
5/14/2019 PLK	300.00/hr	360.00
5/15/2019 PLK	300.00/hr	480.00
5/16/2019 PLK	300.00/hr	270.00
5/17/2019 PLK	300.00/hr	240.00
PLK	300.00/hr	450.00
5/20/2019 PLK	300.00/hr	270.00
5/21/2019 PLK	300.00/hr	270.00

	<u>Rate</u>	<u>Amount</u>
5/22/2019 PLK	300.00/hr	150.00
5/23/2019 PLK	300.00/hr	480.00
5/24/2019 PLK	300.00/hr	300.00
5/28/2019 PLK	300.00/hr	330.00
PLK	300.00/hr	210.00
5/29/2019 PLK	300.00/hr	780.00
5/30/2019 PLK	300.00/hr	1,230.00
5/31/2019 PLK	300.00/hr	150.00
6/3/2019 PLK	300.00/hr	870.00

	<u>Rate</u>	<u>Amount</u>
6/4/2019 PLK	300.00/hr	390.00
6/5/2019 PLK	300.00/hr	270.00
6/6/2019 PLK	300.00/hr	270.00
6/7/2019 PLK	300.00/hr	360.00
6/10/2019 PLK	300.00/hr	150.00
6/11/2019 PLK	300.00/hr	270.00
6/14/2019 PLK	300.00/hr	480.00
6/17/2019 PLK	300.00/hr	270.00
6/18/2019 PLK	300.00/hr	330.00
6/19/2019 PLK	300.00/hr	840.00

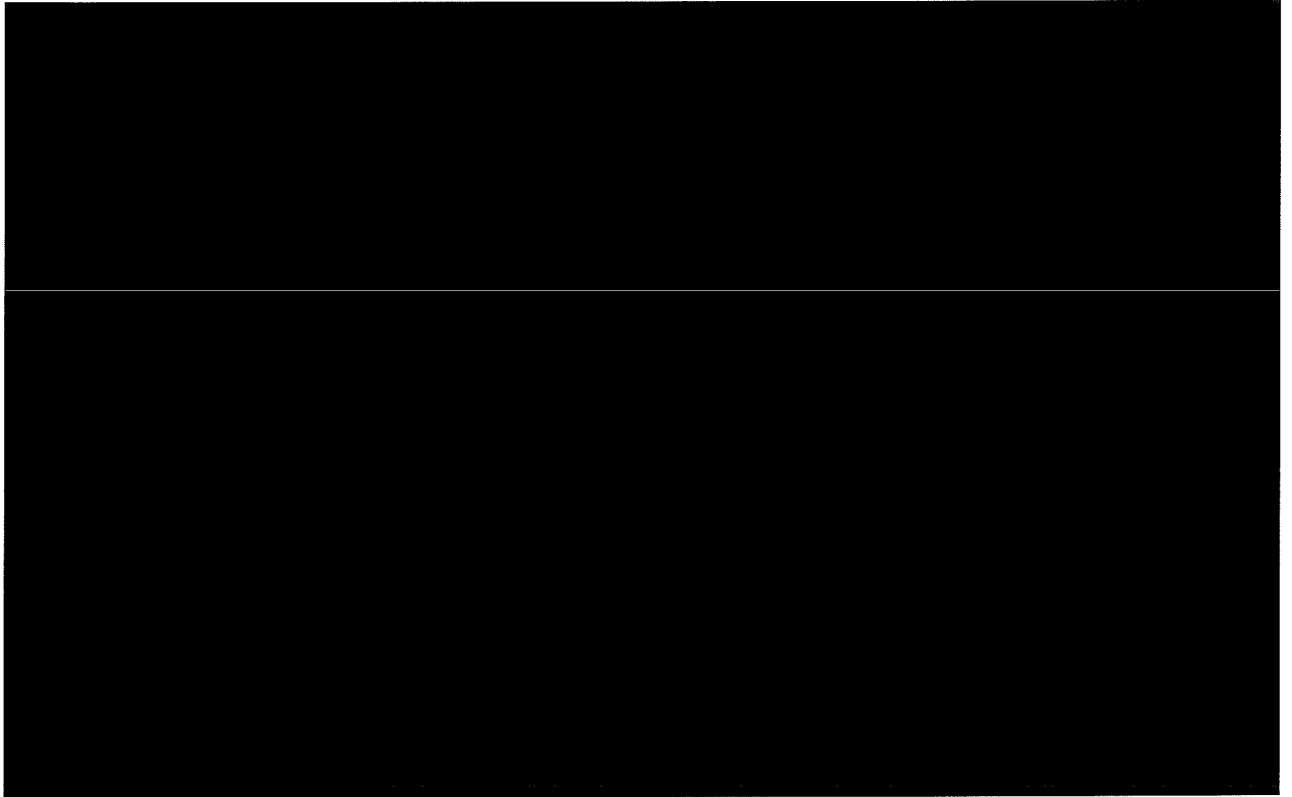


	<u>Rate</u>	<u>Amount</u>
6/20/2019 PLK	300.00/hr	270.00
6/24/2019 PLK	300.00/hr	240.00
6/25/2019 PLK	300.00/hr	210.00
6/27/2019 PLK	300.00/hr	240.00
7/1/2019 PLK	300.00/hr	660.00
7/3/2019 PLK	300.00/hr	390.00
7/15/2019 PLK	300.00/hr	330.00
7/16/2019 PLK	300.00/hr	240.00
7/17/2019 PLK	300.00/hr	450.00
7/23/2019 PLK	300.00/hr	570.00

	<u>Rate</u>	<u>Amount</u>
7/30/2019 PLK	300.00/hr	240.00
7/31/2019 PLK	300.00/hr	690.00
8/2/2019 PLK	300.00/hr	330.00
8/5/2019 PLK	300.00/hr	480.00
8/7/2019 PLK	300.00/hr	510.00
8/12/2019 PLK	300.00/hr	240.00
8/13/2019 PLK	300.00/hr	120.00
8/16/2019 PLK	300.00/hr	240.00
8/20/2019 PLK	300.00/hr	120.00
8/21/2019 PLK	300.00/hr	120.00

	<u>Rate</u>	<u>Amount</u>
8/23/2019 PLK	300.00/hr	240.00
8/28/2019 PLK	300.00/hr	360.00
8/29/2019 PLK	300.00/hr	3,540.00
9/9/2019 PLK	300.00/hr	150.00
9/11/2019 PLK	300.00/hr	90.00
9/13/2019 PLK	300.00/hr	90.00
9/16/2019 PLK	300.00/hr	150.00
9/24/2019 PLK	300.00/hr	90.00
9/26/2019 PLK	300.00/hr	90.00
10/1/2019 PLK	300.00/hr	90.00
10/2/2019 PLK	300.00/hr	120.00
10/8/2019 PLK	300.00/hr	150.00
10/9/2019 PLK	300.00/hr	120.00
10/14/2019 PLK	300.00/hr	120.00
10/16/2019 PLK	300.00/hr	90.00
10/18/2019 PLK	300.00/hr	60.00

	<u>Rate</u>	<u>Amount</u>
10/22/2019 PLK	300.00/hr	90.00
12/27/2019 PLK	300.00/hr	120.00
2/6/2020 PLK	300.00/hr	90.00
For professional services rendered	738.60	\$220,030.00



**CODE: 3860**

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*Co-Trustee of the 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 Administration of the  
SSJ ISSUE TRUST,

**CASE NO.: PR17-00445**

**DEPT. NO.: 15**

**CASE NO.: PR17-00446**

**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.

STANLEY JAKSICK,  
Respondent and Counter-Petitioner,

v.

TODD B. JAKSICK, Individually and as Co-  
Trustee of the Samuel S. Jaksick, Jr. Family  
Trust.

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3 **CERTIFICATE OF SERVICE**

4 Pursuant to NRCP 5(b), I hereby certify that I am an employee of McDONALD  
5 CARANO and that on April 22, 2020, I served the foregoing on the parties in said case by  
6 electronically filing via the Court's e-filing system. The participants in this case are registered e-  
7 filing users and notice of filing will be served on all parties by operation of the Court's CM/ECF  
8 system, and parties may access this filing through the Court's CM/ECF system.

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

23 DATED: April 22, 2020.

24 By /s/ Jill Nelson  
25 An Employee of McDonald Carano  
26  
27  
28



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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.

**OPPOSITION TO MOTION FOR  
ATTORNEYS' FEES AND COSTS OF  
MICHAEL KIMMEL,  
INDIVIDUALLY AND AS CO-  
TRUSTEE**

1  
2 Wendy A. Jaksick (“Wendy”) files this *Opposition to Motion for Attorneys’ Fees and*  
3 *Costs of Michael Kimmel, Individually and as Co-Trustee* (the “Opposition”). Wendy’s  
4 Opposition is based upon the papers and pleadings on file and the following memorandum of  
5 points and authorities.

6  
7 **I. STATEMENT OF RELEVANT FACTS**

8 On August 2, 2017, Todd Jaksick (“Todd”) and Michael Kimmel (“Kimmel”), in their  
9 capacities as Co-Trustees of the Family Trust, (collectively, “Petitioners”) filed *Petitions for*  
10 *Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval*  
11 *of Accountings and Other Trust Administration Matters* (the “Petition”) instituting the current  
12 litigation involving the Family Trust and Wendy.

13 The *Petition* sought Court approval of purported trust accountings for the period April  
14 2013 through December 31, 2016 (the “Purported Trust Accounting”), as well as ratification and  
15 Court approval of numerous actions taken by Co-Trustees relieving Trustees from liability from  
16 such actions. *Petition* page 6. The *Petition* also sought approval of numerous agreements  
17 intended to modify the Family Trust and a release of all liability for actions taken pursuant to  
18 such agreements. *See Petition* page 12.

19  
20 Stanley Jaksick (“Stanley”), in his capacity as Co-Trustee of the Family Trust, refused to  
21 join the Purported Trust Accountings and refused to join and pursue the *Petition*. Instead, on  
22 October 10, 2017, Stanley filed an opposition to the *Petition* including objections to the approval  
23 of the Purported Trust Accountings and other claims concerning the administration of the Family  
24 Trust. Stan, the third and only remaining Co-Trustee, did not just refuse to endorse the defective  
25 accountings by remaining silent, but affirmatively contested the very accountings filed by his Co-  
26 Trustees for Court approval; he knew they were insufficient.  
27  
28

1           Importantly and in the face of one of his Co-Trustee's objection, the *Petition* was joined  
2 by Kimmel and verified by both Kimmel and Todd. *See Petition* page 14. Through the  
3 verification, Kimmel "declare[d] under penalties of perjury that the statements made in the  
4 *Petition* are true of his own knowledge, except for those matters stated on information and  
5 belief, and as to those matters he believes them to be true". *Id.* Kimmel affirmatively filed a  
6 lawsuit seeking the Court's approval of the Family Trust's actions and accountings including  
7 actions taken *prior to his appointment as Trustee*. In filing and verifying the Family Trust  
8 *Petition*, Kimmel ratified all actions taken by the trustees of the Family Trust since 2013. In  
9 filing the lawsuit, Kimmel sued Wendy forcing her to respond to determine and protect her  
10 rights.

11           As a result of the lawsuit filed by Todd and Kimmel, as Co-Trustees of the Family  
12 Trust, Wendy filed a Counter-Petition objecting to the efforts to obtain confirmation of the  
13 Purported Accounting and other actions of the Co-Trustee and included claims for breach of  
14 fiduciary duty and other actions of the Co-Trustees. Wendy also sued the Co-Trustees in their  
15 individual capacities to ensure any judgment payable or enforceable against the Co-Trustees  
16 in their Individual capacities would be valid and enforceable.

17           The Co-Trustees in their Individual capacities are separate and distinct legal persons  
18 from the Co-Trustees in their fiduciary capacities. *Mona v. Eighth Judicial District Court of*  
19 *State in and for County of Clark*, 380 P.3d 836, 842 (2016) (holding the Co-Trustee was, in  
20 her individual capacity, distinct legal person and stranger to Co-Trustee in her representative  
21 capacity as Co-Trustee of the Trust). NRS 153.031 and other Nevada authority<sup>1</sup> authorizes  
22 recovery of damages, attorneys' fees and costs from a trustee personally under certain  
23 circumstances, such as, when a trustee is determined to be negligent in the performance of or  
24 breached his or her fiduciary duties. Because a district court is empowered to render a  
25 judgment either for or against a person or entity only if it has jurisdiction over the parties and  
26

27 <sup>1</sup> A trustee may be personally liable for attorney's fees if the trustee "breached his or her fiduciary duties." See  
28 Matter of M.W. Connell and Marjorie T. Connell Living Trust, 393 P.3d 1090, 1094 (Nev. 2017) (citing references  
omitted).

1 the subject matter, the failure to sue and make the Co-Trustees parties in their individual  
2 capacities would render any judgment against the Co-Trustees personally void. *C.H.A. Venture*  
3 *v. G.C. Wallace Consulting Engineers, Inc.*, 106 Nev. 381, 383, 794 P.2d 707, 708 (1990)  
4 (confirming that district court was powerless to enter any form of valid judgment imposing  
5 liability against person or entity not properly served and made party to the lawsuit).

6 Additionally, Wendy's reason for suing the Co-Trustees in their Individual capacities  
7 is also confirmed in this Court's *Order Granting in Part and Denying in Part Motion for*  
8 *Summary Judgment*, which was entered on January 14, 2019. The *Order* provides the  
9 following authority for denying Kimmel's motion for summary judgment on Wendy's claims  
10 against him "arising from alleged accounting deficiencies and related breaches of fiduciary  
11 duty, including conspiracy to commit such breaches, as to Mr. Kimmel in both his capacities  
12 as trustee and individually." *Order Granting in Part and Denying in Part Motion for Summary*  
13 *Judgment*, page 13, lines 4-6.

14  
15 Similar logic can be found in NRS Chapter 165, which addresses trustee accounting. A  
16 trustee who fails to provide an account pursuant to the terms of the trust instrument, or  
17 when required to under statute, is personally liable to each person entitled to receive an  
18 account who complied with proper procedure for demanding accounting. NRS 165.148(1).  
19 The trustee shall not expend trust funds to satisfy the trustee's personal liability for such a  
20 failure to provide accounting. *Id.* As discussed above, there are genuine issues of material  
21 fact as to whether the co-trustees have provided adequate and accurate accountings to  
22 Wendy as a beneficiary in the period of time following Mr. Kimmel's appointment. In  
23 accordance with NRS 165.148(1), Mr. Kimmel may be held personally liable if such a  
24 failure is found. Further, if Mr. Kimmel is found to have breached his fiduciary duty with  
25 respect to any disclosures not made to Wendy, it is appropriate that trust funds not be  
26 used to remedy any resulting damages. Whether Mr. Kimmel has personally conversed or  
27 maintained a friendly relationship with Wendy is immaterial, as the central issue is  
28 whether it is appropriate to hold the trust financially accountable for his alleged breach.  
Accordingly, Mr. Kimmel's motion for summary judgment with respect to his inclusion in  
this matter in an individual capacity is denied.

*Id.*, page 12, lines 11-26.

## II. POINTS AND AUTHORITIES

A. Attorney's Fees Addressed in Order After Equitable Trial. The *Order After Equitable Trial*, which was entered on March 12, 2020, includes the following orders concerning the payment of all the Trustees' attorney's fees. "The trusts shall pay 100% of the fees incurred by their attorneys in representation of the trustees. However, Todd shall reimburse the trusts from his personal resources for 25% of the amount paid because the jury determined he breached his fiduciary duties." *Order After Equitable Trial*, page 21, lines 24-25. "All fees ordered shall be treated as general trust administration expenses and not allocated to any beneficiary's distributive share." *Id.*, page 22, lines 21-22. "The attorneys' fees provisions in this order reflect the entirety of this Court's intentions regarding fees."

