

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

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

TODD B. JAKSICK,
INDIVIDUALLY AND 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
AND 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.

Case No. 81470

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

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APPELLANT TRUSTEES' SUPPLEMENTAL APPENDIX TO REPLY
BRIEF ON APPEAL AND ANSWERING BRIEF ON CROSS APPEAL
(VOL. II of II)

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CERTIFICATE OF SERVICE

Pursuant to NRAP 25(b), I hereby certify that I am an employee of Maupin, Cox & LeGoy, and that on this day, I served, or caused to be served, a true and correct copy of the foregoing document by electronic service, via the Court's electronic notification system, to:

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Dated this 6th day of October, 2021.

/s/ Jennifer Salisbury
EMPLOYEE

CODE NO. 1945

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'S ISSUE TRUST.

In the Matter of the Administration of the

SAMUEL S. JAKSICK, JR. FAMILY TRUST.

AND ALL RELATED COUNTER-PETITIONS.

Case No. PR17-00445
(Consolidated with PR17-00446)
Dept. No. 15

RECOMMENDATION FOR ORDER

On May 25, 2018, Wendy A. Jaksick served Todd B. Jaksick (individually, as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust, and as Trustee of the SSJ's Issue Trust) with four separate NRCP 34 requests for production of documents.¹ The total number of categories presented to Todd in these four requests was 523.² Counsel for both sides discussed possible ways to limit the number of categories during a discovery conference on June 14, 2018; however, no resolution was reached at that time. Todd served his responses to these requests on June 27, 2018 (in his capacity as Co-Trustee of the Family Trust and sole trustee of the Issue Trust), and on July 16, 2018 (in his capacity

¹ The background of these proceedings is set forth in greater detail in previous Court decisions.

² The first request had 88; the second had 146; the third had 122, and the fourth had 167. In addition, Wendy served Todd with a fifth request on September 21, 2018, consisting of 10 categories; sixth, seventh, and eighth requests on October 25, 2018, consisting of 136, 78, and 6, respectively; and a ninth request for production consisting of 1 category on December 14, 2018. The total number of categories served on Todd by Wendy is therefore 754.

1 as an individual). Counsel for both sides thereafter discussed these requests and responses in July,
2 August, and September 2018, but were unable to resolve their disagreements in that regard.

3 On October 12, 2018, Wendy filed *Wendy Jaksick's Motion to Compel Production from Todd*
4 *Jaksick, Individually, as Co-Trustee of the Family Trust and as Trustee of the Issue Trust*. With
5 regard to the four NRCP 34 requests described above, Wendy seeks an order overruling Todd's
6 objections to the categories of her requests, and compelling Todd (a) to amend his responses to
7 confirm whether responsive documents exist and whether such documents have been produced or
8 are being withheld; (b) to produce all responsive documents; and (c) to reimburse her for the
9 expenses incurred in connection with this discovery dispute. *Todd B. Jaksick's, Individually,*
10 *Opposition to Wendy Jaksick's Motion to Compel Production and Countermotion for Protective*
11 *Order* was filed on November 1, 2018. A separate *Opposition to Wendy Jaksick's Motion to Compel*
12 *Production from Todd Jaksick, Individually as Co-Trustee of the Family Trust and as Trustee of the*
13 *Issue Trust* was filed by Todd in his capacity as Co-Trustee of the Family Trust and sole Trustee of
14 the Issue Trust on that same date. *Wendy Jaksick's Omnibus Response to the Oppositions to*
15 *Wendy Jaksick's Motion to Compel Production from Todd Jaksick, Individually, as Co-Trustee of the*
16 *Family Trust and as Trustee of the Issue Trust* was filed on November 13, 2018, and the motions
17 were submitted for decision on November 14, 2018.

18 This discovery dispute was briefly discussed during a hearing before the Presiding Judge on
19 November 16, 2018. In an order entered on November 26, 2018, the Court directed counsel for all
20 parties to participate in weekly discovery conferences on December 11, 2018; December 18, 2018;
21 January 8, 2019; and January 15, 2019 (and continuing thereafter on each Tuesday afternoon until
22 trial). At the initial conference, counsel discussed the motion to compel (among other matters), and
23 the Discovery Commissioner thereafter continued to review that matter. At the second conference,
24 the Discovery Commissioner inquired as to whether Wendy could identify requested documents that
25 were "mission critical" to the upcoming mediation, depositions, and trial. Wendy's counsel agreed to
26 provide a list of those categories, and the Discovery Commissioner clarified that providing this list

1 would not be construed as a waiver of any other categories from his client's four requests. At the
2 third conference, Wendy's counsel confirmed that a list of 88 categories was provided to Todd's
3 counsel on December 26, 2018, and that he was waiting for a response from Todd's counsel. At the
4 fourth conference, Todd's counsel represented that a response would be provided the next day.

5 In *Todd B. Jaksick's Fifth (January 18, 2019) Discovery Status Report*, filed on January 18,
6 2019, Todd stated that his counsel "is reviewing the 88 identified requests and is attempting to
7 identify where the requested documents can be found in the documents exchanged in discovery."
8 He added that he "is also attempting to determine whether specific requests requesting documents
9 not heretofore exchanged can be found and produced within the next several days." Otherwise,
10 however, resolution of the pending motion to compel is required.

11 The number of individual categories served upon Todd is problematic. Cf. Rapaport v.
12 Soffer, No. 2012 WL 6800377, at *2-3 (D. Nev. Dec. 31, 2012) (finding that alleged complexity of the
13 case did not justify service of Rule 34 request with 843 categories); Russo v. Lopez, No. 2012 WL
14 1463591, at *3-4 (D. Nev. Apr. 27, 2012) (granting motion for protective because, inter alia, number
15 of requests at issue—792—was excessive); Miss. Farm Bureau Mut. Ins. Co. v. Parker, 921 So. 2d
16 260, 266 (Miss. 2005) (citing the "grossly excessive" number of document requests, among other
17 factors, as a basis for reversing lower court's order compelling production of requested documents).
18 Although NRCP 34 does not impose a numerical limit like NRCP 33, a court still may limit a party's
19 use of document requests:

20 The frequency or extent of use of the discovery methods otherwise permitted under
21 these rules and by any local rule shall be limited by the court if it determines that: (i)
22 the discovery sought is unreasonably cumulative or duplicative, or is obtainable from
23 some other source that is more convenient, less burdensome, or less expensive; (ii)
24 the party seeking discovery has had ample opportunity by discovery in the action to
obtain the information sought; or (iii) the discovery is unduly burdensome or
expensive, taking into account the needs of the case, the amount in controversy,
limitations on the parties' resources, and the importance of the issues at stake in the
litigation.

25 Discovery may also be limited under NRCP 26(c), if the Court finds that an order is needed to
26 protect a party or person from annoyance, embarrassment, oppression, or undue burden or

1 expense. In that regard, the Discovery Commissioner can represent that he cannot recall a case in
2 which one side served another with so many categories of requested documents, even in cases in
3 which the amount at issue was greater. This is not to say that such cases have never occurred; but
4 if they did, no dispute was presented regarding the number of categories. Of course, service of so
5 many categories can impose a substantial burden, and many of the individual categories are
6 problematic.

7 In addition, although these requests were served in May 2018, the motion to compel their
8 production was not submitted until November 2018. The Court is not making any findings regarding
9 Wendy's diligence in that regard. But shortly after the motion was submitted, the Court confirmed
10 that the trial would proceed as scheduled on February 4, 2019, less than three months later.
11 Irrespective of Wendy's diligence, the Court is constrained to consider whether a limitation on the
12 number of categories is necessary in light of an impending trial date and the considerations
13 governing NRCP 26(b)(2) and NRCP 26(c) (governing protective orders).

14 The motion to compel is problematic as well. As Todd observes in his opposition, the motion
15 specifically addresses only one category, and her statements regarding that category do not
16 necessarily apply to the other 522 categories, which cover a wide array of topics. Many of the
17 requests are not stated with reasonable particularity or are overbroad (as explained in a previous
18 decision). Ordinarily, the Court requires that a motion to compel address each of the disputed
19 requests; if the same analysis applies to certain groups, the motion could group those together for
20 expediency. As a practical matter, however, the limited time available did not permit a decision
21 directing Wendy to re-file her motion with arguments presented as to all disputed categories, or to
22 hold a hearing at which counsel could discuss all disputed categories.

23 Under these circumstances, the Court will address the 88 categories designated by Wendy
24 as the most critical categories. To be clear, the Court is not finding that Wendy waived any
25 arguments as to the remaining 435 categories. Rather, in light of the concerns briefly explained
26 above, the Court is constrained to deny the motion as to those categories. The sheer number of

1 categories, the limited resources of the Discovery Commissioner, the minimal amount of time that
2 remains before trial commences, and the lack of argument specifically directed at all disputed
3 categories collectively support this result. Of course, separate and apart from Wendy's document
4 requests, an improper failure to produce documents that a party was required to produce in
5 accordance with NRCP 16.1 may be addressed at or before trial through NRCP 37(c)(1).³

6 This decision states the extent to which the Court will enforce specific categories and require
7 production of documents. To the extent that these categories arguably encompassed other
8 documents as well, the Court has determined that as to those other documents the individual
9 categories either are not stated with reasonable particularity, are overbroad, or that production is not
10 warranted under NRCP 26(b)(2). With regard to production, if Todd is able to identify by Bates
11 number any responsive documents that have already been produced in this litigation, then he may
12 satisfy his duty to produce documents by specifically identifying those documents in his response.
13 To the extent that new documents must be produced, Todd must produce them as soon as
14 reasonably possible, regardless of whether other responsive documents are still being obtained and
15 reviewed; that is, he is not permitted to delay his production of some responsive documents until all
16 responsive documents are retrieved, reviewed, and organized. Moreover, the commencement of
17 trial on February 4, 2019, does not terminate Todd's obligation to produce documents in compliance
18 with this decision. Any unreasonable delay in production can be addressed by the Court during trial,
19 and may include evidentiary sanctions. Because of the impending trial, this decision provides
20 minimal analysis, and focuses primarily on the Court's conclusions.

21 ³ That rule provides as follows:

22 A party that without substantial justification fails to disclose information required by Rule 16.1 or 26(e)(1),
23 or to amend a prior response to discovery as required by Rule 26(e)(2), is not, unless such failure is
24 harmless, permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information
25 not so disclosed. In addition to or in lieu of this sanction, the court, on motion and after affording an
26 opportunity to be heard, may impose other appropriate sanctions. In addition to requiring payment of
reasonable expenses, including attorney's fees, caused by the failure, these sanctions may include any
of the actions authorized under Rule 37(b)(2)(A), (B), and (C) and may include informing the jury of the
failure to make the disclosure.

26 The Court's orders at the case management conference on March 7, 2018, demonstrate that the parties were required to
make initial disclosures under NRCP 16.1, and the record shows that initial disclosures and supplements to those
disclosures were made.

1 **A. First Request for Production**

2 **1. Category No. 12: “All fee agreements, time and billing statements or print-**
3 **outs, bills, receipts and canceled checks from payment of any fees between Sam, or**
4 **anyone acting on his behalf, and any attorney representing him during the relevant**
5 **time period.”** This request is objectionably overbroad, and will not be enforced under NRCP
6 26(b)(2).

7 **2. Category No. 13: “All fee agreements, time and billing statements or print-**
8 **outs, bills, receipts and canceled checks from payment of any fees between Sam, or**
9 **anyone acting on his behalf, and any accountant representing him during the relevant**
10 **time period.”** This request is objectionably overbroad and will not be enforced under NRCP
11 26(b)(2).

12 **3. Category No. 39: “Copies of all documents reflecting the location, existence**
13 **of and title to all oil, gas or mineral interests, water interests and royalty rights of any**
14 **kind owned directly or indirectly by Sam on his date of death.”** Todd must produce
15 documents through which Sam acquired ownership, in whole or in part, as of the date of his
16 death, of any (a) oil, gas, or mineral interests; (b) water interests, and (c) royalty rights.

17 **4. Category No. 40: “Copies of all documents reflecting or evidencing payments**
18 **Sam or his Estate received due to his oil, gas or mineral interests, water interests and**
19 **royalty rights during the relevant time period.”** Todd must produce reports, memoranda,
20 or financial statements purporting to state the amounts paid to Sam or his Estate for a stated
21 period (e.g., monthly, quarterly, annually, etc.) due to his (a) oil, gas, or mineral interests; (b)
22 water interests; and (c) royalty rights.

23 **5. Category No. 41: Copies of all documents evidencing or showing that you**
24 **have transferred title or ownership of any property belonging to Sam and/or his Estate**
25 **into your name or the name of one of your family members or friends, or any entity**
26 **you control or have an interest in.”** Todd must produce any documents through which he
transferred title or ownership of any property belonging to Sam or his Estate into (a) Todd's
name, (b) the name of one of Todd's family members or friends, or (c) the name of any entity
Todd controls or has an interest in.

6. Category No. 43: “All documents evidencing any gift of property, real or
personal, from Sam or his Estate to you or any member of your family during the
relevant time period.” This request is not stated with reasonable particularity for purposes
of NRCP 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP
26(b)(2).

7. Category No. 56: “Copies of all federal income tax returns and any work or
supporting papers or documents related to or in connection with any federal income
tax returns for Sam or his Estate, at any point during the relevant time period.” This
request is not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is
objectionably overbroad, and will not be enforced under NRCP 26(b)(2). In addition, while
selected tax returns might be relevant (as found during the discovery status conference on
January 15, 2019), Wendy has not demonstrated that she is entitled to the discovery of all
such tax returns under the heightened showing required by the Nevada Supreme Court, so
this request will not be enforced.

1 **8. Category No. 58: “Copies of all federal income tax returns and any work or**
2 **supporting papers or documents related to or in connection with any federal income**
3 **tax returns for any partnership or any other entity in which Sam owned an interest in**
4 **or in which money or property of Sam were transferred at any point during the**
5 **relevant time period.”** This request is not stated with reasonable particularity for purposes
6 of NRCP 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP
7 26(b)(2). In addition, while selected tax returns might be relevant (as found during the
8 discovery status conference on January 15, 2019), Wendy has not demonstrated that she is
9 entitled to the discovery of all such tax returns under the heightened showing required by the
10 Nevada Supreme Court, so this request will not be enforced.

11 **9. Category No. 59: “Copies of all federal gift tax returns and any work or**
12 **supporting papers related to or in connection with any federal gift tax returns for Sam**
13 **at any point during the relevant time period.”** Wendy has not demonstrated that she is
14 entitled to the discovery of tax returns under the heightened showing required by the Nevada
15 Supreme Court, so this request will not be enforced.

16 **10. Category No. 67: “Copies of all personal financial statements, income**
17 **statements, balance sheets or similar type document prepared or issued by or for you**
18 **for any purpose at any time during the relevant time period.”**⁴ Todd may disregard the
19 phrase “or similar type document,” but the Court will otherwise require the production of
20 documents falling within the scope of this category.

21 **11. Category No. 77: “All documents evidencing debts, outstanding balances,**
22 **judgments or accounts payable against Sam and/or his Estate during the relevant time**
23 **period.”** This request is not stated with reasonable particularity for purposes of NRCP
24 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

25 **12. Category No. 80: “All documents reflecting any financial transactions of any**
26 **nature involving you and Sam during the relevant time period.”** Todd must produce any
agreements memorializing any transaction through which funds or assets with a value of
\$10,000 or more were transferred between Sam and Todd during the relevant time period.

13. Category No. 81: “All documents reflecting any financial transactions of any
nature involving you and Sam’s Estate during the relevant time period.” Todd must
produce any agreements memorializing any transaction through which funds or assets with a
value of \$10,000 or more were transferred between Sam’s Estate and Todd during the
relevant time period.

14. Category No. 82: “All documents relating to any loans made by Sam or
Sam’s Estate to or for the benefit of you, your children, or your family.” Todd must
produce loan agreements that were created to effectuate a loan between (a) Sam or Sam’s
Estate, and (b) Todd, Todd’s spouse, or Todd’s children.

B. Second Request for Production

1. Category No. 47: “The original or copies of all documents reflecting or
evidencing the transfer or distribution of any funds or assets of the Family Trust

⁴ Wendy has stated that Todd may redact any assets: (i) not received in whole or in part from Sam, his Estate, his trusts, or any of Sam’s entities, and (ii) in which Sam, his Estate, his trusts, or any of Sam’s entities did not have an interest at some point during the relevant time period.