Based on the *Order After Equitable Trial*, it appears the Court addressed and ruled on the payment of Kimmel's attorney's fees in his capacity as Co-Trustee of the Family Trust. According to the *Order*, Kimmel's attorney's fees will be paid by the Family Trust from the corpus of Family Trust and will not be allocated to any beneficiary's distributive share. If this is the appropriate interpretation of the *Order After Equitable Trial*, then Kimmel's requests for attorney's fees included in his *Motion* appear to have been addressed and no further consideration or orders are required in that regard.<sup>2</sup>

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<sup>2</sup> Although it appears the *Order After Equitable Trial* only directs the payment of Kimmel's attorney's fees in his capacity as Co-Trustee of the Family Trust, this should also resolve Kimmel's attorney's fee in his Individual capacity because Mr. Kimmel was represented by the same counsel in both capacities and it is impossible to distinguish or segregate the fees incurred by his attorneys in his separate capacities. In fact, Kimmel makes no effort to distinguish or segregate these fees in his *Motion*, and based on a review of the supporting documents attached to his *Motion* it does not appear any attorneys fees or costs were incurred exclusively on behalf of Kimmel in his individual capacity.

1           **B.     Costs Under NRS 18.020.** Kimmel argues the Court must award him costs  
2 under NRS 18.020 because he is a prevailing party against Wendy. *Motion*, page 5. However,  
3 under NRS 18.020, any award of costs to a prevailing party is subject to the Court’s discretion  
4 in determining the reasonableness of the amounts to be awarded. *Schwartz v. Estate of*  
5 *Greenspun*, 110 Nev. 1042, 1050, 881 P.2d 638, 643 (1994) (“The district court retains  
6 discretion, however, in determining the reasonableness of the amounts and the items of cost to  
7 be awarded.”)  
8

9           To support his requests for costs, Kimmel relies on *Petitioners’ Verified Memorandum*  
10 *of Costs and Disbursements* (“Petitioners’ Memo of Costs”), which was filed on April 2, 2020.  
11 *Petitioners’ Memo of Costs* was filed by Todd Jaksick, as sole Trustee of the SSJ Issue Trust  
12 and as Co-Trustee of the Family Trust, Michael S. Kimmel, Individually and as Co-Trustee of  
13 the Family Trust, and Kevin Riley, Individually, as former Trustee of the Family Trust, and  
14 Trustee of the Wendy A. Jaksick 2012 BHC Family Trust (collectively, “Petitioners”) and,  
15 apparently, includes all costs incurred in the litigation by the Petitioners, the SSJ’s Issue Trust,  
16 the Family Trust, and the BHC Trust.  
17

18           Instead of segregating and identifying or attempting to segregate and identify the  
19 specific costs incurred by Kimmel in defending against Wendy’s claims, Kimmel simply  
20 divides the total costs included in *Petitioners’ Memo of Costs* by four (4) and argues he is  
21 entitled one-fourth (1/4<sup>th</sup>). Kimmel provides no support or argument why this division is  
22 appropriate or reasonable to determine the costs incurred by Kimmel defending against  
23 Wendy’s claims.  
24

25           Because *Petitioners’ Memo of Costs* includes costs incurred by Todd, as Trustee of the  
26 SSJ’s Issue Trust and Co-Trustee of the Family Trust, the costs overlap and cannot be  
27 distinguished and segregated. Further, the costs incurred by Kimmel as Co-Trustee and  
28

1 Kimmel in his Individual capacity cannot be distinguished or segregated. These are the very  
2 issues the Court anticipated and articulated in the April 21, 2020 *Order Denying Wendy*  
3 *Jaksick's Costs* (the "Order Denying Costs"), stating:

4 "The problem this court anticipates is that Messrs. Kimmel and  
5 Riley will be unable to clearly distinguish and articulate costs  
6 associated with their defense that do not overlap into the costs  
7 associated with Todd's defense. Thus it is unlikely the Court will  
8 order Wendy to pay their costs."

9 *Order Denying Costs*, page 2.

10 Because such costs cannot be identified and segregated, and because Kimmel makes  
11 no effort to do so, it is impossible for the Court to determine the reasonableness and amount  
12 to be awarded of each of the costs. Accordingly, Kimmel is not entitled to an award of costs  
13 under NRS 18.020 because he has not and cannot establish the reasonableness and the amounts  
14 to be awarded.

15 **C. Attorneys' Fees Under NRS 18.010(2)(b).**<sup>3</sup> Kimmel argues for an award of  
16 attorney's fees under NRS 18.010(2)(b). *Motion*, page 5. Under NRS 18.010(2)(b), the Court  
17 may award attorney's fees only if the Court finds Wendy's claims or defenses "were brought  
18 or maintained without reasonable ground or to harass the prevailing party."

19 Wendy did not initiate this litigation, but was sued by Kimmel and Todd, in their  
20 capacities as Co-Trustees, to confirm accountings and actions of the Co-Trustees in  
21 administering the Trust. In his *Motion*, Kimmel argues he was not a Co-Trustee until January  
22 2017 and all of the actions complained about by Wendy occurred well before that time. By  
23 joining and verifying the *Petition* and suing Wendy, Kimmel vouched for the prior actions of  
24 the Co-Trustees and supported Co-Trustee Todd's efforts to confirm actions that Co-Trustee  
25

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26  
27 <sup>3</sup> Wendy makes the following response and argument subject to Section II(A) above, which  
28 Wendy believes resolves Kimmel's attorney's fees.

1 Stan would not join, objected to and filed counterclaims concerning. Co-Trustee Stan also  
2 communicated and confirmed to Wendy that there were issues with the accountings and the  
3 actions sought to be confirmed in the *Petition* and aggressively encourage Wendy to obtain  
4 counsel, object to the *Petition*, file counterclaims and continue the litigation until he turned his  
5 back on Wendy and settled with Todd a week before trial was to begin.

6 The Family Trust required all acts of the Co-Trustees to be governing by majority vote,  
7 as follows:  
8

9 **E. GOVERNING VOTE OF CO-TRUSTEES AND EXECUTION OF**  
10 **DOCUMENTS. During any period of time that there are two (2) or more Co-Trustees, all**  
11 **of the acts of the Co-Trustees are to be governed by the majority vote of the Co-Trustees,**  
12 **and any action taken by the majority vote of the Co-Trustees is to be binding on the trust**  
13 **estate and may be relied on by third parties dealing with the Co-Trustees.**

14 Trial Exhibit 9, page 25. Accordingly, Kimmel would have been involved in most if not all  
15 acts of the Trust administration, especially those acts that Stan abstained from, objected to or  
16 filed claims concerning in this lawsuit. Additionally, throughout discovery and trial, Todd  
17 represented that administration of the Family Trust and actions involved in same were all done  
18 in consultation and reliance of this the Trust "Team", which included the attorneys, accountant  
19 and Co-Trustees. Therefore, it was reasonable for Wendy to understand Kimmel was involved  
20 in the administration of the Family Trust, including the preparation of the accountings and  
21 disclosure of information concerning same; in fact, Kimmel had an obligation to be involved  
22 an ensure the Family Trust was being administered properly.

23 Additionally, Kimmel was involved in the administration of the Family Trust when the  
24 interpretation and application of Todd's Indemnification Agreement came to a head, causing  
25 Stan to include those claims in this lawsuit. This was a major issue for the Family Trust and  
26 substantially affected Wendy's interest. Stan confirmed the huge impact the Indemnification  
27 Agreements had on the Estate Plan and wanted its application resolved saying, "*Bob thank you*  
28



1 for your efforts in trying to get us to resolve these disputes but Todd's indemnification  
2 agreement has a far bigger impact on the Trust than any Lawsuit or attorney fees ever will."

3 Trial Exhibit 38.

4 Ultimately, the jury returned a verdict confirming that Todd breached his fiduciary  
5 duties as Co-Trustee of the Family Trust and awarded Wendy damages. The Court entered the  
6 *Order After Equitable Trial*, which was incorporated into the *Judgment*, refusing to confirm  
7 the Accountings<sup>4</sup>, the ACPAs and Indemnification Agreements. Additionally, the Court, as  
8 confirmed in the *Judgment*, awarded Wendy equitable relief including: (i) the disgorgement of  
9 Todd Jaksick's fees as Trustee of the SSJ's Issue Trust and as Co-Trustee of the Family Trust  
10 from the inception of his trusteeships, (ii) requiring Todd Jaksick, as Trustee of the SSJ Issue  
11 Trust and as Co-Trustee of the Family Trust, to pay/reimburse twenty-five (25%) of the  
12 attorney's fees paid by the SSJ's Issue Trust and Family Trust associated with this litigation,  
13 and (iii) ordering the SSJ's Issue Trust and Family Trust to pay Wendy's attorney's \$300,000  
14 in attorney's fees. *See Judgment*.

15  
16  
17 These results and the evidence presented at the jury and equitable trials confirm  
18 Wendy's claims were not maintained without reasonable ground or to harass the prevailing  
19 party. Additionally, Your Honor confirmed in your *Order After Equitable Trial* that Wendy's  
20 claims against Todd as Trustee "were brought in good faith" as "countenanced, in large part,  
21 by the questions raised by the accountings, Stan's separate allegations against Todd, document  
22 anomalies, and Todd's disproportionate benefit from Sam's business and trust affairs." *Order*  
23 *After Equitable Trial*, page 19. Kimmel was a Co-Trustee, was responsible for the proper  
24

25  
26  
27 <sup>4</sup> The accountings sought to be confirmed by Trustees in their original Petitions instituting this  
28 litigation were for the Issue Trust and Family Trust for the period April, 2013 through December,  
2017 and Wendy's Sub-Trust for the period 2013 through 2016 (collectively, the  
"Accountings"). Kimmel was Co-Trustee when the 2017 Accounting was prepared.

1 administration of the Trust, was responsible to ensure that other Co-Trustees did not breach  
2 their fiduciary duties and was responsible to pursue any of the Co-Trustees for any breaches  
3 of fiduciary duty. Because Wendy's claims maintained on reasonable grounds and were not  
4 filed to harass a prevailing party, Kimmel is not entitled to an award of costs under  
5 18.010(2)(b).

6 **D. Attorneys' Fees and Costs Under NRCP 68.**<sup>5</sup> Kimmel argues, in the  
7 alternative, that he is entitled to recover reasonable fees and costs under NRCP 68. *Motion*,  
8 pages 8-13. The Court may award attorney's fees and costs under NRCP 68 to a party who  
9 makes an offer of judgment and when the offeree rejects the offer and the judgment ultimately  
10 obtained by the offeree is less favorable than the amount offered.

11  
12 i. Kimmel Made No Offer of Judgment Made in Individual Capacity. Kimmel,  
13 in his Individual capacity, is not entitled to seek fees and costs under NRCP 68, because he  
14 never served an offer of Judgment on Wendy in his Individual capacity. Exhibit 1 to the  
15 *Motion*. Kimmel's Offer of Judgment was only served on Wendy in his capacity as Co-Trustee.  
16 *Id.* Todd and Kimmel, in their capacities as Co-Trustees of the Family Trust, initiated this  
17 lawsuit. Their *Petition* confirms same as follows:  
18

19 **PETITION FOR CONFIRMATION OF TRUSTEES AND**  
20 **ADMISSION OF TRUST TO THE JURISDICTION OF THE COURT,**  
21 **AND FOR APPROVAL OF ACCOUNTINGS**  
22 **AND OTHER TRUST ADMINISTRATION MATTERS**

23 Todd B. Jaksick and Michael S. Kimmel (the "Petitioners"), as Co-Trustees of The  
24 Samuel S. Jaksick, Jr. Family Trust, petition the Court for confirmation of Todd B. Jaksick,

25 Kimmel served his Offer of Judgment on Wendy only in his capacity as Petitioner (Co-  
26 Trustee), as follows:

27 <sup>5</sup> Wendy makes the following response and argument subject to Section II(A) above, which  
28 Wendy believes resolves Kimmel's attorney's fees.

1 Pursuant to Nevada Rule of Civil Procedure 68 and subsection (c)(2) thereof, Petitioner  
2 MICHAEL S. KIMMEL ("Petitioner") hereby offers to have judgment taken against him and in  
3 favor of Respondent in this action in the total amount of FIVE HUNDRED DOLLARS (\$500.00),  
4 inclusive of costs and attorneys' fees accrued to date and any costs which may accrue from this date  
5 Motion, Exhibit 1.

6  
7 Compare this to the other Offers of Judgment served in this case, all of which carefully  
8 and specifically designated the capacity or capacities of the party making the offer. For  
9 example, Kevin Riley's Offer of Judgment was made only in his Individual capacity, as  
10 follows:

11 Pursuant to Nevada Rule of Civil Procedure 68 and subsection (c)(2) thereof, Individual  
12 KEVIN RILEY ("Individual") hereby offers to have judgment taken against him and in favor of  
13 Respondent in this action in the total amount of FIVE HUNDRED DOLLARS (\$500.00). inclusive  
14

15 ii. Kimmel Not Entitled to Attorney's Fees or Costs Based on Offer of Judgment.  
16 NRCP 68 is a mechanism to encourage settlement however it is not to be used to "force  
17 plaintiffs to unfairly forego legitimate claims." See *Beattie v. Thomas*, 99 Nev. 579, 587 668  
18 P.2d 268, 274 (Nev. 1983) (citing *Armstrong v. Riggi*, 549 P.2d 753 (Nev. 1976). An offer of  
19 judgment must be an authentic attempt to settle a dispute. *Order After Equitable Trial*, page  
20 18, lines 13-14. The offer of judgment is not automatically conferred. *Id.* Based on the  
21 relevant authority, the Court provided further guidance on the application of NRCP 68 in the  
22 *Order After Equitable Trial*, as follows:  
23

1 On one side, offers that are appropriate in time and amount will cause the non-  
2 offering party to become realistic and engage in genuine risk/benefit analyses. These  
3 offers shift a calculated risk as trial approaches. To be an effective mechanism to resolve  
4 disputes before trial, they should be in an amount the non-offering party cannot decline in  
5 good faith. Defendants who perceive no liability exposure chafe against making time- and  
6 amount-appropriate offers because they resent the payment of any money to a party they  
7 perceive will not prevail at trial. On the other side, offering parties sometimes make time-  
8 and amount-inappropriate offers *they expect to be rejected*. These offers do not facilitate  
9 settlement--they are strategic devices to shift the risk of fees by offering illusory  
10 consideration to end litigation.

11 *Order After Equitable Trial*, pages 18-19.

12 Here, Kimmel's offer of judgment made only in his capacity as "Petitioner," i.e., Co-  
13 Trustee, was for the "total amount of FIVE HUNDRED DOLLARS and 00/100 (\$500.00),  
14 inclusive of costs and attorneys' fees accrued to date and any costs which may accrue from this  
15 date through the date of acceptance of this Offer by Respondent." Exhibit 1 to the *Motion*. Based  
16 on the circumstances, this cannot be considered a legitimate offer to settle Wendy's claims  
17 against him in the capacity considering the property in the Family Trust and Wendy's interest in  
18 it.

19 Wendy's claims against Kimmel were brought in good faith. *See* Section II(C) above.  
20 Kimmel was a Co-Trustee, he was responsible for insuring the proper administration of the Trust,  
21 he joined and verified the Petition seeking confirmation of the accountings that the Court  
22 ultimately refused to confirm. Todd could not act without Kimmel's vote in administering the  
23 Trust, and Stan did not join the *Petition* or the accountings. Instead, Wendy witnessed Stan, a  
24 Co-Trustee of the Family Trust who was far more familiar with the Trust administration and  
25 assets, object to the *Petition*, file counterclaims and pursue litigation against Kimmel until a week  
26 before trial. Stan encouraged Wendy to do the same.  
27  
28

1 Kimmel's Offer of Judgment was not reasonable and made in good faith as to timing and  
2 amount.<sup>6</sup> Kimmel's Offer of Judgment was made on April 30<sup>th</sup>, 2018. This was long before  
3 Wendy the Parties exchanged discovery responses and took depositions, and Wendy did not  
4 receive a substantial amount of discovery until Petitioners and other parties and nonparties were  
5 forced to produce approximately 20,000 pages just weeks before trial. Additionally, the \$500.00  
6 amount was not reasonable or made in good faith. Based on the issues with the accountings and  
7 failure to disclose information, Kimmel knew, or should have known, Wendy would incur fees  
8 greater than this amount just to file an answer to the *Petition* and seek additional documents and  
9 information concerning the accountings and actions sought to be confirmed to protect her rights.  
10 Wendy had no incentive to accept this offer considering the circumstances and timing, and  
11 Kimmel knew Wendy would not accept. The Offer of Judgment was not authentic because, if  
12 Wendy would have settled for such a small amount (\$500.00), she never would have objected to  
13 the Trust Accountings. It was designed solely to attempt to force Wendy to forego legitimate  
14 claims, and fiduciary should require their beneficiary to do such a thing, regardless of their  
15 dislike for her. Additionally, based on the circumstances and timing, Wendy's decision to reject  
16 the offer was not grossly unreasonable or in bad faith.

19 Kimmel's fees and cost sought are not reasonable and justified in amount. See Section  
20 II(B) above. Instead of segregating and identifying or attempting to segregate and identify the  
21 specific fees and costs incurred by Kimmel in defending against Wendy's claims, Kimmel  
22 simply divides by four (4): (i) the total fees incurred by counsel for the Trusts and (ii) the costs  
23

---

25 <sup>6</sup> If Kimmel's Offer of Judgment is determined to have been served by Kimmel in both his  
26 Individual and Co-Trustee capacities, Kimmel's offer is even more unreasonable as to amount  
27 and Wendy's decision to reject the offer is even more reasonable. Additionally, there is further  
28 support that the fees and costs sought are not reasonable because they are not and cannot be  
distinguish and segregated between his capacities and, therefore, cannot be determined to be  
reasonable.

1 included in *Petitioners' Memo of Costs. Motion*, page 4. Kimmel provides no support or  
2 argument why this division is appropriate or reasonable to determine the fees or costs incurred  
3 by Kimmel defending against Wendy's claims, and he makes no effort to distinguish and  
4 segregate the fees and costs because it would be impossible. Additionally, the *Petitioners' Memo*  
5 *of Costs* that Kimmel relies on in support of his request includes costs that were incurred prior  
6 his Offer of Judgment, which are not allowed under NRCP 68(f) (fees and costs only allowed  
7 after offer). Accordingly, Kimmel is not entitled to an award of costs under NRCP 68, because  
8 he has not and cannot establish the reasonableness of the specific amounts of fees and costs  
9 sought to be awarded.  
10

11 **E. Attorneys' Fees and Costs Under NRS 7.085.**<sup>7</sup> Kimmel argues, in the  
12 alternative, that he is entitled to recover reasonable fees and costs from Wendy's attorneys  
13 under NRS 7.085. *Motion*, pages 13-14. Under NRS 7.085, the Court may award attorney's  
14 fees from Wendy's attorneys only if the Court finds they "failed, maintained or defended a  
15 civil action or proceeding" . . . "and such action or defense is not well-grounded in fact or is  
16 not warranted by existing law or by an argument for changing the existing law that is made in  
17 good faith; or unreasonably and vexatiously extended a civil action or proceeding ...".  
18

19 When Wendy filed and maintained her defensive pleadings and counterclaims against  
20 the lawsuit filed by Kimmel, as Co-Trustee, they were well grounded in fact and warranted  
21 under existing law. This is confirmed by the arguments and evidence included in Section II(C)  
22 and the last two (2) paragraphs of Section I of this *Opposition*, which are incorporated here by  
23 reference. As Co-Trustee, Kimmel was responsible for the proper administration of the Trust,  
24 was responsible to ensure that other Co-Trustees did not breach their fiduciary duties and was  
25

---

27 <sup>7</sup> Wendy makes the following response and argument subject to Section II(A) above, which  
28 Wendy believes resolves Kimmel's attorney's fees.

1 responsible to pursue any of the Co-Trustees for any breaches of fiduciary duty. The Family  
2 Trust required a majority vote of the Co-Trustees to act.

3       On October 23, 2018, Kimmel filed and sought a summary judgment on Wendy's  
4 claims against him as Co-Trustee and in his Individual capacity. On January 14, 2019, the  
5 Court denied Kimmel's summary judgment in relation to Wendy's claims "arising from  
6 alleged accounting deficiencies and related breaches of fiduciary duty, including conspiracy  
7 to commit such breaches, as to Mr. Kimmel in both his capacities as trustee and individually."  
8 *Order Granting in Part and Denying in Part Motion for Summary Judgment*, page 13, lines 4-  
9 6. The authority included in the Court's *Order* confirmed Kimmel had personal liability for  
10 his alleged failures as a Co-Trustee and was a proper party in that capacity based on Wendy's  
11 claims against him.  
12

13       Based on these arguments, Wendy and her counsel had a reasonable basis based on the  
14 facts and circumstances to believe Kimmel could and would be found liable for the breaches  
15 of fiduciary duty that he participated in and/or that he allowed to occur during his time as Co-  
16 Trustee of the Family Trust. Based on the evidence presented at trial a jury could have found  
17 Kimmel was also liable for breach of fiduciary duties and/or conspiracy to breach fiduciary  
18 duties and/or aiding and abetting breach of fiduciary duties and awarded damages against  
19 Kimmel. Wendy and her counsel also had a reasonable basis to believe the Court could and  
20 would award equitable remedies against Kimmel in his Individual capacity. Kimmel argues  
21 that Wendy did not verify her Counter-Petition against Kimmel verifying her allegation against  
22 him. *Motion*, p. 14. Wendy filed a *Notice of Errata* on December 26, 2018, which including  
23 a Verification of Wendy verifying her *First Amended Counter-Petition*. Kimmel also argues  
24 that Wendy could not testify during her deposition why Kimmel was named in the lawsuit in  
25 his Individual capacity. *Motion*, p. 14. Wendy is not a lawyer and is not expected to fully  
26  
27  
28

1 understand the legal differences in capacities and know and understand that a Trustee can be  
2 held personally liable for breaches of fiduciary duty. Kimmel is not entitled to an award of  
3 costs under NRS 7.085.

4  
5 **CONCLUSION**

6 For the reasons set forth above, Wendy respectfully requests the court to deny Michael  
7 Kimmel's *Motion for Attorneys' Fees and Costs*.

8 **AFFIRMATION STATEMENT**

Pursuant to NRS 239B.030

9 The undersigned does hereby affirm that this ***OPPOSITION TO MOTION FOR***  
10 ***ATTORNEYS' FEES AND COSTS OF MICHAEL KIMMEL, INDIVIDUALLY AND AS***  
11 ***CO-TRUSTEE*** filed by Wendy A. Jaksick in the above-captioned matter does not contain the  
12 social security number of any person.

13 DATED this 23<sup>rd</sup> day of April, 2020.

14 **FOX ROTHSCHILD LLP**

15 /s/ Mark J. Connot

16 Mark J. Connot (10010)  
17 1980 Festival Plaza Drive, Suite 700  
Las Vegas, Nevada 89135

18 **SPENCER & JOHNSON, PLLC**

19 /s/ R. Kevin Spencer

20 R. Kevin Spencer (*Admitted PHV*)  
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22 500 N. Akard Street, Suite 2150  
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23 *Attorneys for Respondent/Counter-Petitioner*  
Wendy A. Jaksick d



**CERTIFICATE OF SERVICE**

Pursuant to NRCp 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 23<sup>rd</sup> day of April, 2020, I served a true and correct copy of **OPPOSITION TO MOTION FOR ATTORNEYS' FEES AND COSTS OF MICHAEL KIMMEL, INDIVIDUALLY AND AS CO-TRUSTEE** by the Court's electronic file and serve system addressed to the following:

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

DATED this 23<sup>rd</sup> day of April, 2020.

/s/ Doreen Loffredo  
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. 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.

**OPPOSITION TO MOTION FOR  
ATTORNEYS' FEES AND COSTS OF  
KEVIN RILEY, INDIVIDUALLY, AS  
CO-TRUSTEE OF THE FAMILY  
TRUST AND AS TRUSTEE OF THE  
BHC FAMILY TRUST**

1 Wendy A. Jaksick (“Wendy”) files this *Opposition to Motion for Attorneys’ Fees and*  
2 *Costs of Kevin Riley, Individually, as Co-Trustee of the Family Trust and as Trustee of the BHC*  
3 *Family Trust* (the “Opposition”). Wendy’s Opposition is based upon the papers and pleadings  
4 on file and the following memorandum of points and authorities.

5  
6 **I. STATEMENT OF RELEVANT FACTS**

7 On August 2, 2017, Todd Jaksick (“Todd”) and Michael Kimmel (“Kimmel”), in their  
8 capacities as Co-Trustees of the Family Trust, (collectively, “Petitioners”) filed *Petitions for*  
9 *Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval*  
10 *of Accountings and Other Trust Administration Matters* (the “Petition”) instituting the current  
11 litigation involving the Family Trust and Wendy.

12 The *Petition* sought Court approval of purported trust accountings for the period April  
13 2013 through December 31, 2016 (the “Purported Trust Accounting”), as well as ratification and  
14 Court approval of numerous actions taken by Co-Trustees relieving Trustees from liability from  
15 such actions. *Petition* page 6. The *Petition* also sought approval of numerous agreements  
16 intended to modify the Family Trust and a release of all liability for actions taken pursuant to  
17 such agreements. *See Petition* page 12.

18  
19 All of the accountings sought to be approved in the Petition were prepared by Kevin  
20 Riley (“Riley”). Throughout discovery and trial, Todd testified that Riley was a part of the  
21 Trust “Team” and was directly involved in and consulted about all Trust actions through period  
22 of Family Trust administration covered by this litigation.

23  
24 Stanley Jaksick (“Stanley”), in his capacity as Co-Trustee of the Family Trust, refused to  
25 join the Purported Trust Accountings and refused to join and pursue the *Petition*. In fact, on  
26 October 10, 2017, Stanley filed an opposition to the *Petition* including objections to the approval  
27  
28

1 of the Purported Trust Accountings and other claims concerning the administration of the Family  
2 Trust.

3 The *Petition* was joined by Kimmel and verified by both Kimmel and Todd. See  
4 *Petition* page 14. In filing the lawsuit, Todd and Kimmel, a Co-Trustees of the Family Trust,  
5 sued Wendy forcing her to respond to determine and protect her rights.

6 As a result of the lawsuit, Wendy filed a Counter-Petition objecting to the efforts to  
7 obtain confirmation of the Purported Accounting and other actions of the Co-Trustee and  
8 included claims for breach of fiduciary duty and other actions of all of the Co-Trustees  
9 administering the Family Trust during the time period covered the claims in the *Petition*.  
10 Wendy also sued all of the Co-Trustees in their individual capacities to ensure any judgment  
11 payable or enforceable against the Co-Trustees in their Individual capacities would be valid  
12 and enforceable<sup>1</sup> and because after Riley resigned as Trustee he continued to prepare the Trust  
13 accountings and was actively participating in the administration of the Family Trust. Because  
14 of Riley's role, he would have been involved in and assisting the Co-Trustees in their breaches  
15  
16

---

17  
18 <sup>1</sup> The Co-Trustees in their Individual capacities are separate and distinct legal persons from the  
19 Co-Trustees in their fiduciary capacities. *Mona v. Eighth Judicial District Court of State in and*  
20 *for County of Clark*, 380 P.3d 836, 842 (2016) (holding the Co-Trustee was, in her individual  
21 capacity, distinct legal person and stranger to Co-Trustee in her representative capacity as Co-  
22 Trustee of the Trust). NRS 153.031 and other Nevada authority<sup>1</sup> authorizes recovery of  
23 damages, attorneys' fees and costs from a trustee personally under certain circumstances, such  
24 when a trustee is determined to be negligent in the performance of or breached his or her  
25 fiduciary duties. Because a district court is empowered to render a judgment either for or against  
26 a person or entity only if it has jurisdiction over the parties and the subject matter, the failure to  
27 sue and make the Co-Trustees parties in their individual capacities would render any judgment  
28 against the Co-Trustees personally void. *C.H.A. Venture v. G.C. Wallace Consulting Engineers,*  
*Inc.*, 106 Nev. 381, 383, 794 P.2d 707, 708 (1990) (confirming that district court was powerless  
to enter any form of valid judgment imposing liability against person or entity not properly  
served and made party to the lawsuit). This position and Wendy's reason for suing the Co-  
Trustees in their individual capacities is also confirmed and supported by the authority cited by  
the Court on page 11, line 20 through pages 13, line 8 of its *Order Granting in Part and Denying*  
*in Part Motion for Summary Judgment*, which was entered on January 14, 2019 (Confirming  
Trustees may be held personally liable for failures in their duties as fiduciaries and therefore can  
be proper parties, in their Individual capacities, in litigation concerning same).

1 of fiduciary duties and liable for conspiracy and or aiding and abetting breach of fiduciary  
2 duties.

## 3 II. POINTS AND AUTHORITIES

4 A. Attorney's Fees Addressed in Order After Equitable Trial. The *Order After*  
5 *Equitable Trial*, which was entered on March 12, 2020, includes the following orders  
6 concerning the payment of all the Trustees' attorney's fees. "The trusts shall pay 100% of the  
7 fees incurred by their attorneys in representation of the trustees. However, Todd shall  
8 reimburse the trusts from his personal resources for 25% of the amount paid because the jury  
9 determined he breached his fiduciary duties." *Order After Equitable Trial*, page 21, lines 24-  
10 25. "All fees ordered shall be treated as general trust administration expenses and not allocated  
11 to any beneficiary's distributive share." *Id.*, page 22, lines 21-22. "The attorneys' fees  
12 provisions in this order reflect the entirety of this Court's intentions regarding fees."  
13

14 Based on the *Order After Equitable Trial*, it appears the Court addressed and ruled on  
15 the payment of Riley's attorney's fees in his capacity as Co-Trustee of the Family Trust.  
16 According to the *Order*, Riley's attorney's fees will be paid by the Family Trust from the  
17 corpus of Family Trust and will not be allocated to any beneficiary's distributive share. If this  
18 is the appropriate interpretation of the *Order After Equitable Trial*, then Riley's requests for  
19 attorney's fees included in his *Motion* appear to have been addressed and no further  
20 consideration or orders are required in that regard.<sup>2</sup>  
21  
22

---

23  
24 <sup>2</sup> Although it appears the *Order After Equitable Trial* only directs the payment of Riley's  
25 attorney's fees in his capacity as Co-Trustee of the Family Trust, this should also resolve Riley's  
26 attorney's fee in his Individual capacity because Riley was represented by the same counsel in  
27 both capacities and it is impossible to distinguish or segregate the fees incurred by his attorneys  
28 in his separate capacities. In fact, Riley makes no effort to distinguish or segregate these fees in  
his *Motion*, and based on a review of the supporting documents attached to his *Motion* it does  
not appear any attorneys fees or costs were incurred exclusively on behalf of Riley in his  
Individual capacity. Most of the attorney's fees included in Exhibit "B" to Riley's *Motion* that  
are supposed to be fee incurred and chargeable for the representation of Riley, as Trustee of  
Wendy's BHC Trust, appear to overlap the attorney's fees charged by these same attorney's

1           **B.     Costs Under NRS 18.020.** Riley argues the Court must award him costs under  
2 NRS 18.020 because he is a prevailing party against Wendy. *Motion*, page 5. However, under  
3 NRS 18.020, any award of costs to a prevailing party is subject to the Court’s discretion in  
4 determining the reasonableness of the amounts to be awarded. *Schwartz v. Estate of*  
5 *Greenspun*, 110 Nev. 1042, 1050, 881 P.2d 638, 643 (1994) (“The district court retains  
6 discretion, however, in determining the reasonableness of the amounts and the items of cost to  
7 be awarded.”).

8  
9           To support his requests for costs, Riley relies on *Petitioners’ Verified Memorandum of*  
10 *Costs and Disbursements* (“Petitioners’ Memo of Costs”), which was filed on April 2, 2020.  
11 *Petitioners’ Memo of Costs* was filed by Todd Jaksick, as sole Trustee of the SSJ Issue Trust  
12 and as Co-Trustee of the Family Trust, Michael S. Kimmel, Individually and as Co-Trustee of  
13 the Family Trust, and Kevin Riley, Individually, as former Trustee of the Family Trust, and  
14 Trustee of the Wendy A. Jaksick 2012 BHC Family Trust (collectively, “Petitioners”) and,  
15 apparently, includes all costs incurred in the litigation by the Petitioners, the SSJ’s Issue Trust,  
16 the Family Trust, and the BHC Trust.