1 during the relevant time period.” Todd must produce any documents through which funds
2 or assets of the Family Trust were transferred or distributed during the relevant time period.

3 **2. Category No. 50: “Copies of all documents reflecting the location, existence**
4 **of and title to all oil, gas or mineral interests, water interests and royalty rights of any**
5 **kind owned by the Family Trust on Sam’s date of death.”** Todd must produce
documents through which the Family Trust acquired ownership, in whole or in part, as of the
date of Sam’s death, of any (a) oil, gas, or mineral interests; (b) water interests, and (c)
royalty rights.

6 **3. Category No. 51: “Copies of all documents reflecting the location, existence**
7 **of and title to all oil, gas or mineral interests, water interests and royalty rights of any**
8 **kind currently owned by the Family Trust.”** Todd must produce documents through which
the Family Trust acquired its current ownership, in whole or in part, of any (a) oil, gas, or
mineral interests; (b) water interests, and (c) royalty rights.

9 **4. Category No. 52: “Copies of all documents reflecting or evidencing payments**
10 **the Family Trust received due to oil, gas or mineral interests, water interests and**
11 **royalty rights during the relevant time period.”** Todd must produce reports, memoranda,
or financial statements purporting to state the amounts paid to Sam or his Estate for a stated
period (e.g., monthly, quarterly, annually, etc.) due to his (a) oil, gas, or mineral interests; (b)
water interests; and (c) royalty rights.

12 **5. Category No. 53: “Copies of all documents relating to, evidencing or showing**
13 **the transfer of title or ownership of any property, real or personal, belonging to the**
14 **Family Trust into your name, in any capacity, your spouse’s name, or any of your**
15 **children’s names or the name of any trust in which you, your spouse or any of your**
16 **children are beneficiaries.”** Todd must produce documents through which he, his spouse,
his children, or any trust in which any of them are beneficiaries, acquired ownership of any
property from the Family Trust.

17 **6. Category No. 54: “Copies of all documents relating to, evidencing or showing**
18 **the transfer of title or ownership of any property, real or personal, belonging to the**
19 **Family Trust into the name of any entity in which you, in any capacity, your spouse or**
any of your children own or owned an interest.” Todd must produce documents through
which any entity in which he, his spouse, or any of his children own or owned an interest,⁵
acquired ownership of any property from the Family Trust.

20 **7. Category No. 76: “All bank statements, deposit slips, canceled checks, check**
21 **registers and/or bank account reconciliations on any account in the name of or held**
22 **for the benefit of the Family Trust, either in the name of the Family Trust alone or in**
23 **conjunction with any person or entity, at any time during the relevant time period.”**
Todd must produce the requested bank statements that are within his possession, custody,
or control (an issue on which the Court expresses no opinion at this time).

24 **8. Category No. 83: “All entity agreements and entity formation documents for**
25 **all entities in which the Family Trust held an interest, was a party or was a beneficiary**
26 **during the relevant time period.”** This request is objectionably overbroad and will not be
enforced under NRCP 26(b)(2).

⁵ For purposes of this category, the ownership interest must have existed at the time of the transfer.

1 **9. Category No. 86:** “All documents evidencing debts, outstanding balances,
2 judgments or accounts payable against the Family Trust during the relevant time
3 period.” This request is not stated with reasonable particularity for purposes of NRCP
34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

4 **10. Category No. 87:** “All documents reflecting any financial transactions of any
5 nature involving you, in any capacity, your spouse, or any of your children and the
6 Family Trust during the relevant time period.” Todd must produce any agreements
7 memorializing any transaction through which funds or assets were transferred between the
8 Family Trust and Todd, his spouse, or any of his children during the relevant time period.

9 **11. Category No. 90:** “All documents relating to any loans made by the Family
10 Trust to or for the benefit of you, in any capacity, your spouse or any of your
11 children.” Todd must produce loan agreements that were created to effectuate a loan
12 between the Family Trust and Todd, Todd’s spouse, or Todd’s children.

13 **12. Category No. 103:** “All documents supporting any accounting prepared by
14 or behalf of you or any of the other Co-Trustees of the Family Trust during the relevant
15 time period.” Todd must produce the underlying documents that were relied upon for the
16 information set forth in any accounting prepared by or behalf of Todd or any of the other Co-
17 Trustees of the Family Trust during the relevant time period.

18 **13. Category No. 104:** “All documents, including (but not limited to) copies of
19 any and all correspondences, cards, notes email correspondences and/or other
20 electronic, mobile, social media, text message, electronic message, or internet
21 correspondence of any kind, mentioning or evidencing the delivery of any Family
22 Trust accounting to Wendy, her attorney, or anyone else acting on Wendy’s behalf
23 during the relevant time period.” Todd must produce all documents purporting to state
24 that any Family Trust accounting was delivered to Wendy, her attorney, or anyone else
25 acting on Wendy’s behalf during the relevant time period.

26 **14. Category No. 115:** “Any and all originals, drafts, copies, revisions and
amendments, executed or unexecuted of the Agreement and Consent to Proposed
Action, dated July 16, 2013 (Exhibit ‘9’ to the Petition for Confirmation), and any and
all documents relating to, mentioning or evidencing the creation and execution of
same.” Todd must produce all documents that mention the execution of the referenced
document.

15. Category No. 116: “All written communications, correspondence, emails
and text messages sent or received during the relevant time period, that relate to or
mention the Agreement and Consent to Proposed Action, dated July 16, 2013 (Exhibit
‘9’ to the Petition for Confirmation), and/or the creation and execution of same.” Todd
must produce all communications that mention the execution of the referenced document.

16. Category No. 117: “All documents relating to, mentioning or evidencing that
one or more of the Co-Trustees provided full disclosure of information to Wendy
concerning the Agreement and Consent to Proposed Action, dated July 16, 2013
(Exhibit ‘9’ to the Petition for Confirmation), before it was executed.” This request is not
stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is objectionably
overbroad, and will not be enforced under NRCP 26(b)(2).

1 **17. Category No. 118:** "Any and all originals, drafts, copies, revisions and
2 amendments, executed or unexecuted of the Agreement and Consent to Proposed
3 Action, dated July 24, 2013 (Exhibit '10' to the Petition for Confirmation), and any and
4 all documents relating to, mentioning or evidencing the creation and execution of
5 same." Todd must produce all documents that mention the execution of the referenced
6 document.

7 **18. Category No. 119:** "All written communications, correspondence, emails
8 and text messages sent or received during the relevant time period, that relate to or
9 mention the Agreement and Consent to Proposed Action, dated July 24, 2013 (Exhibit
10 '10' to the Petition for Confirmation), and/or the creation and execution of same."
11 Todd must produce all communications that mention the execution of the referenced
12 document.

13 **19. Category No. 120:** "All documents relating to, mentioning or evidencing that
14 one or more of the Co-Trustees provided full disclosure of information to Wendy
15 concerning the Agreement and Consent to Proposed Action, dated July 24, 2013
16 (Exhibit '10' to the Petition for Confirmation), before it was executed." This request is
17 not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is objectionably
18 overbroad, and will not be enforced under NRCP 26(b)(2).

19 **20. Category No. 121:** "Any and all originals, drafts, copies, revisions and
20 amendments, executed or unexecuted of the Agreement and Consent to Proposed
21 Action, dated August 14, 2013 (Exhibit '10' to the Petition for Confirmation), and any
22 and all documents relating to, mentioning or evidencing the creation and execution of
23 same." Todd must produce all documents that mention the execution of the referenced
24 document.

25 **21. Category No. 122:** "All written communications, correspondence, emails
26 and text messages sent or received during the relevant time period, that relate to or
mention the Agreement and Consent to Proposed Action, dated August 14, 2013
(Exhibit '11' to the Petition for Confirmation), and/or the creation and execution of
same." Todd must produce all communications that mention the execution of the referenced
document.

22. Category No. 123: "All documents relating to, mentioning or evidencing that
one or more of the Co-Trustees provided full disclosure of information to Wendy
concerning the Agreement and Consent to Proposed Action, dated August 14, 2013
(Exhibit '11' to the Petition for Confirmation), before it was executed." This request is
not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is objectionably
overbroad, and will not be enforced under NRCP 26(b)(2).

23. Category No. 124: "Any and all originals, drafts, copies, revisions and
amendments, executed or unexecuted of the Agreement and Consent to Proposed
Action, dated August 26, 2013 (Exhibit '12' to the Petition for Confirmation), and any
and all documents relating to, mentioning or evidencing the creation and execution of
same." Todd must produce all documents that mention the execution of the referenced
document.

24. Category No. 125: "All written communications, correspondence, emails
and text messages sent or received during the relevant time period, that relate to or
mention the Agreement and Consent to Proposed Action, dated August 26, 2013

(Exhibit '12' to the Petition for Confirmation), and/or the creation and execution of same." Todd must produce all communications that mention the execution of the referenced document.

25. Category No. 126: "All documents relating to, mentioning or evidencing that one or more of the Co-Trustees provided full disclosure of information to Wendy concerning the Agreement and Consent to Proposed Action, dated August 26, 2013 (Exhibit '12' to the Petition for Confirmation), before it was executed." This request is not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

26. Category No. 127: "Any and all originals, drafts, copies, revisions and amendments, executed or unexecuted of the Agreement and Consent to Proposed Action, dated January 31, 2014 (Exhibit '13' to the Petition for Confirmation), and any and all documents relating to, mentioning or evidencing the creation and execution of same." Todd must produce all documents that mention the execution of the referenced document.

27. Category No. 128: "All written communications, correspondence, emails and text messages sent or received during the relevant time period, that relate to or mention the Agreement and Consent to Proposed Action, dated January 31, 2014 (Exhibit '13' to the Petition for Confirmation), and/or the creation and execution of same." Todd must produce all communications that mention the execution of the referenced document.

28. Category No. 129: "All documents relating to, mentioning or evidencing that one or more of the Co-Trustees provided full disclosure of information to Wendy concerning the Agreement and Consent to Proposed Action, dated January 31, 2014 (Exhibit '13' to the Petition for Confirmation), before it was executed." This request is not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

29. Category No. 130: "Any and all originals, drafts, copies, revisions and amendments, executed or unexecuted of the Agreement and Consent to Proposed Action, dated April 15, 2014 (Exhibit '14' to the Petition for Confirmation), and any and all documents relating to, mentioning or evidencing the creation and execution of same." Todd must produce all documents that mention the execution of the referenced document.

30. Category No. 131: "All written communications, correspondence, emails and text messages sent or received during the relevant time period, that relate to or mention the Agreement and Consent to Proposed Action, dated April 15, 2014 (Exhibit '14' to the Petition for Confirmation), and/or the creation and execution of same." Todd must produce all communications that mention the execution of the referenced document.

31. Category No. 132: "All documents relating to, mentioning or evidencing that one or more of the Co-Trustees provided full disclosure of information to Wendy concerning the Agreement and Consent to Proposed Action, dated April 15, 2014 (Exhibit '14' to the Petition for Confirmation), before it was executed." This request is not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

1 **32. Category No. 133:** “Any and all originals, drafts, copies, revisions and
2 amendments, executed or unexecuted of the Agreement and Consent to Proposed
3 Action, dated April 28, 2014 (Exhibit ‘15’ to the Petition for Confirmation), and any and
4 all documents relating to, mentioning or evidencing the creation and execution of
5 same.” Todd must produce all documents that mention the execution of the referenced
6 document.

7 **33. Category No. 134:** “All written communications, correspondence, emails
8 and text messages sent or received during the relevant time period, that relate to or
9 mention the Agreement and Consent to Proposed Action, dated April 28, 2014 (Exhibit
10 ‘15’ to the Petition for Confirmation), and/or the creation and execution of same.”
11 Todd must produce all communications that mention the execution of the referenced
12 document.

13 **34. Category No. 135:** “All documents relating to, mentioning or evidencing that
14 one or more of the Co-Trustees provided full disclosure of information to Wendy
15 concerning the Agreement and Consent to Proposed Action, dated April 28, 2014
16 (Exhibit ‘15’ to the Petition for Confirmation), before it was executed.” This request is
17 not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is objectionably
18 overbroad, and will not be enforced under NRCP 26(b)(2).

19 **35. Category No. 136:** “Any and all originals, drafts, copies, revisions and
20 amendments, executed or unexecuted of the Agreement and Consent to Proposed
21 Action, dated September 25, 2014 (Exhibit ‘16’ to the Petition for Confirmation), and
22 any and all documents relating to, mentioning or evidencing the creation and
23 execution of same.” Todd must produce all documents that mention the execution of the
24 referenced document.

25 **36. Category No. 137:** “All written communications, correspondence, emails
26 and text messages sent or received during the relevant time period, that relate to or
mention the Agreement and Consent to Proposed Action, dated September 25, 2014
(Exhibit ‘16’ to the Petition for Confirmation), and/or the creation and execution of
same.” Todd must produce all communications that mention the execution of the referenced
document.

37. Category No. 138: “All documents relating to, mentioning or evidencing that
one or more of the Co-Trustees provided full disclosure of information to Wendy
concerning the Agreement and Consent to Proposed Action, dated September 25,
2014 (Exhibit ‘16’ to the Petition for Confirmation), before it was executed.” This
request is not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is
objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

C. Third Request for Production

1. Category No. 19: “All state and federal tax documents prepared, issued
and/or filed by the Issue Trust during the relevant time period.” Todd must produce all
tax returns filed by the Issue Trust.

2. Category No. 22: “All fee agreements, time and billing statements or print-
outs, bills, receipts and canceled checks from payment of any fees between the Issue
Trust, or anyone acting on behalf of the Issue Trust, and any attorney or law firm
representing the Issue Trust during the relevant time period.” Todd must produce (a)

1 any agreements between the Issue Trust and any attorney or law firm representing the Issue
2 Trust during the relevant period; (b) any documents—whether or not they are designated as
3 invoices, bills, statements, or some other word or phrase—through which an attorney or law
4 firm informed the Issue Trust of fees owed by that trust for work performed; and (c) any
5 canceled checks originally issued by the Issue Trust that were created to pay an attorney or
6 law firm.

7 **3. Category No. 38: “The original or copies of all documents reflecting the**
8 **location, existence of and title to any and all Issue Trust assets on Sam’s date of**
9 **death.”** Todd must produce all documents through which the Issue Trust acquired
10 ownership of any property that it owned as of the date of Sam’s death.

11 **4. Category No. 39: “The original or copies of all documents reflecting or**
12 **evidencing the transfer or distribution of any funds or assets of the Issue Trust during**
13 **the relevant time period.”** Todd must produce any documents through which funds or
14 assets of the Issue Trust were transferred or distributed during the relevant time period.

15 **5. Category No. 40: “All documents, instruments or other papers reflecting the**
16 **sale, potential sale, purchase and/or potential purchase of any property, real or**
17 **personal, by the Issue Trust, or anyone acting on behalf of the Issue Trust during the**
18 **relevant time period.”** Todd must produce any agreement through which the Issue Trust,
19 or anyone acting on behalf of the Issue Trust, either sold or purchased property during the
20 relevant time period.

21 **6. Category No. 42: “Copies of all documents reflecting the location, existence**
22 **of and title to all oil, gas or mineral interests, water interests and royalty rights of any**
23 **kind owned by the Issue Trust on Sam’s date of death.”** Todd must produce documents
24 through which the Issue Trust acquired ownership, in whole or in part, as of the date of
25 Sam’s death, of any (a) oil, gas, or mineral interests; (b) water interests, and (c) royalty
26 rights.

7. Category No. 44: “Copies of all documents reflecting or evidencing payments
the Issue Trust received due to oil, gas or mineral interests, water interests and royalty
rights during the relevant time period.” Todd must produce reports, memoranda, or
financial statements purporting to state the amounts paid to the Issue Trust for a stated
period (e.g., monthly, quarterly, annually, etc.) due to his (a) oil, gas, or mineral interests; (b)
water interests; and (c) royalty rights.

8. Category No. 45: “Copies of all documents relating to, evidencing or showing
the transfer of title or ownership of any property, real or personal, belonging to the
Issue Trust into your name, in any capacity, your spouse’s name, or any of your
children’s names or the name of any trust in which you, your spouse or any of your
children are beneficiaries.” Todd must produce documents through which he, his spouse,
his children, or any trust in which any of them are beneficiaries, acquired ownership of any
property from the Issue Trust.