17  
18           Instead of segregating and identifying or attempting to segregate and identify the  
19 specific costs incurred by Riley, in his separate capacities, in defending against Wendy’s  
20 claims, Riley simply divides the total costs included in *Petitioners’ Memo of Costs* by four (4)  
21 and argues he is entitled one-fourth (1/4<sup>th</sup>). Riley provides no support or argument why this  
22 division is appropriate or reasonable to determine the costs incurred by Riley, in his various  
23 capacities, defending against Wendy’s claims.  
24

25  
26 \_\_\_\_\_  
27 representing Todd, in his capacity as Co-Trustee of the Family Trust. Additionally, a portion of  
28 the attorney’s fees related to discovery conducted between Stan and BHC in response to a  
Subpoena served by Stan on BHC. This would be an expense paid by BHC, not Wendy’s BHC  
Trust, which owns an interest in BHC, and should not be included in these expenses.

1 Because *Petitioners' Memo of Costs* includes costs incurred by Todd, as Trustee of the  
2 SSJ's Issue Trust and Co-Trustee of the Family Trust, the costs overlap and cannot be  
3 distinguished and segregated. Further, the costs incurred by Riley, Individually, as Co-Trustee  
4 of the Family Trust and Trustee of Wendy's BHC Trust, cannot be distinguished or segregated.  
5 These are the very issues the Court anticipated and articulated in the April 21, 2020 *Order*  
6 *Denying Wendy Jaksick's Costs* (the "Order Denying Costs"), stating:

7  
8 "The problem this court anticipates is that Messrs. Kimmel and  
9 Riley will be unable to clearly distinguish and articulate costs  
10 associated with their defense that do not overlap into the costs  
associated with Todd's defense. Thus it is unlikely the Court will  
order Wendy to pay their costs."

11 *Order Denying Costs*, page 2.

12 Because Riley makes no effort to identify and segregate the costs, it is impossible for  
13 the Court to determine the reasonableness and amount to be awarded of each of the costs.  
14 Accordingly, Riley is not entitled to an award of costs under NRS 18.020 because he has not  
15 proven each of them as actual and reasonable.  
16

17 **C. Attorneys' Fees Under NRS 18.010(2)(b).**<sup>3</sup> Riley argues for an award of  
18 attorney's fees under NRS 18.010(2)(b). *Motion*, page 6. Under NRS 18.010(2)(b), the Court  
19 may award attorney's fees only if the Court finds Wendy's claims or defenses "were brought  
20 or maintained without reasonable ground or to harass the prevailing party."

21 In his *Motion*, Riley argues he was not involved in the actions complained about by  
22 Wendy and, therefore her claims and defenses were brought without reasonable ground or to  
23 harass him.  
24

25  
26  
27 <sup>3</sup> Wendy makes the following response and argument subject to Section II(A) above, which  
28 Wendy believes resolves Riley's attorney's fees.

1 All the accountings sought to be approved in the *Petition* were prepared by Riley. Riley  
2 had served as Co-Trustee of the Trust, was familiar with the assets and entities of the Trust  
3 from working with the Jaksicks for many years and was aware of the failure of the accountings  
4 to provide the beneficiaries sufficient information to understand the assets and administration  
5 of the Family Trust. Riley was the longtime CPA of Todd, Stan and many of the entities they  
6 owned and operated.

7  
8 After Riley resigned as Co-Trustee of the Family Trust, he continued to be responsible  
9 for preparing the Trust accountings and continued to actively participate in the day to day  
10 administration of the Family Trust. Todd testified throughout discovery and trial that Riley  
11 was a part of the Trust “Team” and was directly involved in and consulted with about all Trust  
12 actions (even after his resignation as Co-Trustee). Todd repeatedly deferred to Riley when he  
13 was asked about the accountings and other actions that occurred during the trust administration  
14 covered by the litigation. Riley also functioned as a shield between Wendy and the Co-  
15 Trustees, protecting the Trustees and preventing Wendy from getting information while the  
16 Trustees and their personal entities and trusts benefited. Because of Riley’s role after his  
17 resignation, he would have been involved in and assisting the Co-Trustees in their breaches of  
18 fiduciary duties and liable for conspiracy and or aiding and abetting breaches of fiduciary duty.  
19

20 Wendy did not initiate this litigation. Wendy was sued by Kimmel and Todd, in their  
21 capacities as Co-Trustees, to confirm accountings and actions of the Co-Trustees in  
22 administering the Trust. Stan, a Co-Trustee of the Family when this litigation was filed against  
23 Wendy, communicated and confirmed to Wendy that there were issues with the accountings  
24 and the actions sought to be confirmed in the *Petition* and aggressively encourage Wendy to  
25 obtain counsel, object to the *Petition*, file counterclaims and continue the litigation up until he  
26 settled with Todd.  
27  
28



1           Ultimately, the jury returned a verdict confirming that Todd breached his fiduciary  
2 duties as Co-Trustee of the Family Trust and awarded Wendy damages. Additionally, the  
3 Court entered the *Order After Equitable Trial*, which was incorporated into the *Judgment*,  
4 refusing to confirm the Accountings<sup>4</sup>, the ACPAs and Indemnification Agreements.  
5 Additionally, the Court, as confirmed in the *Judgment*, awarded Wendy equitable relief  
6 including: (i) the disgorgement of Todd Jaksick's fees as Trustee of the SSJ's Issue Trust and  
7 as Co-Trustee of the Family Trust from the inception of his trusteeships, (ii) requiring Todd  
8 Jaksick, as Trustee of the SSJ Issue Trust and as Co-Trustee of the Family Trust, to  
9 pay/reimburse twenty-five (25%) of the attorney's fees paid by the SSJ's Issue Trust and  
10 Family Trust associated with this litigation, and (iii) ordering the SSJ's Issue Trust and Family  
11 Trust to pay Wendy's attorney's \$300,000 in attorney's fees. *See Judgment*.

12  
13           These results and the evidence presented at the jury and equitable trials confirm  
14 Wendy's claims against the Co-Trustees, including Riley, were not maintained without  
15 reasonable ground or to harass them. Additionally, Your Honor confirmed in your *Order After*  
16 *Equitable Trial* that Wendy's claims against Todd as Trustee "were brought in good faith" as  
17 "countenanced, in large part, by the questions raised by the accountings, Stan's separate  
18 allegations against Todd, document anomalies, and Todd's disproportionate benefit from  
19 Sam's business and trust affairs." *Order After Equitable Trial*, page 19 (emphasis added).  
20 Riley was a Co-Trustee, was actively involved in the Trust administration and keeping Wendy  
21 in the dark for Todd and the other Co-Trustees, and was responsible for preparing all of the  
22 accountings sought to be approved. Because Wendy's claims were maintained with reasonable  
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25

---

26 <sup>4</sup> The accountings sought to be confirmed by Trustees in their original Petitions instituting this  
27 litigation were for the Issue Trust and Family Trust for the period April, 2013 through December,  
28 2017 and Wendy's Sub-Trust for the period 2013 through 2016 (collectively, the  
"Accountings"). Riley prepared all of the accountings.

1 grounds and not to harass a prevailing party, Riley is not entitled to an award of costs under  
2 18.010(2)(b).

3 Even if, for the sake of argument, Wendy was determined to have brought or  
4 maintained her claims and defenses without reasonable ground or to harass Riley (in one or  
5 more of his capacities), Riley is still required to establish that the fees incurred and sought in  
6 each of his various capacities were reasonable and necessary when incurred. Riley does not  
7 even argue, much less establish, that the one-fourth (1/4) fee split is an appropriate and  
8 reasonable method to determine the fees incurred by him in his Individual and Co-Trustee  
9 capacities. Additionally, Riley and his attorneys do not attempt to prove such fees were  
10 reasonable and necessary and fail to even include a statement or claim in their Affidavit in  
11 support of such fees that the fees were reasonable or necessary. Exhibit 4 to the *Motion*.  
12

13 **D. Attorneys' Fees and Costs Under NRCP 68.**<sup>5</sup> Riley argues, in the alternative,  
14 that he is entitled to recover reasonable fees and costs under NRCP 68. *Motion*, pages 8-13.  
15 The Court may award attorney's fees and costs under NRCP 68 to a party who makes an offer  
16 of judgment and when the offeree rejects the offer and the judgment ultimately obtains is less  
17 favorable than the offeree.  
18

19 i. Riley's Offer of Judgment was Made in His Individual Capacity Only. Because  
20 Riley only served an Offer of Judgment on Wendy in his Individual capacity, he is only entitled  
21 to seek recovery under NRCP 68 for fees and costs incurred in his Individual capacity. Exhibit  
22 1 to the *Motion*. Riley, in his capacity as Co-Trustee of the Family Trust and his capacity as  
23 Trustee of Wendy's BHC Trust, never served offers of judgment on Wendy and, therefore, are  
24 not entitled to seek fees and costs under NRCP 68. *Id.*  
25

26  
27 <sup>5</sup> Wendy makes the following response and argument subject to Section II(A) above, which  
28 Wendy believes resolves Riley's attorney's fees.

1 Riley clearly designates his various capacities in his Answer, which was filed on April  
2 17, 2018, as follows:

3 **KEVIN RILEY'S ANSWER TO FIRST AMENDED COUNTER-PETITION TO**  
4 **SURCHARGE TRUSTEES FOR BREACH OF FIDUCIARY DUTIES, FOR REMOVAL**  
5 **OF TRUSTEES AND APPOINTMENT OF INDEPENDENT TRUSTEE(S), AND FOR**  
6 **DECLARATORY JUDGMENT AND OTHER RELIEF**

7 Kevin Riley ("Kevin"), individually, as former Trustee of the Samuel S. Jaksick, Jr. Family  
8 Trust and Trustee of the Wendy A. Jaksick 2012 BHC Family Trust, by and through  
9 his attorneys of record, the law firm of Maupin, Cox & LeGoy, responds to the First Amended  
10 Riley also clearly designates his various capacities in is Notice of Appearance, which was filed  
11 on April 17, 2018, as follows:

12 **NOTICE OF APPEARANCE**

13 Kevin Riley, individually, as former Trustee of the Samuel S. Jaksick, Jr. Family Trust and  
14 Trustee of the Wendy A. Jaksick 2012 BHC Family Trust, by and through his attorneys of record,  
15 DONALD A. LATTIN, ESQ, BRIAN C. MCQUAID, ESQ., and CAROLYN K. RENNER, ESQ.,  
16 hereby submits this Notice of Appearance.

17  
18 Riley served his Offer of Judgment on Wendy only in his Individual capacity, as follows:

19 **OFFER OF JUDGMENT**

20 TO: Respondent, WENDY A. JAKSICK. ("Respondent"), and her attorney of record,  
21 Mark Cannot, Esq., Fox Rothschild LLP, 1980 Festival Plaza Drive, #700, Las  
22 Vegas, NV 89135.

23 Pursuant to Nevada Rule of Civil Procedure 68 and subsection (c)(2) thereof, Individual  
24 KEVIN RILEY ("Individual") hereby offers to have judgment taken against him and in favor of  
25 Respondent in this action in the total amount of FIVE HUNDRED DOLLARS (\$500.00), inclusive  
26 of costs and attorneys' fees accrued to date and any costs which may accrue from this date through  
27 Exhibit 1 to the *Motion*.

1           ii. Riley Not Entitled to Attorney's Fees or Costs Based on Offer of Judgment.  
2 NRCP 68 is a mechanism to encourage settlement however it is not to be used "force plaintiffs  
3 to unfairly forego legitimate claims." See *Beattie v. Thomas*, 99 Nev. 579, 587 668 P.2d 268,  
4 274 (Nev. 1983) (citing *Armstrong v. Riggi*, 549 P.2d 753 (Nev. 1976). An offer of judgment  
5 must be an authentic attempt to settle a dispute. *Order After Equitable Trial*, page 18, lines  
6 13-14. The offer of judgment is not automatically conferred. *Id.* Based on the relevant  
7 authority, the Court provided further guidance on the application of NRCP 68 in the *Order*  
8 *After Equitable Trial*, as follows:  
9

10           On one side, offers that are appropriate in time and amount will cause the non-  
11 offering party to become realistic and engage in genuine risk/benefit analyses. These  
12 offers shift a calculated risk as trial approaches. To be an effective mechanism to resolve  
13 disputes before trial, they should be in an amount the non-offering party cannot decline in  
14 good faith. Defendants who perceive no liability exposure chafe against making time- and  
15 amount-appropriate offers because they resent the payment of any money to a party they  
16 perceive will not prevail at trial. On the other side, offering parties sometimes make time-  
17 and amount-inappropriate offers *they expect to be rejected*. These offers do not facilitate  
18 settlement--they are strategic devices to shift the risk of fees by offering illusory  
19 consideration to end litigation.  
20 *Order After Equitable Trial*, pages 18-19.

21           Here, Riley's offer of judgment was for the "total amount of FIVE HUNDRED  
22 DOLLARS and 00/100 (\$500.00), inclusive of costs and attorneys' fees accrued to date and any  
23 costs which may accrue from this date through the date of acceptance of this Offer by  
24 Respondent." Exhibit 1 to the *Motion*. Based on the circumstances, this cannot be considered a  
25 legitimate offer to settle Wendy's claims against him.

26           Wendy's claims against Riley were brought in good faith. See Section II(C) above.  
27  
28

1 All the accountings sought to be approved in the *Petition* were prepared by Riley. Riley had  
2 served as Co-Trustee of the Trust, was familiar with the assets and entities of the Trust from  
3 working with the Jaksicks for many years and was aware of the failure of the accountings to  
4 provide the beneficiaries sufficient information to understand the assets and administration of  
5 the Family Trust. After Riley resigned as Co-Trustee of the Family Trust, he continued to be  
6 responsible for preparing the Trust accountings and continued to actively participate in the day  
7 to day administration of the Family Trust. Todd testified throughout discovery and trial that  
8 Riley was a part of the Trust “Team” and was directly involved in and consulted with about  
9 all Trust actions (even after his resignation as Co-Trustee). Todd repeatedly deferred to Riley  
10 when he was asked about the accountings and other actions that occurred during the trust  
11 administration covered by the litigation. Riley also functioned as a shield between Wendy and  
12 the Co-Trustees. Because of Riley’s role after his resignation, he would have been involved  
13 in and assisting the Co-Trustees in their breaches of fiduciary duties and liable in his Individual  
14 capacity for conspiracy and or aiding and abetting breaches of fiduciary duty.  
15

16  
17 Additionally, Stan did not join the *Petition* or the accountings. Instead, Wendy  
18 witnessed Stan, a Co-Trustee of the Family Trust who was far more familiar with the Trust  
19 administration and assets, object to the *Petition*, file counterclaims and pursue litigation against  
20 the other Co-Trustees until a week before trial. Stan encouraged Wendy to do the same.  
21

22 Riley’s Offer of Judgment was not reasonable and made in good faith as to timing and  
23 amount.<sup>6</sup> Riley’s Offer of Judgment was made on April 30<sup>th</sup>, 2018. This was long before Wendy  
24

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25 <sup>6</sup> For the sake of argument, if Riley’s Offer of Judgment is determined to have been served by  
26 Riley in both his capacities Individual, Co-Trustee and Wendy BHC Trustee capacities, Riley’s  
27 offer is even more unreasonable as to amount and Wendy’s decision to reject the offer is even  
28 more reasonable. Additionally, there is further support that the fees and costs sought are not  
reasonable because they are not and cannot be distinguish and segregated between his capacities  
and, therefore, cannot be determined to be reasonable.