9. Category No. 46: “Copies of all documents relating to, evidencing or showing
the transfer of title or ownership of any property, real or personal, belonging to the
Issue Trust into the name of any entity in which you, in any capacity, your spouse or
any of your children own or owned an interest.” Todd must produce documents through

1 which any entity in which he, his spouse, or any of his children own or owned an interest,⁶
2 acquired ownership of any property from the Issue Trust.

3 **10. Category No. 68: “All bank statements, deposit slips, canceled checks,**
4 **check registers and/or bank account reconciliations on any account in the name of or**
5 **held for the benefit of the Issue Trust, either in the name of the Issue Trust alone or in**
6 **conjunction with any person or entity, at any time during the relevant time period.”** Todd must produce the requested bank statements that are within his possession, custody,
7 or control (an issue on which the Court expresses no opinion at this time).

8 **11. Category No. 75: “All entity agreements and entity formation documents for**
9 **all entities in which the Issue Trust held an interest, was a party or was a beneficiary**
10 **during the relevant time period.”** This request is objectionably overbroad and will not be
11 enforced under NRCP 26(b)(2).

12 **12. Category No. 78: “All documents evidencing debts, outstanding balances,**
13 **judgments or accounts payable against the Issue Trust during the relevant time**
14 **period.”** This request is not stated with reasonable particularity for purposes of NRCP
15 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

16 **13. Category No. 79: “All documents reflecting any financial transactions of any**
17 **nature involving you, in any capacity, your spouse, or any of your children and the**
18 **Issue Trust during the relevant time period.”** Todd must produce any agreements
19 memorializing any transaction through which funds or assets were transferred between the
20 Issue Trust and Todd, his spouse, or any of his children during the relevant time period.

21 **14. Category No. 85: “All documents relating to any loans made by the Issue**
22 **Trust to or for the benefit of anyone or any entity not a beneficiary of the Issue Trust**
23 **during the relevant time period.”** Todd must produce loan agreements that were created
24 to effectuate a loan from the Issue Trust to anyone or any entity not a beneficiary of the Issue
25 Trust during the relevant time period.

26 **15. Category No. 86: “All documents relating to, mentioning or evidencing any**
loan(s) obtained by the Issue Trust during the relevant time period.” Todd must
produce loan agreements that were created to effectuate any loan to the Issue Trust during
the relevant time period.

16. Category No. 88: “All documents that relate to, mention or evidence the
payment of any creditor of the Issue Trust during the relevant time period.” This
request is not stated with reasonable particularity for purposes of NRCP 34(b)(1)(A), is
objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

17. Category No. 90: “All documents supporting any accounting prepared by or
behalf of you, in your capacity as Trustee of the Issue Trust, during the relevant time
period.” Todd must produce the underlying documents that were relied upon for the
information set forth in any accounting prepared by or behalf of Todd, in his capacity as
Trustee of the Issue Trust, during the relevant time period.

18. Category No. 101: “Any and all originals, drafts, copies, revisions and
amendments, executed or unexecuted, of documents that relate to, mention, or show

⁶ For purposes of this category, the ownership interest must have existed at the time of the transfer.

1 any written agreements authorizing and approving actions taken by the Trustee of the
2 Issue Trust during the relevant time period.” This request is not stated with reasonable
3 particularity for purposes of NRCP 34(b)(1)(A), is objectionably overbroad, and will not be
4 enforced under NRCP 26(b)(2).

5 **19. Category No. 102:** “Any and all originals, drafts, copies, revisions and
6 amendments, executed or unexecuted of the Agreement and Consent to Proposed
7 Action, dated June 5, 2013 (Exhibit ‘7’ to the Petition for Confirmation), and any and all
8 documents relating to, mentioning or evidencing the creation and execution of same.”
9 Todd must produce all documents that mention the execution of the referenced document.

10 **20. Category No. 103:** “All written communications, correspondence, emails
11 and text messages sent or received during the relevant time period, that relate to or
12 mention the Agreement and Consent to Proposed Action, dated June 5, 2013 (Exhibit
13 ‘7’ to the Petition for Confirmation), and/or the creation and execution of same.” Todd
14 must produce all communications that mention the execution of the referenced document.

15 **21. Category No. 104:** “All documents relating to, mentioning or evidencing that
16 you, in your capacity as Trustee of the Issue Trust, provided full disclosure of
17 information to Wendy concerning the Agreement and Consent to Proposed Action,
18 dated June 5, 2013 (Exhibit ‘7’ to the Petition for Confirmation), and/or the creation and
19 execution of same.” This request is not stated with reasonable particularity for purposes of
20 NRCP 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP
21 26(b)(2).

22 **22. Category No. 105:** “Any and all originals, drafts, copies, revisions and
23 amendments, executed or unexecuted of the Agreement and Consent to Proposed
24 Action, dated August 28, 2014 (Exhibit ‘8’ to the Petition for Confirmation), and any
25 and all documents relating to, mentioning or evidencing the creation and execution of
26 same.” Todd must produce all documents that mention the execution of the referenced
document.

23. Category No. 106: “All written communications, correspondence, emails
and text messages sent or received during the relevant time period, that relate to or
mention the Agreement and Consent to Proposed Action, dated August 28, 2014
(Exhibit ‘8’ to the Petition for Confirmation), and/or the creation and execution of
same.” Todd must produce all communications that mention the execution of the referenced
document.

24. Category No. 107: “All documents relating to, mentioning or evidencing that
you, in your capacity as Trustee of the Issue Trust, provided full disclosure of
information to Wendy concerning the Agreement and Consent to Proposed Action,
dated August 28, 2014 (Exhibit ‘8’ to the Petition for Confirmation), and/or the creation
and execution of same.” This request is not stated with reasonable particularity for
purposes of NRCP 34(b)(1)(A), is objectionably overbroad, and will not be enforced under
NRCP 26(b)(2).

25. Category No. 108: “Any and all originals, drafts, copies, revisions and
amendments, executed or unexecuted of the Agreement and Consent to Proposed
Action, dated September 25, 2014 (Exhibit ‘9’ to the Petition for Confirmation), and any
and all documents relating to, mentioning or evidencing the creation and execution of

1 same." Todd must produce all documents that mention the execution of the referenced
2 document.

3 **26. Category No. 109:** "All written communications, correspondence, emails
4 and text messages sent or received during the relevant time period, that relate to or
5 mention the Agreement and Consent to Proposed Action, dated September 25, 2014
(Exhibit '9' to the Petition for Confirmation), and/or the creation and execution of
6 same." Todd must produce all communications that mention the execution of the referenced
7 document.

8 **27. Category No. 110:** "All documents relating to, mentioning or evidencing that
9 you, in your capacity as Trustee of the Issue Trust, provided full disclosure of
10 information to Wendy concerning the Agreement and Consent to Proposed Action,
11 dated September 25, 2014 (Exhibit '9' to the Petition for Confirmation), before it was
12 executed." This request is not stated with reasonable particularity for purposes of NRCP
13 34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

14 **28. Category No. 111:** "Any and all originals, drafts, copies, revisions and
15 amendments, executed or unexecuted of the Agreement and Consent to Proposed
16 Action, dated November 13, 2015 (Exhibit '10' to the Petition for Confirmation), and
17 any and all documents relating to, mentioning or evidencing the creation and
18 execution of same." Todd must produce all documents that mention the execution of the
19 referenced document.

20 **29. Category No. 112:** "All written communications, correspondence, emails
21 and text messages sent or received during the relevant time period, that relate to or
22 mention the Agreement and Consent to Proposed Action, dated November 13, 2015
23 (Exhibit '10' to the Petition for Confirmation), and/or the creation and execution of
24 same." Todd must produce all communications that mention the execution of the referenced
25 document.

26 **30. Category No. 113:** "All documents relating to, mentioning or evidencing that
you, in your capacity as Trustee of the Issue Trust, provided full disclosure of
information to Wendy concerning the Agreement and Consent to Proposed Action,
dated November 13, 2015 (Exhibit '10' to the Petition for Confirmation), before it was
executed." This request is not stated with reasonable particularity for purposes of NRCP
34(b)(1)(A), is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

27 **D. Fourth Request for Production**

28 **1. Category No. 15:** "All state and federal tax documents prepared, issued
29 and/or filed in relation to SSJ, LLC during the relevant time period." Wendy has not
30 demonstrated that she is entitled to the discovery of tax returns under the heightened
31 showing required by the Nevada Supreme Court, so this request will not be enforced.