1 the Parties exchanged discovery responses and took depositions, and Wendy did not receive a  
2 substantial amount of discovery until Petitioners and other parties and nonparties were forced to  
3 produce approximately 20,000 pages just weeks before trial. Because of issues getting  
4 discovery, Riley's deposition was not taken until by Wendy's counsel until January 4 and 5,  
5 2019. Additionally, the \$500.00 amount was not reasonable or made in good faith. Based on  
6 the issues with the accountings and failure to disclose information, Riley knew, or should have  
7 known, Wendy would incur fees greater than this amount just to file an answer to the *Petition*  
8 and seek additional documents and information concerning the accountings and actions sought  
9 to be confirmed to protect her rights. Wendy had no incentive to accept this offer considering  
10 the circumstances and timing, and Riley knew Wendy would not accept it. Additionally, based  
11 on the circumstances and timing, Wendy's decision to reject the offer was not grossly  
12 unreasonable or in bad faith.  
13

14         Riley's fees and cost sought are not reasonable and justified in amount. See Section II(B)  
15 above. Instead of segregating and identifying or attempting to segregate and identify the specific  
16 fees and costs incurred by Riley, Individually and as Co-Trustee of the Family Trust, in  
17 defending against Wendy's claims, he simply divides by four (4): (i) the total fees incurred by  
18 counsel for the Trusts and (ii) the costs included in *Petitioners' Memo of Costs. Motion*, page 4.  
19 Riley provides no support or argument why this division is appropriate or reasonable to  
20 determine the fees or costs incurred by Riley, in his separate capacities, defending against  
21 Wendy's claims, and he makes no effort to distinguish and segregate the fees and costs because  
22 it would be impossible. Additionally, the *Petitioners' Memo of Costs* that Riley relies on in  
23 support of his request includes costs that were incurred prior his Offer of Judgment, which are  
24 not permitted under NRCP 68(f) (fees and costs only allowed after offer). Accordingly, Riley is  
25  
26  
27  
28

1 not entitled to an award of costs under NRCP 68, because he has not and cannot establish the  
2 reasonableness of the specific amounts of fees and costs sought to be awarded.

3 **E. Attorneys' Fees and Costs Under NRS 7.085.**<sup>7</sup> Riley argues, in the  
4 alternative, that he is entitled to recover reasonable fees and costs from Wendy's attorneys  
5 under NRS 7.085. *Motion*, pages 13-14. Under NRS 7.085, the Court may award attorney's  
6 fees from Wendy's attorneys only if the Court finds they "failed, maintained or defended a  
7 civil action or proceeding" . . . "and such action or defense is not well-grounded in fact or is  
8 not warranted by existing law or by an argument for changing the existing law that is made in  
9 good faith; or unreasonably and vexatiously extended a civil action or proceeding ...".

11 When Wendy filed and maintained her defensive pleadings and counterclaims against  
12 the lawsuit filed by her Co-Trustees, they were well grounded in fact and warranted under  
13 existing law. This is confirmed by the arguments and evidence included in Section II(C) and  
14 the last paragraphs of Section I of this *Opposition*, which are incorporated here by reference.  
15

16 Based on these arguments, Wendy and her counsel had a reasonable basis based on the  
17 facts and circumstances to believe Riley could and would be found liable for the breaches of  
18 fiduciary duty that he participated in and/or that he allowed to occur during his time as Co-  
19 Trustee of the Family Trust and/or that he participated in as a co-conspirator or aider and  
20 abettor. Based on the evidence presented at trial a jury could have found Riley was also liable  
21 for breach of fiduciary duties and/or conspiracy to breach fiduciary duties and/or aiding and  
22 abetting breach of fiduciary duties and awarded damages against Riley. Wendy and her  
23 counsel also had a reasonable basis to believe the Court could and would award equitable  
24 remedies against Riley in his Individual capacity. Riley argues that Wendy did not verify her  
25 Counter-Petition against Riley verifying her allegations against him. *Motion*, p. 14. Wendy  
26

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27 <sup>7</sup> Wendy makes the following response and argument subject to Section II(A) above, which  
28 Wendy believes resolves Riley's attorney's fees.

1 filed a *Notice of Errata* on December 26, 2018, which including a Verification of Wendy  
2 verifying her *First Amended Counter-Petition*. Riley argues Wendy should have dismissed  
3 Riley because her accounting expert allegedly admitted the accountings complied with Nevada  
4 law, however the Court is aware of the failures of the accountings to provide disclosure and  
5 refused to confirm same at the conclusion of the trial. Riley is not entitled to an award of costs  
6 under NRS 7.085.

### 7 **III. CONCLUSION**

8 For the reasons set forth above, Wendy respectfully requests the court to deny Michael  
9 Riley's *Motion for Attorneys' Fees and Costs*.

#### 10 **AFFIRMATION STATEMENT**

11 Pursuant to NRS 239B.030

12 The undersigned does hereby affirm that this **OPPOSITION TO MOTION FOR**  
13 **ATTORNEYS' FEES AND COSTS OF KEVIN RILEY, INDIVIDUALLY, AS CO-**  
14 **TRUSTEE OF THE FAMILY TRUST AND AS TRUSTEE OF THE BHC FAMILY**  
15 **TRUST** filed by Wendy A. Jaksick in the above-captioned matter does not contain the social  
16 security number of any person.

17 DATED this 23<sup>rd</sup> day of April, 2020.

#### 18 **FOX ROTHSCHILD LLP**

19 /s/ Mark J. Connot

20 Mark J. Connot (10010)  
21 1980 Festival Plaza Drive, Suite 700  
22 Las Vegas, Nevada 89135

#### 23 **SPENCER & JOHNSON, PLLC**

24 /s/ R. Kevin Spencer

25 R. Kevin Spencer (*Admitted PHV*)  
26 Zachary E. Johnson (*Admitted PHV*)  
27 500 N. Akard Street, Suite 2150  
28 Dallas, Texas 75201  
*Attorneys for Respondent/Counter-Petitioner*  
*Wendy A. Jaksick d*



**CERTIFICATE OF SERVICE**

Pursuant to NRCp 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 23<sup>rd</sup> day of April, 2020, I served a true and correct copy of **OPPOSITION TO MOTION FOR ATTORNEYS' FEES AND COSTS OF KEVIN RILEY, INDIVIDUALLY, AS CO-TRUSTEE OF THE FAMILY TRUST AND AS TRUSTEE OF THE BHC FAMILY TRUST** by the Court's electronic file and serve system addressed to the following:

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  
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*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.  
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1575 Delucchi Lane, Ste. 101  
Reno, NV 89502  
*Attorneys for Stanley S. Jaksick, Co-Trustee  
Samuel S. Jaksick, Jr. Family Trust*

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

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

DATED this 23<sup>rd</sup> day of April, 2020.

/s/ Doreen Loffredo  
An Employee of Fox Rothschild LLP

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*Attorneys for Respondent/Counter-Petitioner*  
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.

**OPPOSITION TO MOTION FOR  
ORDER AWARDING COSTS AND  
ATTORNEYS' FEES FOR TODD  
JAKSICK, INDIVIDUALLY ON  
EQUITABLE CLAIMS**

1 Wendy A. Jaksick (“Wendy”) files this *Opposition to Motion for Order Awarding Costs*  
2 *and Attorneys’ Fees for Todd Jaksick, Individually, for Trial on Equitable Claims* (the  
3 “Opposition”). Wendy’s Opposition is based upon the papers and pleadings on file and the  
4 following memorandum of points and authorities.

5  
6 **I. STATEMENT OF RELEVANT FACTS**

7 On August 2, 2017, Todd Jaksick (“Todd”) and Michael Kimmel (“Kimmel”), in their  
8 capacities as Co-Trustees of the Family Trust, (collectively, “Petitioners”) filed *Petitions for*  
9 *Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval*  
10 *of Accountings and Other Trust Administration Matters* (the “Petition”) instituting the current  
11 litigation involving the Family Trust and Wendy.

12 The *Petition* sought Court approval of purported trust accountings for the period April  
13 2013 through December 31, 2016 (the “Purported Trust Accounting”), as well as ratification and  
14 Court approval of numerous actions taken by Co-Trustees relieving Trustees from liability from  
15 such actions. *Petition* page 6. The *Petition* also sought approval of numerous agreements  
16 intended to modify the Family Trust and a release of all liability for actions taken pursuant to  
17 such agreements. *See Petition* page 12.

18 Stanley Jaksick (“Stanley”), in his capacity as Co-Trustee of the Family Trust, refused to  
19 join the Purported Trust Accountings and refused to join and pursue the *Petition*. Instead, on  
20 October 10, 2017, Stanley filed an opposition to the *Petition* including objections to the approval  
21 of the Purported Trust Accountings and other claims concerning the administration of the Family  
22 Trust. Stan, the third and only remaining Co-Trustee, did not just refuse to endorse the defective  
23 accountings by remaining silent, but affirmatively contested the very accountings filed by his Co-  
24 Trustees for Court approval; he knew they were insufficient.

1 As a result of the lawsuit, Wendy filed a Counter-Petition objecting to the efforts to  
2 obtain confirmation of the Purported Accounting and other actions of the Co-Trustee and  
3 included claims for breach of fiduciary duty and other actions of all of the Co-Trustees  
4 administering the Family Trust during the time period covered the claims in the *Petition*.  
5 Wendy also sued all the Co-Trustees in their individual capacities to ensure any judgment  
6 payable or enforceable against the Co-Trustees in their Individual capacities would be valid  
7 and enforceable.  
8

9 Ultimately, the Jury returned a verdict after trial finding for Wendy against Todd  
10 Jaksick for breach of fiduciary duty as Trustee of the SSJ's Issue Trust and as Co-Trustee of  
11 the Family Trust and awarded Wendy \$15,000.00 in damages from Todd. *See Jury Verdict*.  
12 Additionally, the Court entered a Judgment after the equitable trial awarding Wendy equitable  
13 relief including the disgorgement of Todd Jaksick's fees as Trustee of the SSJ's Issue Trust  
14 and as Co-Trustee of the Family Trust, requiring Todd Jaksick, as Trustee of the SSJ's Issue  
15 Trust and as Co-Trustee of the Family Trust, to pay/reimburse twenty-five (25%) of the  
16 attorney's fees paid by the SSJ's Issue Trust and Family Trust associated with this litigation,  
17 and ordering the SSJ's Issue Trust and Family Trust to pay Wendy's attorney's \$300,000 in  
18 attorney's fees. *See Judgment*.  
19

20 On March 23, 2023, Wendy filed a *Verified Memorandum of Costs* ("Wendy's Memo  
21 of Costs") seeking the recovery of her costs from the Family Trust and SSJ's Issue Trust as a  
22 result of the *Judgment*. On April 21, 2020, this Court entered the *Order Denying Wendy*  
23 *Jaksick's Costs*. In the *Order*, the Court states: "Here, several competing parties could argue  
24 for prevailing party status. ... Given the entirety of this case proceeding, this Court intends to  
25 conclude that neither Wendy Jaksick nor Todd Jaksick is the prevailing party." *Order*,  
26 page 2, lines 5-8 (emphasis added).  
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## II. POINTS AND AUTHORITIES

A. Todd, Individually, Not Entitled to Recover Under NRCP 68. NRCP 68 is a mechanism to encourage settlement however it is not to be used “force plaintiffs to unfairly forego legitimate claims.” *See Beattie v. Thomas*, 99 Nev. 579, 587 668 P.2d 268, 274 (Nev. 1983) (citing *Armstrong v. Riggi*, 549 P.2d 753 (Nev. 1976)). An offer of judgment must be an authentic attempt to settle a dispute. *Order After Equitable Trial*, page 18, lines 13-14. The offer of judgment is not automatically conferred. *Id.* Based on the relevant authority, the Court provided further guidance on the application of NRCP 68 in the *Order After Equitable Trial*, as follows:

On one side, offers that are appropriate in time and amount will cause the non-offering party to become realistic and engage in genuine risk/benefit analyses. These offers shift a calculated risk as trial approaches. To be an effective mechanism to resolve disputes before trial, they should be in an amount the non-offering party cannot decline in good faith. Defendants who perceive no liability exposure chafe against making time- and amount-appropriate offers because they resent the payment of any money to a party they perceive will not prevail at trial. On the other side, offering parties sometimes make time- and amount-inappropriate offers *they expect to be rejected*. These offers do not facilitate settlement—they are strategic devices to shift the risk of fees by offering illusory consideration to end litigation.

*Order After Equitable Trial*, pages 18-19.

The offer of judgment from Todd, in his Individual Capacity, (“Offer of Judgment”) was for the “total sum of TWENTY-FIVE THOUSAND DOLLARS and 00/100 (\$25,000.00) and no more, which sum includes all interest, costs, attorneys’ fee or otherwise which have accrued to date. Exhibit 2 to the *Motion*. Based on the circumstances, this cannot be considered a legitimate offer to settle Wendy’s claims against him.

1 i. Fiduciary Has Individual Liability for Breaches of Fiduciary Duty and Failures  
2 to Properly Administer Trust.

3 Wendy's claims against Todd, in his various capacities, included claims arising from the  
4 accounting deficiencies, breaches of fiduciary duty, conspiracy to commit breach of fiduciary  
5 duty and aiding and abetting breach of fiduciary duty. One of the main reasons Todd was joined  
6 as a party to this lawsuit was to ensure that any judgment resulting from these claims against  
7 Todd, in his fiduciary capacities, but payable or enforceable against Todd, in his Individual  
8 capacity, would be valid, enforceable and collectable against Todd.<sup>1</sup>

10 Your Honor considered this very issue when you ruled on the Kimmel's motion for  
11 summary judgment. Kimmel filed a motion for summary judgment seeking the dismissal of  
12 Wendy's claims against him in his Individual and Co-Trustee capacities. On January 14, 2019,  
13 Your Honor entered the *Order Granting in Part and Denying in Part Motion for Summary*  
14 *Judgment* (the "Order Denying Kimmel MSJ"), which denied Kimmel's summary judgment in  
15 relation to Wendy's claims "arising from alleged accounting deficiencies and related breaches  
16 of fiduciary duty, including conspiracy to commit such breaches, as to Mr. Kimmel in both his  
17 capacities as trustee and individually." *Order Denying Kimmel MSJ*, page 13, lines 4-6. Your  
18

20 <sup>1</sup> The Co-Trustees in their Individual capacities are separate and distinct legal persons from the  
21 Co-Trustees in their fiduciary capacities. *Mona v. Eighth Judicial District Court of State in and*  
22 *for County of Clark*, 380 P.3d 836, 842 (2016) (holding the Co-Trustee was, in her individual  
23 capacity, distinct legal person and stranger to Co-Trustee in her representative capacity as Co-  
24 Trustee of the Trust). NRS 153.031 and other Nevada authority<sup>1</sup> authorizes recovery of  
25 damages, attorneys' fees and costs from a trustee personally under certain circumstances, such  
26 when a trustee is determined to be negligent in the performance of or breached his or her  
27 fiduciary duties. Because a district court is empowered to render a judgment either for or against  
28 a person or entity only if it has jurisdiction over the parties and the subject matter, the failure to  
sue and make the Co-Trustees parties in their individual capacities would render any judgment  
against the Co-Trustees personally void. *C.H.A. Venture v. G.C. Wallace Consulting Engineers,*  
*Inc.*, 106 Nev. 381, 383, 794 P.2d 707, 708 (1990) (confirming that district court was powerless  
to enter any form of valid judgment imposing liability against person or entity not properly  
served and made party to the lawsuit).

1 *Order* confirmed Kimmel, as a Co-Trustee, could have personal liability for his failures as a  
2 Co-Trustee and, therefore, was a proper party in his Individual capacity based on Wendy's  
3 claims. The authority and reasoning cited in the *Order* is, as follows:  
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1           D. Inclusion of Mr. Kimmel as Counter-Respondent in an Individual Capacity

2           In addition to the issues raised in his capacity as co-trustee, Mr. Kimmel asserts  
3           there is no factual or legal basis for him to remain in this case as an individual.

4           Historically, trustees were personally liable for all liabilities incurred in the course  
5           of trust administration, with the trustee receiving indemnity from the trust if appropriate.  
6           Restatement (Third) of Trusts § 105 (2012). The modern approach is to authorize suit  
7           against the trustee in his or her representative capacity and excuse the trustee from  
8           personal liability "to the extent the trustee acted properly." *Id.* Modern doctrine,  
9           however, "does not insulate a trustee from also being sued in an individual capacity . . .

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1 [q]uestions of personal liability, fiduciary authority, and trustee fault are often best  
2 resolved in the same litigation." *Id.*

3 Under Nevada law, a person's representative capacity as the co-trustee of a trust is  
4 distinguished from his or her individual capacity and "the differing capacities are  
5 generally treated as two different legal personages." *Mona v. Dist. Ct.*, 132 Nev. Adv. Op.  
6 72, 380 P.3d 836, 842 (2016) (quoting *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534,  
7 543-44 (1986)). NRS 163.140(1) illustrates the consequences of these differing capacities.  
8 Where a trustee is found to be liable in his or her representative capacity, "collection [may  
9 be] had from the trust property." *Id.* By contrast, a trustee may be held personally liable  
10 for any tort committed by the trustee if he or she is "personally at fault." NRS 163.140(4).  
11 Similar logic can be found in NRS Chapter 165, which addresses trustee accounting. A  
12 trustee who fails to provide an account pursuant to the terms of the trust instrument, or  
13 when required to under statute, is personally liable to each person entitled to receive an  
14 account who complied with proper procedure for demanding accounting. NRS 165.148(1).  
15 The trustee shall not expend trust funds to satisfy the trustee's personal liability for such a  
16 failure to provide accounting. *Id.* As discussed above, there are genuine issues of material  
17 fact as to whether the co-trustees have provided adequate and accurate accountings to  
18 Wendy as a beneficiary in the period of time following Mr. Kimmel's appointment. In  
19 accordance with NRS 165.148(1), Mr. Kimmel may be held personally liable if such a  
20 failure is found. Further, if Mr. Kimmel is found to have breached his fiduciary duty with  
21 respect to any disclosures not made to Wendy, it is appropriate that trust funds not be  
22 used to remedy any resulting damages. Whether Mr. Kimmel has personally conversed or  
23 maintained a friendly relationship with Wendy is immaterial, as the central issue is  
24 whether it is appropriate to hold the trust financially accountable for his alleged breach.  
25 Accordingly, Mr. Kimmel's motion for summary judgment with respect to his inclusion in  
26 this matter in an individual capacity is denied.

27 *Id.*, page 11, line 20 – page 12, line 26.

28 Because fiduciaries can and are held liable in their Individual capacities for certain  
actions, including breaches of fiduciary duty, the individual liability resulting from or  
associated with fiduciary claims must be considered in the NRCP 68 analysis. In other words,

1 when considering an award of fees under NRCP 68, the fiduciary's exposure to individual  
2 liability for its fiduciary acts must be considered in all aspects of the analysis. A failure to  
3 include this individual liability exposure when considering an Offer of Judgment made by a  
4 fiduciary in their Individual capacity results in an incomplete assessment. This is prejudicial  
5 to the offeree and would discourage beneficiaries or others suing fiduciaries from joining the  
6 fiduciaries to lawsuits in their Individual capacities when doing so is necessary to obtain a  
7 valid and enforceable judgment.  
8

9 ii. Wendy Obtained More Favorable Judgment than Todd's Offer of Judgment.

10 The penalties of NRCP 68 apply to an offeree "[i]f the offeree rejects an offeree and  
11 fails to obtain a more favorable judgment." NRCP 68(f)(1) (emphasis added). Todd's Offer of  
12 Judgment in his Individual capacity was \$25,000.00. The *Judgment* requires the following  
13 payments by Todd, in his Individual capacity:

- 14 a) \$15,605.34 to Wendy;  
15  
16 b) all fees paid to Todd by the SSJ's Issue Trust and the Family Trust to the  
17 SSJ's Issue Trust and the Family Trust; and  
18 c) twenty-five percent (25%) of all attorney's fees paid by the SSJ's Issue  
19 Trust and the Family Trust in this litigation to SSJ's Issue Trust and the  
20 Family Trust.

21 Todd, in his Individual capacity, must pay \$58,250.00 to the SSJ's Issue Trust and  
22 \$20,790.00 to the Family Trust for a total amount of \$79,040.00<sup>2</sup> to repay the Trustee's fees he  
23 received. Relevant pages from the SSJ Issue Trust and Family Trust Accountings confirming  
24 these amounts are attached hereto as **Exhibit 1**. Todd, in his Individual capacity, must pay, at  
25  
26

27  
28 <sup>2</sup> These number may not include all fees Todd received and are not intended to be an admission  
of the maximum amount required to be repaid by Todd.

1 a minimum, \$124,661.56,<sup>3</sup> in attorney's fees to the Family Trust and an additional amount of  
2 attorney's fees to the Issue Trust.

3 As a result of Wendy's claims, Todd, in his Individual capacity, must pay, at a minimum,  
4 \$219,306.90 that directly benefits Wendy and/or her beneficial interests in the SSJ's Issue Trust  
5 and Family Trust. This is far in excess of Todd's \$25,000.00 Offer of Judgment.

6 iii. Alternatively, Todd's Offer of Judgment Not Authentic Attempt to Settle  
7 Wendy's Claims.  
8

9 When Todd's Individual liability exposure arising and resulting from his breaches of  
10 fiduciary duty and other fiduciary wrongdoing are included in the NRCP 68 analysis under the  
11 *Beattie* factors, Todd's Offer of Judgment in his Individual capacity was not an authentic  
12 attempt to settle Wendy's claims and cannot be the basis for an award of fees and costs.

13 a. Wendy's Claims Against Todd Were Brought in Good Faith.  
14

15 Todd argues in his *Motion* that Wendy's refusal to accept his Offer of Judgment for  
16 \$25,000.00 was in bad faith because "Wendy had no reason to sue Todd individually" and  
17

18 <sup>3</sup> This number is based on Exhibit 4 to the *Motion for Attorneys' Fees and Costs* filed by Michael  
19 S. Kimmel on September 4, 2020. In the *Motion*, Mr. Kimmel, as Co-Trustee of the Family  
20 Trust, alleges the attorney's fees incurred by the Family Trust from May 1, 2018 through the  
entry of the Judgment totaled \$498,646.25. See following chart from Mr. Kimmel's *Motion*:

21 **Family**  
22 **Trust**  
17454.008

Attorney	Hours Post 4/30/18	Fees Post 4/30/18
DAL	723.25	\$ 325,462.50
LRL	53.50	\$ 22,768.75
BCM	24.25	\$ 8,487.50
CKR	293.25	\$ 95,943.75
KDM	219.45	\$ 45,983.75
Total	1,313.70	\$ 498,646.25

1 “[s]oon after filing her Counter Petition, Wendy knew that her claims against Todd as an  
2 individual were frivolous and meritless. Not once in these proceedings has Wendy identified a  
3 legitimate good faith basis for having sued Todd as an individual.” *Motion*, page 4, lines 6.

4 The Court concluded in the *Order After Equitable Trial* that Wendy’s claims against  
5 Todd in his capacities as trustees were brought in good faith. See *Order After Equitable Trial*,  
6 page 19, lines 6-7. The Court supported its conclusion stating, “Wendy’s concerns are  
7 countenanced, in large part, by the questions raised by the accountings, Stan’s separate  
8 allegations against Todd, document anomalies, and the optics of Todd’s disproportionate benefit  
9 from Sam’s business and trust affairs.” *Id.*, page 19, lines 8-10.

11 Because Wendy’s claims against Todd in his capacities as Trustees were brought in good  
12 faith and Todd had exposure to satisfy some or all of the liability for these claims in his Individual  
13 capacity (and in fact was a necessary party in his Individual capacity to obtain a valid and  
14 enforceable judgment), the good faith finding must also apply to Wendy’s decision to bring and  
15 maintain her claims against Todd, in his Individual capacity.

17 b. Todd’s Offer Was Not Reasonable and in Good Faith in Timing and Amount.

18 The Court also concluded that Todd’s Offers of Judgments were not reasonable and in good  
19 faith. *Order After Equitable Trial*, page 19, lines 20-21. The Offers of Judgement were made  
20 six months after Wendy filed her *Amended Counter-Petition*, when discovery was in its infancy.  
21 *Id.*, page 19, lines 18-19. The Court supported its conclusion stating, “given the financial and  
22 documentary complexity, discovery delays and disputes (including Todd’s continued  
23 depositions long after the offer of judgment were made), the untimely accountings, incomplete  
24 discovery, and the amounts in controversy, the offer does not appear to be made with good-faith  
25 intention of settling Wendy’s claims.” *Id.*, page 23-26, lines 18-19.

1 Because the Court determined the Todd's Offer of Judgment was not made with the  
2 good-faith intention to settle Wendy's claims against him and Todd knew Wendy would not  
3 accept \$25,000 to resolve her claims against him in his capacity as trustee, it is logically  
4 inconsistent to conclude same does not apply to Wendy's claims against Todd, in his Individual  
5 capacity, because the liability for same could ultimately be applied and required to be satisfied  
6 by Todd, in his Individual capacity. If Wendy had accepted the Offer of Judgment and settled  
7 all her claims against Todd, in his Individual capacity, may have foreclosed some of all of her  
8 right to recover additional damages awarded against him Individually for his acts as Trustees.

9  
10 c. Wendy's Decision to Reject Offer was Reasonable.

11 The Court further concluded that Wendy's decision to reject Todd's offer in his capacity  
12 as trustee was not grossly unreasonable or in bad faith. *Order After Equitable Trial*, page 21,  
13 lines 3-6. In fact, the Court states that, "Todd knew, or should have known, the fees incurred  
14 through continuing litigation alone would substantially overshadow the offered amounts. Todd  
15 knew, or should have known, that Wendy would never accept \$25,000 to resolve her claims  
16 against him as trustee." *Id.*, page 19, lines 22-25. Because of Todd's Individual liability  
17 exposure for his breaches of fiduciary duties and other wrongdoing as Trustees, it was equally  
18 reasonable for Wendy to reject Todd's Offer of Judgment made in his Individual capacity.  
19 Again, accepting Todd's Offer may have foreclosed some of all of her right to recover additional  
20 damages awarded against him Individually for his acts as Trustees.

21  
22 d. Fees Sought By Todd are Not Reasonable and Justified in Amount.

23  
24 Todd's fees and costs sought are not reasonable and justified in amount. Todd was  
25 paying separate law firms to represent him in his Individual capacity and capacities as Trustee  
26 throughout this litigation. Most of the efforts of counsel and most expenses paid overlap. The  
27 law firm representing Todd in his Individual capacity paid for some expenses while the law  
28

1 firm representing Todd in his fiduciary capacities paid for other expenses. Todd, in his  
2 Individual capacity, must not be allowed to recover fees or costs he is responsible for or should  
3 have paid in his Trustee capacity.

4 Accordingly, to the extent Todd *Motion* is seeking one-hundred (100%) or anything  
5 above his prorated share of the costs for depositions, court reporters' fees, jurors fees, witness  
6 fees, official trial reporters' fees or any other costs that benefited or be borne or paid for by the  
7 Trustees, such fees should be reduced or eliminated accordingly. Todd Jaksick, in his capacity  
8 as Trustee of the SSJ Issue Trust and as Co-Trustee of the Family Trust, should not be allowed  
9 to shift costs of the Trusts that he is not entitled to recover in certain capacities to other capacities  
10 he may be entitled to recover.

12 Additionally, it is clear from the time included in support of the *Motion* (Exhibits 4 &  
13 5) that certain fees sought are not related to this litigation and defending against Wendy's claim  
14 in this litigation. For example, the following entries appear in the billing attached as Exhibit  
15 5 to the *Motion*:

17 192.00 (20%) Office conference with Don and Todd to  
18 review Wendy's brief and issues raised therein,  
19 together with various issues pertaining to Todd not  
being involved in a managerial position on various  
LLCs and Wendy's sub-trust.

20 *Motion*, Exhibit 5, page 6 (07/09/2019)

21 480.00 Review notes from meeting with Don and Todd to  
22 prepare status/confirmation email concerning things  
23 to do and items to be addressed in Notice of  
Trustee's meeting (.4). Email Todd, Don, and Jessica  
24 regarding entities (.2). Receive email from Jessica  
and review schedules, charts, and contents thereof  
25 to determine Todd's relationship with various  
entities (.6).

26 *Motion*, Exhibit 5, page 8 (11/07/2019)

1 280.00 Continue review of Jessica's list only to determine  
2 that management, directors and officers are not  
3 listed. Work on email for Jessica and sent Jessica an  
4 email defining with specificity exactly what list of  
officers, directors, members, managers, and  
shareholders is needed to help get Todd removed or  
out of the line of fire.

5 *Motion, Exhibit 5, page 8 (11/13/2019)*

6 220.00 (50%) Prepare letter on behalf of Todd demanding  
7 that trust pay Todd's share of Jack Rabbit capital call.  
8 Review prior letter. Receive Todd's suggested  
changes. Incorporate suggested changes.

9 *Motion, Exhibit 5, page 8 (12/27/2019).*

10 160.00 (50%) Finalize Todd's supplemental brief. Review  
11 initial disclosures with Jeff concerning the 7 homes  
involved in claim for shared commission.

12 *Motion, Exhibit 5, page 9 (02/14/2020).*

13 480.00 (50%) Meeting with Todd to review all Companies,  
14 Corporations, LLCs in which Todd is manager,  
officer, or director to show Todd which Companies  
15 he is still exposed on and for in the event there are  
accusations of mismanagement, failure to disclose,  
16 breach of fiduciary duty, those including Basacamp,  
BBB, Buckhorn, Duck Flat, Gerlach, Incline TSS,  
Montreux Holding, Pronghorns, Sam Jaksick LLCs,  
17 White Pine, WSR Land, Home Camp, ALSB, Spring  
Mountain, Toiyabe, White Pine Lumber, and Jaksick  
18 Family LLC. Work on letter advising Todd of

19 exposure for mismanagement of any of the above  
20 entities. Work on letter to Kevin Riley making sure  
that Kevin Riley helped Todd properly report to  
21 members and shareholders of entities indentified to  
comply with fiduciary duties.

22 *Motion, Exhibit 5, pages 9-10 (02/28/2020).*

23 360.00 (50%) Work on and complete analysis of Todd's  
24 exposure as Officer, Director and or Manager of  
various family entities in which Family Trust/Issue  
25 Trust hold interest. Review hate mail from Wendy  
and Luke. Telephone conference with Todd. Work  
26 on response to Wendy's email containing false  
information.

27  
28

1 *Motion*, Exhibit 5, pages 10 (03/04/2020). Todd has not attempted and cannot establish that  
2 these and other similar fees included in his request were reasonable and necessary. Additionally,  
3 charging \$1,240.00 for a *Motion to Amend Judgment*, when this Court signed the *Judgment*  
4 submitted by Todd's counsel was not reasonable or necessary. *Motion*, Exhibit 5, pages 10  
5 (03/30/2020).

6 Finally, Wendy, objects to the costs sought by Todd because he does not include the  
7 required documentation to justify the costs. Todd has not included the invoices and other  
8 supporting documents to establish that the costs were reasonable, necessary and actually  
9 incurred. Accordingly, there is no basis for Wendy or the Court to determine the costs were  
10 actual and reasonable. *See Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 345 P.3d 1049  
11 (2015).  
12

### 13 **III. CONCLUSION**

14  
15 For the reasons set forth above, Wendy respectfully requests the court to deny the *Motion*  
16 *for Order Awarding Costs and Attorneys' Fees for Todd Jaksick, Individually, for Trial on*  
17 *Equitable Claims*. In the alternative, Wendy requests the Court strike, reduce and/or retax any  
18 the attorney's fees and costs sought in the *Motion* that Todd did not establish as reasonable and  
19 necessary or actual, reasonable and incurred.

### 20 **AFFIRMATION STATEMENT**

Pursuant to NRS 239B.030

21 The undersigned does hereby affirm that this **OPPOSITION TO MOTION FOR**  
22 **ORDER AWARDING COSTS AND ATTORNEYS' FEES FOR TODD JAKSICK,**

23 //

24 //

25 //

26 //

27 //



1 **INDIVIDUALLY ON EQUITABLE CLAIMS** filed by Wendy A. Jaksick in the above-  
2 captioned matter does not contain the social security number of any person.