32 **2. Category No. 76:** "All documents that relate to, mention or evidence any
33 debts of the 'Indemnitees' (as the term is defined in the first paragraph of Todd's
34 Indemnification Agreement) that have been paid, forgiven or cancelled pursuant to the
35 terms of Todd's Indemnification Agreement." Todd must produce any documents
36 mentioning that any debt of the Indemnitees has been paid, forgiven, or cancelled under the
terms of Todd's Indemnification Agreement.

1 **3. Category No. 77:** "All documents that relate to, mention or evidence any
2 debts of the 'Indemnitees' (as the term is defined in the first paragraph of Todd's
3 Indemnification Agreement) that have not been paid, forgiven or cancelled but that
4 you believe or allege are obligated to be paid, forgiven or cancelled under the terms of
5 Todd's Indemnification Agreement." Todd must produce any documents mentioning that
6 any debt of the Indemnitees has not been paid, forgiven, or cancelled under the term of
7 Todd's Indemnification Agreement.

8 **4. Category No. 79:** "All documents that relate to, mention or evidence any
9 payments made on the debts of the 'Indemnitees' (as the term is defined in the first
10 paragraph of Todd's Indemnification Agreement) that have been paid under the terms
11 of Todd's Indemnification Agreement." This request is effectively subsumed within
12 Category No. 76, and the analysis presented there applies here as well. This request will not
13 be separately enforced under NRCP 26(b)(2).

14 **5. Category No. 81:** "All documents that relate to, mention or evidence any
15 debts of the 'Indemnitees' (as the term is defined in the first paragraph of Todd's
16 Indemnification Agreement) that have not been paid, forgiven or cancelled but that
17 you believe or allege are obligated to be paid, forgiven or cancelled under the terms of
18 Todd's Indemnification Agreement." This request is identical to Category No. 77, and the
19 analysis presented there applies here as well. This request will not be separately enforced
20 under NRCP 26(b)(2).

21 **6. Category No. 98:** "Any and all files and documents relating to the formation
22 of Bright Holland, Co., including, but not limited to, entity agreements, articles of
23 formation, amendments to entity agreements, by-laws, and any and all amendments,
24 supplements, addendums, alterations thereto or any other similar or connected
25 document." This category is not stated with reasonable particularity, is objectionably
26 overbroad, and will not be enforced under NRCP 26(b)(2).

7. Category No. 109: "Copies of all documents relating to or reflecting the
purchase, sale or transfer of any asset of Bright Holland, Co., including Fly Ranch,
during the relevant time period." Todd must produce any closing statement generated as
a result of the sale of Fly Ranch as an asset of Bright Holland Co.

8. Category No. 115: "All records and documents relating to, mentioning or
reflecting the disposition of the proceeds of the Fly Ranch sale." This category is
objectionably overbroad and will not be enforced under NRCP 26(b)(2).

9. Category No. 118: "All records and documents relating to, mentioning or
reflecting purpose for the payment or transfer of any of the proceeds of the Fly Ranch
sale to the entity known as Jack Rabbit or Jack Rabbit Properties, LLC." Todd must
produce any documents expressly mentioning the purpose for the payment or transfer of any
proceeds from the Fly Ranch sale to the entity known as Jack Rabbit or Jack Rabbit
Properties, LLC.

10. Category No. 123: "All correspondences, cards, notes, email
correspondences and/or other electronic, mobile, social media, text message,
electronic message, or internet correspondence of any kind between you, in any
capacity, and anyone else concerning or mentioning Bright Holland, Co. and/or the
sale of Fly Ranch prepared or sent during the relevant time period." This category is

not stated with reasonable particularity, is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

11. Category No. 126: “Any and all documents relating to, mentioning or reflecting any loans to which Bright Holland, Co. was a party during the relevant time period.” Todd must produce any loan agreements to which Bright Holland Co. was a party.

12. Category No. 146: “All records and documents relating to, mentioning or reflecting the disposition of the proceeds of the Bronco Billy’s sale.” This category is objectionably overbroad and will not be enforced under NRCP 26(b)(2).

13. Category No. 148: “All records and documents relating to, mentioning or reflecting the current status and/or location of the proceeds of the Bronco Billy’s sale that were payable to Wendy or the Family Trust.” The Court will require the production of documents mentioning the location of the proceeds from the Bronco Billy’s sale that were payable to Wendy or the Family Trust.

14. Category No. 157: “All records and documents relating to, mentioning or reflecting any actions taken by you, in any capacity, Stan, in any capacity, Kevin, in any capacity, or anyone else to enable the Bronco Billy’s sale to proceed, when Wendy could not or did not own a license from the Colorado Division of Gaming.” This category is not stated with reasonable particularity, is objectionably overbroad, and will not be enforced under NRCP 26(b)(2).

IT SHOULD, THEREFORE, BE ORDERED that Todd Jaksick produce for inspection and copying by Wendy Jaksick the documents within his possession, custody, or control that fall within the categories of her first four requests for production of documents to him, to the extent required by and in accordance with this decision.

DATED: This 23rd day of January, 2019.


WESLEY M. AYRES
DISCOVERY COMMISSIONER

CERTIFICATE OF SERVICE

CASE NO. PR17-00445

I certify that I am an employee of the SECOND JUDICIAL DISTRICT COURT of the STATE OF NEVADA, COUNTY OF WASHOE; that on the 23rd day of January, 2019, I electronically filed the **RECOMMENDATION FOR ORDER** with the Clerk of the Court by using the ECF system.

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

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

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27 *and Michael S. Kimmel of the SSJ's Issue Trust and*

28 *Samuel S. Jaksick, Jr., Family Trust and Kevin Riley*

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

In the Matter of the:

SSJ's ISSUE TRUST.

CASE NO.: PR17-00445

DEPT. NO.: 15

In the Matter of the:

SAMUEL S. JAKSICK, JR., FAMILY TRUST.

CASE NO.: PR17-00446

DEPT. NO.: 15

WENDY JAKSICK,

Respondent and Counter-Petitioner,

v.

**TODD B. JAKSICK'S OPPOSITION TO
WENDY JAKSICK'S EMERGENCY MOTION
TO EXTEND DISCOVERY DEADLINES AND
TRIAL FOR CAUSE AND ALTERNATIVELY
MOTION TO CONTINUE TRIAL PURSUANT
TO NRS 16.010**

1 TODD B. JAKSICK, Individually, as Co-
2 Trustee of the Samuel S. Jaksick Jr. Family
3 Trust, and as Trustee of the SSJ's Issue Trust;
4 MICHAEL S. KIMMEL, Individually and as
5 Co-Trustee of the Samuel S. Jaksick Jr. Family
6 Trust; STANLEY S. JAKSICK, Individually
7 and as Co-Trustee of the Samuel S. Jaksick Jr.
8 Family Trust; KEVIN RILEY, Individually, as
9 Former Trustee of the Samuel S. Jaksick Jr.
10 Family Trust, and as Trustee of the Wendy A.
11 Jaksick 2012 BHC Family Trust,

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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.

Petitioner and Counter-Respondent.

**TODD B. JAKSICK'S OPPOSITION TO WENDY JAKSICK'S EMERGENCY MOTION
TO EXTEND DISCOVERY DEADLINES AND TRIAL FOR CAUSE AND
ALTERNATIVELY MOTION TO CONTINUE TRIAL PURSUANT TO NRS 16.010**

Todd B. Jaksick ("Todd"), by and through his counsel, opposes Wendy Jaksick's
("Wendy's") Emergency Motion to Extend Discovery Deadlines and Trial for Cause and
Alternatively, Motion to Continue Trial Pursuant to NRS 16.010, as follows:

I. TIMELINE OF DISCOVERY.

Because the timing of discovery and litigation deadlines is important to this Court's
consideration of Wendy's motion for discovery, Todd provides the following:

A. THE PLEADINGS – AUGUST 2017 TO FEBRUARY 2018.

This lawsuit began on August 2, 2017, when Todd filed both of his Petitions in this matter.
On October 10, 2017, Wendy filed very vague oppositions and objections to these pleadings.

At a status conference before this Court on January 4, 2018, this Court ordered Wendy to
file her actual Counter-Petition no later than January 19, 2018. On January 4, 2018, this Court

1 also set the jury trial for this matter to commence on February 4, 2019. Finally, at that hearing,
2 this Court stated that the matter would proceed under the Rules of Discovery, but that this Court
3 would play an active role in overseeing the discovery process. As a result, no formal early case
4 conference was needed.

5 Wendy filed her Counter-Petition on January 19, 2018. Wendy then filed her Amended
6 Counter-Petition on February 23, 2018. Wendy has never given this Court any reason as to why
7 she was unable to file her Petition within 20 days of Todd's initial pleadings in August 2017.

8 **B. DISCOVERY BEGINS IN FEBRUARY 2018.**

9 On February 15, 2018, Todd, in his capacity as Trustee, provided Wendy with his initial
10 NRCP 16.1 disclosures. The next day, on February 16, 2018, Todd, in his capacity as an
11 individual, provided Wendy with his Initial NRCP 16.1 Disclosures. The parties appeared for a
12 status conference before this Court on March 7, 2018. Wendy acknowledged that her initial
13 disclosures were past due, but stated that her reason in being late was "due to difficulty organizing
14 with an attorney located in Texas." This Court ordered Wendy to produce her NRCP 16.1
15 disclosures by 5 p.m. on March 12, 2018.

16 Wendy provided Todd with her initial disclosures on March 12, 2018, one month late, after
17 being ordered to do so by this Court.

18 **C. WENDY DOES NOTHING, FOR MONTHS.**

19 **1. Wendy's Document Requests to Todd.**

20 Immediately after receiving Wendy's initial disclosures, Todd served Wendy with his first
21 written discovery requests in March 2018.

22 In contrast, Wendy did not serve her written discovery requests on any party until over two
23 months after she served her first initial disclosures. On May 25, 2018, Wendy served Todd with
24 four sets of requests for production. Wendy stated that each request was to Todd in all three of his
25 capacities: (1) as an individual, (2) as Trustee of the Issue Trust, and (3) as Co-Trustee of the
26 Family Trust. The number of requests totaled 1,569.

1 Todd responded on July 16, 2018 to Wendy's requests. He produced some documents, but
2 objected to the vast majority of Wendy's requests as overly broad. As this Court now knows,
3 Todd's objections have been largely upheld by the Discovery Commissioner.

4 Wendy did not move to compel Todd's responses for *four months*, despite missing
5 documents she now deems as "mission critical."

6 During that four months, Wendy took her first two days of Todd's deposition on August 15
7 and 16, 2018. Wendy did not have the documents she now claims are "mission critical," when she
8 took that deposition. Wendy did not move to compel Todd's production of these documents
9 before taking his deposition.

10 **2. The Maupin Cox Subpoena.**

11 On August 6, 2018, Wendy subpoenaed Maupin, Cox & LeGoy. Maupin, Cox & LeGoy
12 timely objected on August 20, 2018. Wendy did not move to compel their responses.

13 **3. Kevin Riley.**

14 On August 1, 2018, Wendy served her first request for production of documents on Kevin
15 Riley. It contained 333 requests, counting subparts. Wendy then joined Stan's original notice of
16 Kevin's deposition for late August, despite knowing he would not be required to respond to her
17 requests by that date.

18 Kevin Riley responded on August 31, 2018 and objected to the vast majority of Wendy's
19 requests as impermissibly overbroad. As this Court is now aware, the majority of his objections
20 were upheld.

21 **D. WENDY LOSES HER MOTION TO CONTINUE TRIAL.**

22 Discovery was originally set to close on October 31, 2018. On September 21, 2018,
23 Wendy filed a motion requesting this Court to continue trial. Her motion was largely similar to
24 this current motion and predicated on her theme that she has been consistently denied discovery.
25 *At the time Wendy filed this motion, she had not filed a single motion to compel* the discovery
26 she claims she was owed. Todd pointed this fact out in his opposition.

27 That same date, Wendy sent Todd an additional ten (10) requests for production, seeking
28 Judge Hascheff's files which were in Todd's possession. Todd responded on October 23, 2018.

1 In September 2018, Wendy subpoenaed certain documents from Jessica Clayton and
2 Nanette Childers. Jessica Clayton and Nanette Childers timely objected to the Subpoena Duces
3 Tecum under NRCP 45 on October 1, 2018. Wendy did nothing.

4 On October 12, 2018, Wendy finally filed a Motion to Compel Production of Documents
5 from Todd.

6 On October 25, 2018, Wendy sent Todd her Sixth, Seventh and Eighth Requests for
7 Production of Documents, bringing the total number of her document requests to Todd alone to
8 1,799.

9 Wendy filed a Motion to Compel Production From Jessica Clayton on November 14, 2018.

10 During this time, Wendy did not notice a single deposition. She joined in Stan's deposition
11 notices of Todd, Kevin Riley, and Pierre Hascheff, and in Todd's deposition of Stan.

12 On November 26, 2018, this Court denied Wendy's Motion to Continue Trial. This Court
13 did, however, agree to extend discovery deadlines. This Court ordered that expert disclosures
14 were to be made on December 17, 2018, and rebuttal experts disclosed on December 31, 2018.
15 Fact discovery was ordered to close on January 18, 2019, and expert discovery on February 1,
16 2019. Todd was to sit for his seventh day of deposition testimony as the last witness prior to trial.
17 The parties were ordered to a settlement conference.

18 **E. WENDY'S PRE-TRIAL DISCOVERY CONDUCT.**

19 It was not until this Court made it clear that Wendy was not going to obtain a trial
20 continuance that Wendy began to take discovery seriously. Prior to this Court's ruling, Wendy did
21 not seek to depose key fact witnesses, including Bob LeGoy, Brian McQuaid, and Nicholas
22 Palmer. Despite Maupin, Cox & LeGoy's objections filed over four months earlier, Wendy had
23 not sought to compel production.

24 On December 5, 2018, Wendy issued a slew of subpoenas to Bank of America and Sam's
25 doctors in Los Angeles.

26 On December 6, 2018, Wendy finally filed a Motion to Compel against Maupin, Cox &
27 LeGoy. This motion has been fully briefed, but no order has been entered on it. Despite not being
28 under any requirement to do so, Maupin Cox & LeGoy provided Wendy with some records on

1 December 14, 2018, in good faith. The privilege log of which Wendy complains was produced by
2 Maupin, Cox & LeGoy despite having no order or legal obligation to do so.

3 That same day, she also filed a Motion to Compel against Nanette Childers.

4 On December 14, 2018, Wendy served her Ninth Request for Production on Todd, bringing
5 the total number of requests to Todd alone to 1,800.

6 On December 19, 2018, Wendy subpoenaed Ticor Title.

7 Wendy did not send out deposition notices and/or subpoenas to Bob LeGoy, Brian
8 McQuaid and Nicholas Palmer until December 28, 2018.

9 Finally, on January 3, 2019, Wendy attempted to notice depositions for the NRCP 30(b)(6)
10 witnesses of the Family and Issue Trusts.

11 **F. THE DISCOVERY COMMISSIONER RULES AGAINST WENDY ON THE**
12 **MAJORITY OF HER DISCOVERY REQUESTS.**

13 On December 28, 2018, the Discovery Commissioner recommended *only three* of
14 Wendy's requests to Jessica Clayton be enforced. The Discovery Commissioner partially enforced
15 two of Wendy's other requests, provided she provided more particularity and/or an ESI protocol.
16 Jessica Clayton responded to the Subpoena Duces Tecum.

17 Following a Motion for a Protective Order filed by Todd regarding the NRCP 30(b)(6)
18 depositions of the Trusts, the Discovery Commissioner denied Wendy's request to take these
19 depositions. The Trustees of these trusts had already sat for a total of twelve (12) days of
20 deposition testimony.

21 On January 4, 2019, the Discovery Commissioner recommended that only 100 of Wendy's
22 333 requests to Kevin Riley be enforced. The Discovery Commissioner further limited the 100 he
23 was enforcing in scope and topic because he found these 100 to be "objectionably overbroad."

24 The Discovery Commissioner informally resolved Wendy's Motion to Compel regarding
25 Nanette Childers, but again did not enforce all of Wendy's requests. Nanette Childers responded
26 to the Subpoena.