3 DATED this 24<sup>th</sup> day of April, 2020.

4 **FOX ROTHSCHILD LLP**

5 /s/ Mark J. Connot

6 Mark J. Connot (10010)  
7 1980 Festival Plaza Drive, Suite 700  
8 Las Vegas, Nevada 89135

9 **SPENCER & JOHNSON, PLLC**

10 /s/ R. Kevin Spencer

11 R. Kevin Spencer (*Admitted PHV*)  
12 Zachary E. Johnson (*Admitted PHV*)  
13 500 N. Akard Street, Suite 2150  
14 Dallas, Texas 75201  
15 *Attorneys for Respondent/Counter-Petitioner*  
16 *Wendy A. Jaksick d*

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FILED  
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PR17-00445  
2020-04-24 05:30:57 PM  
Jacqueline Bryant  
Clerk of the Court  
Transaction # 7850279 : bblough

EXHIBIT 1

EXHIBIT 1

**SSJ'S ISSUE TRUST**  
**FINANCIAL STATEMENTS**  
**April 21, 2013 to December 31, 2013**

**JSK000930**

**TJA 002966**

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SSJ'S ISSUE TRUST  
**SCHEDULE E1 - EXPENSES, RBC WEALTH MANAGEMENT**  
For the period beginning April 21, 2013 and ending December 31, 2013

<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Amount</u>	<u>Totals</u>
11/30/13	EFT	Todd Jaksick	\$ 2,500.00	
12/31/13	EFT	Todd Jaksick	<u>2,500.00</u>	
		Total trustee fees		\$ 5,000.00
7/26/13	EFT	Nevada Prongorn LLC	<u>172.60</u>	
		Total Interest expense		172.60
7/31/13	EFT	RBC Wealth Management	20.00	
7/31/13	EFT	RBC Wealth Management	<u>20.00</u>	
		Total bank charges		40.00
<b>TOTAL EXPENSES, RBC WEALTH MANAGEMENT</b>				<u><u>\$ 5,212.60</u></u>

See accountant's compilation report

- 7 -

JSK000938

TJA 002968

**SSJ'S ISSUE TRUST**  
**FINANCIAL STATEMENTS**  
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**SSJ'S ISSUE TRUST**  
**SCHEDULE D1 - EXPENSES, RBC WEALTH MANAGEMENT**  
For the period beginning January 1, 2014 and ending December 31, 2014

<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Amount</u>	<u>Totals</u>
8/22/14	EFT	RBC Wealth Management	\$ 20.00	
9/30/14	EFT	RBC Wealth Management	20.00	
9/30/14	EFT	RBC Wealth Management	<u>20.00</u>	
		Total bank charges		\$ 60.00
1/30/14	EFT	Todd Jaksick	2,500.00	
2/28/14	EFT	Todd Jaksick	2,500.00	
3/31/14	EFT	Todd Jaksick	2,500.00	
4/30/14	EFT	Todd Jaksick	2,500.00	
5/31/14	EFT	Todd Jaksick	2,500.00	
6/30/14	EFT	Todd Jaksick	2,500.00	
9/30/14	EFT	Todd Jaksick	2,500.00	
10/31/14	EFT	Todd Jaksick	2,500.00	
11/30/14	EFT	Todd Jaksick	2,500.00	
12/31/14	EFT	Todd Jaksick	<u>2,500.00</u>	
		Total trustee fees		25,000.00
9/24/14	counter ck	Rossmann MacDonald & Benetti CPA's	<u>3,125.00</u>	
		Total accounting		3,125.00
5/13/14	counter ck	US Treasury	10,015.00	
9/8/14	counter ck	US Treasury	<u>130.08</u>	
		Total Internal Revenue Service		10,145.08
<b>TOTAL EXPENSES, RBC WEALTH MANAGEMENT</b>				<b><u><u>\$ 38,330.08</u></u></b>

See accountant's compilation report

**SSJ'S ISSUE TRUST**  
**FINANCIAL STATEMENTS**  
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**JSK000956**

**TJA 002972**

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**SSJ'S ISSUE TRUST**  
**SCHEDULE D - EXPENSES**  
**For the period beginning January 1, 2015 and ending December 31, 2015**

<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Amount</u>	<u>Totals</u>
1/15/15	EFT	Todd Jaksick	\$ 2,500.00	
2/15/15	EFT	Todd Jaksick	2,500.00	
3/15/15	EFT	Todd Jaksick	2,500.00	
4/15/15	EFT	Todd Jaksick	2,500.00	
5/15/15	EFT	Todd Jaksick	2,500.00	
6/15/15	EFT	Todd Jaksick	2,500.00	
7/15/15	EFT	Todd Jaksick	2,500.00	
8/15/15	EFT	Todd Jaksick	2,500.00	
9/15/15	EFT	Todd Jaksick	750.00	
10/15/15	EFT	Todd Jaksick	750.00	
11/15/15	EFT	Todd Jaksick	750.00	
12/15/15	EFT	Todd Jaksick	750.00	
		Total trustee fees		\$ 23,000.00
10/20/15	counter ck	Rossmann MacDonald & Benetti CPA's	<u>2,530.00</u>	
		Total accounting		2,530.00
9/10/15	counter ck	Franchise tax board	<u>239.00</u>	
		Total Internal Revenue Service		239.00
9/10/15	counter ck	US Treasury	5,829.00	
10/15/15	counter ck	US Treasury	<u>213.01</u>	
		Total Internal Revenue Service		6,042.01
<b>TOTAL EXPENSES</b>				<b><u><u>\$ 31,811.01</u></u></b>

See accountant's compilation report

**SSJ'S ISSUE TRUST**  
**FINANCIAL STATEMENTS**  
**January 1, 2016 to December 31, 2016**

**JSK000968**

**TJA 002975**

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**SSJ'S ISSUE TRUST**  
**SCHEDULE E - EXPENSES**  
**For the period beginning January 1, 2016 and ending December 31, 2016**

<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Amount</u>	<u>Totals</u>
1/16/16	EFT	Todd Jaksick	\$ 750.00	
2/16/16	EFT	Todd Jaksick	750.00	
3/16/16	EFT	Todd Jaksick	750.00	
4/16/16	EFT	Todd Jaksick	750.00	
5/16/16	EFT	Todd Jaksick	750.00	
6/16/16	EFT	Todd Jaksick	750.00	
7/16/16	EFT	Todd Jaksick	750.00	
		Total trustee fees		\$ 5,250.00
8/30/16	counter ck	Home Camp Land & Livestock	9.00	
		Total Interest expense		9.00
3/16/16	counter ck	Maupin Cox & LeGoy	2,737.50	
10/27/16	counter ck	Maupin Cox & LeGoy	3,094.00	
12/6/16	counter ck	Maupin Cox & LeGoy	1,206.25	
		Total legal fees		7,037.75
9/13/16	counter ck	Franchise tax board	11.00	
		Total Franchise Tax Board		11.00
9/13/16	counter ck	US Treasury	4.00	
		Total Internal Revenue Service		4.00
<b>TOTAL EXPENSES</b>				<u><u>\$ 12,311.75</u></u>

See accountant's compilation report



**SAMUEL S JAKSICK JR FAMILY TRUST**

**FINANCIAL STATEMENTS**

**April 21, 2013 to March 31, 2014**

**JSK001116**

**TJA 002978**

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**SAMUEL S JAKSICK JR FAMILY TRUST**  
**SCHEDULE 1H - EXPENSES**  
**FIRST INDEPENDENT BANK #772**  
**For the period beginning April 21, 2013 and ending March 31, 2014**

<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Principal</u>	<u>Income</u>	<u>Totals</u>
<b>EXPENSES (continued):</b>					
1/15/14	9202	ARLO R. STOCKHAM		1,388.45	1,388.45
1/15/14	9200	JAMES CORICA		244.32	244.32
1/15/14	9201	NANETTE J. CHILDERS		461.75	461.75
1/31/14	9215	ARLO R. STOCKHAM		1,388.45	1,388.45
1/31/14	9214	NANETTE J. CHILDERS		369.40	369.40
2/14/14	9221	ARLO R. STOCKHAM		1,388.45	1,388.45
2/14/14	9220	JAMES CORICA		520.85	520.85
2/14/14	9219	NANETTE J. CHILDERS		369.40	369.40
2/28/14	9242	ARLO R. STOCKHAM		1,388.45	1,388.45
2/28/14	9241	NANETTE J. CHILDERS		424.81	424.81
3/14/14	9256	ARLO R. STOCKHAM		1,388.45	1,388.45
3/14/14	9257	JAMES CORICA		520.85	520.85
3/14/14	9251	NANETTE J. CHILDERS		498.69	498.69
3/31/14	9264	ARLO R. STOCKHAM		1,388.45	1,388.45
3/31/14	9263	NANETTE J. CHILDERS		406.34	406.34
		<b>Total salaries</b>	<b>-</b>	<b>32,279.97</b>	<b>32,279.97</b>
11/26/13	9158	ARKADIN, INC.		100.00	100.00
		<b>Total telephone</b>	<b>-</b>	<b>100.00</b>	<b>100.00</b>
10/11/13	9120	TODD JAKSICK	1,000.00	1,000.00	2,000.00
11/29/13	9178	TODD JAKSICK	1,000.00	1,000.00	2,000.00
12/13/13	9187	TODD JAKSICK	1,000.00	1,000.00	2,000.00
2/13/14	9223	TODD JAKSICK	750.00	750.00	1,500.00
2/13/14	9224	TODD JAKSICK	1,250.00	1,250.00	2,500.00
		<b>Total trustee fees</b>	<b>5,000.00</b>	<b>5,000.00</b>	<b>10,000.00</b>
7/11/13	EFT	UNKNOWN UTILITY PAYMENT		250.85	250.85
8/6/13	EFT	AT&T		592.20	592.20
8/8/13	9049	WASHOE COUNTY TREASURER		321.40	321.40
8/8/13	9048	WASTE MANAGEMENT OF NEVADA		65.82	65.82
8/20/13	9059	NV ENERGY		338.95	338.95
9/4/13	9075	WASHOE COUNTY		125.00	125.00
9/17/13	EFT	AT&T		242.92	242.92
9/17/13	EFT	AT&T		43.84	43.84
9/30/13	EFT	WATER BILL PAID FOR QUAIL ROCK		336.66	336.66
10/16/13	EFT	AT&T		85.09	85.09
10/16/13	EFT	AT&T		51.37	51.37
10/24/13	EFT	NV ENERGY		366.16	366.16
10/24/13	EFT	NV ENERGY		3.50	3.50
11/14/13	EFT	AT&T		265.80	265.80
11/14/13	EFT	AT&T		79.05	79.05
11/26/13	9165	WASHOE COUNTY TREASURER		162.39	162.39

See accountant's compilation report

**SAMUEL S JAKSICK JR FAMILY TRUST**

**FINANCIAL STATEMENTS**

**April 1, 2014 to March 31, 2015**

**JSK001167**

**TJA 002981**

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**SAMUEL S JAKSICK JR FAMILY TRUST**  
**SCHEDULE II - EXPENSES**  
**FIRST INDEPENDENT BANK #772**  
**For the period beginning April 1, 2014 and ending March 31, 2015**

<u>Date</u>	<u>Check #</u>	<u>Payee</u>	<u>Principal</u>	<u>Income</u>	<u>Totals</u>
<b>EXPENSES (continued):</b>					
2/20/15	9498	Bank of America - reimbursements		1,750.52	1,750.52
2/20/15	9495	Dawn Jaksick		395.54	395.54
		<b>Total travel</b>	<u>-</u>	<u>2,146.06</u>	<u>2,146.06</u>
7/23/14	9365	Todd Jaksick	1,000.00	1,000.00	2,000.00
8/28/14	9393	Stan Jaksick	500.00	500.00	1,000.00
8/28/14	9394	Todd Jaksick	1,000.00	1,000.00	2,000.00
9/2/14	9401	Stan Jaksick	900.00	900.00	1,800.00
9/2/14	9404	Todd Jaksick	1,750.00	1,750.00	3,500.00
10/3/14	9437	Stan Jaksick	795.00	795.00	1,590.00
10/3/14	9438	Todd Jaksick	1,645.00	1,645.00	3,290.00
		<b>Total trustee fees</b>	<u>7,590.00</u>	<u>7,590.00</u>	<u>15,180.00</u>
4/30/14	9281	Washoe County Treasurer		124.32	124.32
5/2/14	9291	Waste Management of Nevada		65.82	65.82
5/15/14	9300	Washoe County Treasurer		66.88	66.88
5/22/14	9306	Nevada Energy		244.95	244.95
6/27/14	9329	Nevada Energy		295.90	295.90
6/27/14	9331	Washoe County Treasurer		191.84	191.84
7/24/14	9352	Washoe County Treasurer		434.24	434.24
7/24/14	9366	Nevada Energy		292.82	292.82
8/21/14	9381	Nevada Energy		360.03	360.03
8/21/14	9382	Waste Management of Nevada		65.82	65.82
8/28/14	9395	Washoe County Treasurer		209.62	209.62
9/2/14	9413	Nevada Energy		450.00	450.00
9/2/14	9414	Washoe County Treasurer		200.00	200.00
10/1/14	9431	Washoe County Treasurer		217.05	217.05
11/13/14	9460	Nevada Energy		350.52	350.52
2/19/15	9491	Washoe County Treasurer		40.95	40.95
2/19/15	9493	Truckee Meadows water authorit		27.28	27.28
2/19/15	9494	Nevada Energy		427.07	427.07
		<b>Total utilities - rental</b>	<u>-</u>	<u>4,065.11</u>	<u>4,065.11</u>
<b>TOTAL EXPENSES</b>			<u><b>\$ 111,456.53</b></u>	<u><b>\$ 168,627.50</b></u>	<u><b>\$ 280,084.03</b></u>

See accountant's compilation report

**Jayne Ferretto**

---

**From:** eflex@washoecourts.us  
**Sent:** Monday, April 27, 2020 7:56 AM  
**To:** Kent Robison  
**Cc:** Jayne Ferretto  
**Subject:** NEF: CONS: TRUST: SSJ'S ISSUE TRUST: Opposition to Mtn: 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:** 04-24-2020:17:30:57  
**Clerk Accepted:** 04-27-2020:07:55:23  
**Court:** Second Judicial District Court - State of Nevada  
Civil  
**Case Title:** CONS: TRUST: SSJ'S ISSUE TRUST  
**Document(s) Submitted:** Opposition to Mtn  
- \*\*Continuation  
**Filed By:** Mark Connot

You may review this filing by clicking on the following link to take you to your [cases](#).

This notice was automatically generated by the courts auto-notification system.

---

If service is not required for this document (e.g., Minutes), please disregard the below language.

**The following people were served electronically:**

ADAM HOSMER-HENNER, ESQ. for STANLEY JAKSICK  
CAROLYN K. RENNER, ESQ. for KEVIN RILEY, MICHAEL S. KIMMEL, TODD B. JAKSICK  
THERESE M. SHANKS, ESQ. for DUCK LAKE RANCH LLC, SAMMY SUPERCUB, LLC,  
SERIES A, TODD B. JAKSICK, INCLINE TSS, LTD.  
PHILIP L. KREITLEIN, ESQ. for STANLEY JAKSICK, SAMUEL S. JAKSICK, JR. FAMILY  
TRUST  
DONALD ALBERT LATTIN, ESQ. for KEVIN RILEY, MICHAEL S. KIMMEL, TODD B.  
JAKSICK  
KENT RICHARD ROBISON, ESQ. for DUCK LAKE RANCH LLC, SAMMY SUPERCUB, LLC,  
SERIES A, TODD B. JAKSICK, INCLINE TSS, LTD.  
STEPHEN C. MOSS, ESQ. for STANLEY JAKSICK, SAMUEL S. JAKSICK, JR. FAMILY  
TRUST  
MARK J. CONNOT, ESQ. for WENDY A. JAKSICK

SARAH FERGUSON, ESQ. for STANLEY JAKSICK, SAMUEL S. JAKSICK, JR. FAMILY TRUST, SSJ'S ISSUE TRUST

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

R. KEVIN SPENCER, ESQ. for WENDY A. JAKSICK  
ZACHARY JOHNSON, ESQ. for WENDY A. JAKSICK



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16 kevin@dallasprobate.com  
17 zach@dallasprobate.com  
18 *Attorneys for Respondent/Counter-Petitioner*  
19 Wendy A. Jaksick

11 **SECOND JUDICIAL DISTRICT COURT**

12 **WASHOE COUNTY, NEVADA**

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

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

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

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

16 WENDY JAKSICK,

17 Respondent and Counter-Petitioner,

18 v.

19 TODD B. JAKSICK, INDIVIDUALLY, AS CO-  
20 TRUSTEE OF THE SAMUEL S. JAKSICK, JR.  
21 FAMILY TRUST, AND AS TRUSTEE OF THE  
22 SSJ'S ISSUE TRUST; MICHAEL S. KIMMEL,  
23 INDIVIDUALLY AND AS CO-TRUSTEE OF  
24 THE SAMUEL S. JAKSICK, JR. FAMILY  
25 TRUST; AND STANLEY S. JAKSICK,  
26 INDIVIDUALLY AND AS CO-TRUSTEE OF  
27 THE SAMUEL S. JAKSICK, JR. FAMILY  
28 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.

**OPPOSITION AND MOTION TO  
STRIKE MEMORANDUM OF  
ATTORNEY'S FEES BY STANLEY  
JAKSICK AS CO-TRUSTEE OF THE  
FAMILY TRUST**

1 Wendy A. Jaksick (“Wendy”) files this *Opposition and Motion to Strike* (the  
2 “Opposition”) in response to the *Verified Memorandum of Attorney’s Fees by Stanley Jaksick as*  
3 *Co-Trustee of the Family Trust* (the “Memo of Attorney’s Fees”). Wendy’s *Opposition* is based  
4 upon the papers and pleadings on file and the following memorandum of points and authorities.

5 **I. STATEMENT OF RELEVANT FACTS**

6 On August 2, 2017, Todd Jaksick (“Todd”) and Michael Kimmel (“Kimmel”), in their  
7 capacities as Co-Trustees of the Family Trust, (collectively, “Petitioners”) filed *Petitions for*  
8 *Confirmation of Trustees and Admission of Trust to the Jurisdiction of the Court, and for Approval*  
9 *of Accountings and Other Trust Administration Matters* (the “Petition”) instituting the current  
10 litigation involving the Family Trust and Wendy.

11 The *Petition* sought Court approval of purported trust accountings for the period April  
12 2013 through December 31, 2016 (the “Purported Trust Accounting”), as well as ratification and  
13 Court approval of numerous actions taken by Co-Trustees relieving Trustees from liability from  
14 such actions. *Petition* page 6. The *Petition* also sought approval of numerous agreements  
15 intended to modify the Family Trust and a release of all liability for actions taken pursuant to  
16 such agreements. *See Petition* page 12.

17 Stanley Jaksick (“Stan”), in his capacity as Co-Trustee of the Family Trust, refused to join  
18 the Purported Trust Accountings and refused to join and pursue the *Petition*. Instead, on October  
19 10, 2017, Stanley filed an opposition to the *Petition* including objections to the approval of the  
20 Purported Trust Accountings and other claims concerning the administration of the Family Trust.  
21 Stan, the third and only remaining Co-Trustee, did not just refuse to endorse the defective  
22 accountings by remaining silent, but affirmatively contested the very accountings filed by his Co-  
23 Trustees for Court approval; he knew they were insufficient.

24 As a result of the lawsuit filed by Todd and Kimmel, as Co-Trustees of the Family  
25 Trust, Wendy filed a Counter-Petition objecting to the efforts to obtain confirmation of the  
26 Purported Accounting and other actions of the Co-Trustee and included claims for breach of  
27 fiduciary duty and other actions of the Co-Trustees. Wendy also sued the Co-Trustees in their  
28

1 individual capacities to ensure any judgment payable or enforceable against the Co-Trustees  
2 in their Individual capacities would be valid and enforceable. During the lawsuit, Wendy  
3 dismissed her claims against Stan, in his Individual capacity without prejudice.

4       The *Order After Equitable Trial*, which was entered on March 12, 2020, includes the  
5 following orders concerning the payment of all the Trustees' attorney's fees. "The trusts shall  
6 pay 100% of the fees incurred by their attorneys in representation of the trustees. However,  
7 Todd shall reimburse the trusts from his personal resources for 25% of the amount paid because  
8 the jury determined he breached his fiduciary duties." *Order After Equitable Trial*, page 21,  
9 lines 24-25. "All fees ordered shall be treated as general trust administration expenses and not  
10 allocated to any beneficiary's distributive share." *Id.*, page 22, lines 21-22. "The attorneys'  
11 fees provisions in this order reflect the entirety of this Court's intentions regarding fees." *Id.*,  
12 page 25, lines 12-13.

13       The *Judgment*, which was signed and entered on April 1, 2020, includes the following  
14 language concerning the Trustees' attorney's fees:

15               3.     In favor of the Samuel S. Jaksick, Jr., Family Trust and SSJ's Issue Trust against  
16 Todd Jaksick, as Co-Trustee of the Samuel S. Jaksick, Jr., Family Trust in an amount equal to  
17 25% of the attorneys' fees paid by the Samuel S. Jaksick, Jr., Family Trust and SSJ's Issue Trust  
18 for legal services rendered on behalf of the Co-Trustees of the Samuel S. Jaksick, Jr., Family Trust  
19 and Trustee for the SSJ's Issue Trust. Todd Jaksick's obligation to satisfy this judgment requires  
20 payment of the amount determined from his personal funds. Counsel for the Trustees and Trustee  
21 shall submit verified Memoranda of Fees paid within twenty-one days of notice of entry of this  
22 judgment.

23 *Judgment*, page 4, lines 3-10.

24       On April 22, 2020, Stan, in his capacity as Co-Trustee of the Family Trust filed his  
25 *Memo of Attorney's Fees* pursuant to Paragraph 3 of the *Judgment*. *Memo of Attorney's Fees*,  
26 page 2, lines 3-6.

II. POINTS AND AUTHORITIES

A. Attorney's Fees Addressed in Order After Equitable Trial. Pursuant to the *Order After Equitable Trial* and the *Judgment*, it is Wendy's understanding the Trustees were directed to submit Memoranda of Fees in order for the Court to determine and approve: (i) the amount of attorney's fees that were reasonable and necessarily incurred by the Co-Trustees, in their capacities Co-Trustees, and properly payable by the Trusts and (ii) the total amount of attorney's fees paid by the Trusts for purposes of determining the amount of attorney's fees Todd, in his Individual capacity, must pay the Trusts. Wendy objects to the extent the Stan's *Memo of Attorney's Fees* is submitted for any other purpose, including seeking the payment of any or all of such fees from Wendy. As far as Wendy is aware, Stan has not requested his attorney's fees from Wendy, has not cited any authority entitling him to recover his attorney's fees from Wendy and the *Judgment* and *Order After Equitable Trial* do not provide any award of attorney's fees from Wendy to Stan, in any capacity.

B. Stan Not Entitled to Award of Attorney's Fees from Trusts in His Individual Capacity. The *Order After Equitable Trial* directs that the "Trusts pay 100% of the fees incurred by their attorneys in representation of the trustees." *Order After Equitable Trial*, page 21, lines 24-25 (emphasis added). Stan includes the attorney's fees of Philip Kreitlein and his firm Kreitlein Leeder Moss, Ltd. (collectively, "KLM") in his *Memo of Attorney's Fees*.

KLM was retained by and exclusively represented Stan, in his Individual capacity, throughout the litigation. KLM was not retained by any of the Trusts and did not represent the Trusts or Trustees at any point of the litigation. Stan has not cited any authority entitling him to recover attorney's fees for the attorneys representing him in his Individual capacity and the *Judgment* and *Order After Equitable Trial* do not provide any award of attorney's fees from any source to Stan for his attorney's fees incurred in his Individual capacity. The Trusts should not and cannot be required to pay the fees of KLM. Therefore, Wendy moves to strike the

1 *Memo for Attorney's Fees* to the extent it includes fees incurred by Stan, in his Individual  
2 capacity, including all of KLM's fees.

3 **C. Fees Not Reasonable and Necessarily Incurred.** In order to recover fees,  
4 Stan, in his Individual capacity, must show that the fees were reasonable and necessarily  
5 incurred on behalf of Family Trust.

6 As an initial matter, all attorney's fees Stan incurred in his Individual capacity were  
7 not and are not reasonable and necessarily incurred on behalf of either of the Trusts. Therefore,  
8 all of the attorney's fees incurred by Stan, in his Individual capacity, including all fees of KLM  
9 should be denied and stricken from the *Memo of Attorney's Fees*.

10 Regardless, Stan, in all capacities, failed established that any of the fees sought in the  
11 *Memo of Attorney's Fees* were reasonable and necessarily incurred. In support of the *Memo*  
12 *of Attorney's Fees*, Stan attaches completely redacted attorney's fee invoices and Declarations  
13 of his attorneys including the statement "[t]hese fees were both reasonable and necessary."  
14 *Memo of Attorney's Fees*, pages 4-5. Stan makes no additional effort to support or establish  
15 that any of his fees were reasonable and necessarily incurred by the Trusts. Because the  
16 invoices are completely redacted, it is impossible for Wendy to review and object to the fees  
17 and it is impossible for the Court to review and make a determination and finding that the fees  
18 were reasonably and necessarily incurred by the Family Trust. As a result, Wendy objects to  
19 the *Memo of Attorney's Fees* and moves to strike it in its entirety or, in the alternative, moves  
20 to strike all fees included by Stan, in any capacity, that were not established as reasonable and  
21 necessary incurred by the Trusts.

### 22 **III. CONCLUSION**

23 For the reasons set forth above, Wendy respectfully requests the court to deny Stan's  
24 *Memo of Attorney's Fees*.

25 //

26 //

27 //

**AFFIRMATION STATEMENT**

Pursuant to NRS 239B.030

The undersigned does hereby affirm that this **OPPOSITION AND MOTION TO STRIKE MEMORANDUM OF ATTORNEY'S FEES BY STANLEY JAKSICK AS CO-TRUSTEE OF THE FAMILY TRUST** filed by Wendy A. Jaksick in the above-captioned matter does not contain the social security number of any person.

DATED this 27<sup>th</sup> day of April, 2020.

**FOX ROTHSCHILD LLP**

/s/ Mark J. Connot

Mark J. Connot (10010)  
1980 Festival Plaza Drive, Suite 700  
Las Vegas, Nevada 89135

**SPENCER & JOHNSON, PLLC**

/s/ R. Kevin Spencer

R. Kevin Spencer (*Admitted PHV*)  
Zachary E. Johnson (*Admitted PHV*)  
500 N. Akard Street, Suite 2150  
Dallas, Texas 75201  
*Attorneys for Respondent/Counter-Petitioner*  
*Wendy A. Jaksick d*

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of FOX ROTHSCHILD LLP and that on this 27<sup>th</sup> day of April, 2020, I served a true and correct copy of **OPPOSITION AND MOTION TO STRIKE MEMORANDUM OF ATTORNEY'S FEES BY STANLEY JAKSICK AS CO-TRUSTEE OF THE FAMILY TRUST** by the Court's electronic file and serve system addressed to the following:

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.  
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DATED this 27<sup>th</sup> day of April, 2020.

/s/ Doreen Loffredo  
An Employee of Fox Rothschild LLP

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IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR THE COUNTY OF WASHOE

In the Matter of the: Case No.: PR17-0445  
Dept. No.: 15  
SSJ's ISSUE TRUST.  
\_\_\_\_\_/ Consolidated

In the Matter of the Administration of Case No.: PR17-0446  
Dept. No.: 15  
THE SAMUEL S. JAKSICK, JR., FAMILY TRUST.  
\_\_\_\_\_/

**MOTION TO ALTER OR AMEND THE JUDGMENT**

TODD JAKSICK, as sole Trustee of the SSJ's Issue Trust and as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust (the "Family Trust"), MICHAEL S. KIMMEL, individually and as Co-Trustee of the Family Trust and KEVIN RILEY, individually, as former Trustee of the Family Trust, and Trustee of the Wendy A. Jaksick 2012 BHC Family Trust (hereafter "Petitioners", "Trustees", or "Co-Trustees"), hereby move to alter or amend the judgment filed in this case on April 1, 2020, to remove the award of attorney's fees to Wendy Jaksick's counsel of record in the amount of \$300,000.



1 This Motion is made pursuant to NRCP 59(e) and based on the attached Memorandum of  
2 Points and Authorities and all pertinent pleadings and papers on file herein.

3 Dated this 9th day of April, 2020.

4 MAUPIN, COX & LEGOY

5  
6 By: 

7 Donald A. Lattin, NSB # 693  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I.**

**INTRODUCTION**

In this Court's Order After Equitable Trial filed on March 12, 2020, which was included in the Judgment on Jury Verdict and Court Order on Equitable Claims filed on April 1, 2020, this Court awarded Wendy Jaksick's counsel of record attorney's fees in the amount of \$300,000. For the reasons set forth below, Co-Trustees request that this Court alter or amend the judgment to remove this award as Wendy failed to provide, and the Court did not consider, the *Brunzell* factors in making the award, as required under Nevada law.

**II.**

**BACKGROUND INFORMATION**

Wendy requested payment of her attorney's fees as part of her "Brief of Opening Arguments in the Equitable Claims Trial" ("Brief"), filed on July 1, 2019. Wendy did not file any other motion for attorney's fees separate and apart from this Brief. In requesting this payment for fees, Wendy failed to conduct an analysis of the *Brunzell* factors in support of her fees and there is no part of the record which indicates that the Court conducted this analysis *sua sponte*. Accordingly, there is no basis upon which to award Wendy's fees, and the judgment should be altered or amended to remove this award.

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III.

LAW AND ARGUMENT

A. This Motion is timely under NRCP 59(e).

Nevada Rule of Civil Procedure 59(e) provides that “[a] motion to alter or amend a judgment must be filed no later than 28 days after service of written notice of entry of judgment. Here, the Judgment on Jury Verdict and Court Order on Equitable Claims was filed on April 1, 2020. Any motion to alter or amend the judgment must have been filed twenty-eight (28) days after entry of the judgment, or by April 29, 2020. This motion is timely.

B. Wendy failed to provide an analysis of the *Brunzell* factors as part of her request for fees and as such there is no basis to award her fees.

In evaluating the reasonableness of a request for attorney fees, the district court is required to consider the factors set forth in *Brunzell v. Golden Gate National Bank*, 85 Nev. 345, 349-50, 455 P.2d 31, 33 (1969). *See Shuette v. Beazer Homes Holding Corp.*, 121 Nev. 837, 865, 124 P.3d 530 (2005). In *Brunzell*, the Nevada Supreme Court set forth factors that must be considered in awarding attorney fees as follows: (1) the advocate’s qualities, including ability, training, education, experience, professional standing, and skill; (2) the character of the work, including its difficulty, intricacy, importance, as well as the time and skill required, the responsibility imposed, and the prominence and character of the parties when affecting the importance of the litigation; (3) the work performed, including the skill, time, and attention given to the work; and (4) the result – whether the attorney was successful and what benefits were derived. *See Barney v. Mt. Rose Heating & Air Conditioning*, 124 Nev. 821, 829, 192 P.3d 730, 736 (2008). These factors continue to be applicable to the award of fees, and the district court is “to provide[] sufficient reasoning and

1 findings in support of its ultimate determination.” *Shuette*, 121 Nev. at 865, 124 P.3d at 549.  
2 Indeed, it is an abuse of discretion for a district court to award fees without consideration of the  
3 *Brunzell* factors. *See Allen v. Nelson*, 126 Nev. 688, 367 P.3d 744 (2010) (unpublished disposition  
4 reversing award of fees for failure to consider *Brunzell* factors).

5 Here, Wendy provided no such analysis. As such, the award of fees set forth on page 22,  
6 section “d” of the Order After Equitable Trial, and at Section B. 2. of the Judgment on Jury Verdict  
7 and Court Order On Equitable Claims, is unsupported and an abuse of this Court’s discretion.  
8 Accordingly, Co-Trustees request that this Court alter or amend its judgment in order to remove  
9 the award of attorney’s fees to Wendy’s counsel.  
10

#### 11 IV.

#### 12 CONCLUSION

13 Based on the foregoing, the Co-Trustees respectfully request that this Court alter or amend  
14 the judgment by striking the award of fees set forth on page 22, section “d” of the Order After  
15 Equitable Trial, and at Section B. 2. of the Judgment on Jury Verdict and Court Order On Equitable  
16 Claims.  
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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 28<sup>th</sup> day of April, 2020.

MAUPIN, COX & LEGOY

By: 

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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: Philip L.  
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Family Trust and SSJ's Issue Trust*

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:

Alexi Smrt  
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Luke Jaksick  
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Benjamin Jaksick Amanda Jaksick c/o Dawn E. Jaksick 6220 Rouge Drive Reno, Nevada 89511	Regan Jaksick Sydney Jaksick Sawyer Jaksick c/o Lisa Jaksick 5235 Bellazza Ct. Reno, Nevada 89519
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Dated this 28<sup>th</sup> day of April, 2020.

  
EMPLOYEE