27 Finally, on January 23, 2019, the Discovery Commissioner took on Wendy's document
28 requests to Todd. He found that "the number of requests served upon Todd is problematic." He

1 found that “service of so many categories can impose a substantial burden, and many of the
2 individual requests are problematic.” The Discovery Commissioner noted Wendy’s delay, stating
3 that “although these requests were served in May, the Motion to Compel their production was not
4 submitted until November 2018.” Regarding the Motion to Compel, the Discovery Commissioner
5 found that it was also “problematic” and that “many of the requests are not stated with reasonable
6 particularity or are overbroad.”

7 Due to the impending trial, the Discovery Commissioner only addressed the 88 requests
8 that Wendy deemed “mission critical.” Of these, he only enforced 55.

9 On January 24, 2019, the Discovery Commissioner entered another recommendation and
10 order on an additional 21 of Wendy’s requests. Of those, he only enforced 7 and again
11 substantially narrowed those requests in scope and topic. Of the 1,800 document requests that
12 Wendy has served upon Todd, only 62 have been enforced.

13 Todd complied with the Discovery Commissioner’s order. On January 30, 2019, six days
14 later, he identified all previously disclosed and responsive documents, as expressly permitted and
15 requested by the Discovery Commissioner in the order. The very next day, Todd disclosed an
16 additional 1,700 documents. Wendy had those documents *and used them* in Todd’s final
17 deposition on February 1, 2019.

18 Regarding the Maupin Cox & LeGoy Subpoena, there has been no recommendation made
19 as to whether Maupin Cox & LeGoy must respond. Pursuant to Rule 45, in light of their
20 objections, they are under no obligation to do so until ordered by a court. Despite this, Maupin
21 Cox & LeGoy has produced certain records and Maupin Cox & LeGoy has produced a privilege
22 log.

23 Wendy now seeks to capitalize upon her lack of diligence to seek a continuance of trial.
24 This Court should not be fooled by her arguments. As Wendy keeps stating, the numbers do not
25 lie. The numbers this Court should focus upon are the dates on which Wendy actually attempted
26 to begin discovery in earnest. That date is two months before trial was scheduled to begin.

27 **II. WENDY’S MOTION SHOULD BE DENIED.**

28 **A. A CONTINUANCE OF TRIAL IS NOT WARRANTED.**

1 Although this Court has discretion to continue discovery deadlines and trial, continuances
2 may only be granted upon a showing of good cause. WDCR 13(1); *Matter of M.M.L., Jr.*, 393
3 P.3d 1079, 1081 (Nev. 2017). When a party seeks to continue both discovery and trial, they must
4 show that they have been diligent in previously pursuing discovery. *City of Bellevue v. Pine*
5 *Forest Props., Inc.*, 340 P.3d 938, 950 (Wash. Ct. App. 2014). “Generally, a party who does not
6 use the rules of discovery diligently is not entitled to a continuance.” *Pape v. Guadalupe-Blanco*
7 *River Auth.*, 48 S.W.3d 908, 913 (Tex. App. 2001).

8 Wendy claims that she has diligently pursued discovery, but the numbers demonstrate
9 otherwise. Wendy waited until after this Court denied her first Emergency Motion to Continue
10 Trial to conduct the majority of her discovery until December 2018, two months before the trial
11 date. Wendy waited to file many of her Motions to Compel until December 2018, two months
12 before the trial date.

13 Wendy did not file her Motion to Compel Todd’s production until *after* Todd opposed her
14 Emergency Motion to Continue Trial in October 2018 and pointed out that Wendy was seeking a
15 trial continuance based upon documents which she had not yet moved to compel. Wendy
16 responded by filing a motion to compel against Todd. That motion was not decided until January
17 24, 2019 and Todd responded within *six days*. Although Wendy complains about the “data
18 dump,” Wendy asked for this data dump.

19 Wendy did not file her Motion to Compel Maupin Cox to produce until two months before
20 trial, but now complains that she has not received documents which Maupin Cox has not yet been
21 compelled to produce. Maupin Cox objected to Wendy’s Subpoena in *August*.

22 Because Wendy has not diligently pursued discovery, it is not an abuse of discretion for
23 this Court to deny her requested continuance in light of her failure to diligently conduct discovery.
24 In *Mitchell v. Baptist Healthcare Systems, Inc.*, the Kentucky Court of Appeals affirmed the trial
25 court’s denial of a continuance that the plaintiff sought because of the defendants alleged failure to
26 disclose documents because the plaintiff “failed to dispute [the defendant’s] objections to the
27 discovery requests in a timely manner.” No. 2014-CA-000125-MR, 2015 WL 6082806, at *7 (Ky.
28 Ct. App. Oct. 16, 2015). In *BMC Software Belgium, N.V. v. Marchand*, the Texas Supreme Court

1 affirmed the trial court's denial of a continuance because the moving party never filed a motion to
2 compel responses to the objected-to discovery requests. 83 S.W.3d 789, 800-01 (Tex. 2002). In
3 *Bydalek v. Brines*, the Missouri Court of Appeals affirmed the trial court's denial of a motion to
4 continue because it found that good cause for a continuance was not shown "merely because of
5 unfulfilled discovery requests, especially when, as here, the moving party did seek enforcement of
6 discovery" 29 S.W.3d 848, 856 (Mo. Ct. App. 2000).

7 **B. WENDY IS NOT ENTITLED TO FURTHER DISCOVERY.**

8 In addition to continuing trial, Wendy asks this Court to extend discovery just for her for an
9 additional 60 days. However, continuances are not appropriate "to permit fishing expeditions."
10 *Aponte v. City of Columbus*, 540 S.E.2d 617, 621 (Ga. Ct. App. 2000) (internal quotations
11 omitted). Instead, the moving party should make a showing of "what it hope[s] to obtain."
12 *Zywiciel v. Historic Westside Vill. Partners, LLC*, 721 S.E.2d 617, 623 (Ga. Ct. App. 2011).

13 Wendy asks that she alone be allowed to propound *more written discovery requests* that
14 seek more documents. But, as the Discovery Commissioner has already pointed out in his January
15 23, 2019 recommendation, the excessive number of Wendy's document requests that she has
16 already propounded are "problematic." In making this statement, the Discovery Commissioner
17 cites to several cases which demonstrate that Wendy's discovery requests are not commensurate
18 with the complexity of this case and are grossly excessive. *See, e.g., Rapaport v. Soffer*, No. 2012
19 WL 68000377, at *2-3 (D. Nev. Dec. 31, 2012) (finding that the alleged complexity of the case did
20 not justify service of Rule 34 request with 843 categories); *Russo v. Lopez*, No. 2012 WL 146351,
21 at *3-4 (D. Nev. Apr. 27, 2012) (granting motion for a protective order because the court found
22 that 792 requests were excessive).

23 Wendy has served 1,800 document requests on Todd alone. She delayed bringing a motion
24 to compel. She obtained an order enforcing only 62 of those requests on January 24, 2019, one
25 week ago. Todd complied in time for his deposition.

26 Wendy's entire argument is that Todd has only produced a fraction of the documents that
27 she produced. But again, the fact that Wendy has requested something does not mean that it
28 exists. Wendy's requests date back over one decade. The fact that Todd has not produced

1 anything to support Wendy's false claims does not mean that Todd is sitting on mountains of
2 documents. It simply means that at some point Wendy will need to face the fact that her claims
3 have no evidentiary support. More discovery and more delay will not change that fact. Wendy's
4 motion must be denied.

5 **C. A CONTINUANCE UNDER NRS 16.010 IS NOT WARRANTED.**

6 Wendy's request to continue trial under NRS 16.010 must be denied because she does not
7 attach the required affidavit "showing the materiality of the evidence expected to be obtained, and
8 that due diligence has been used to procure it." NRS 16.010.

9 Furthermore, Wendy does not identify what evidence she expect to obtain, thereby
10 depriving Todd of the opportunity to "admit that such evidence will be given . . . at trial," and
11 depriving this Court of the opportunity to determine whether the evidence is truly admissible. *See*
12 *id.*

13 Instead, Wendy just continues to demand more discovery. She wants more, but she cannot
14 explain what that "more" is or why she needs it. She does not, once, in her motion to continue
15 trial, attempt to explain how she will use the evidence upon which she seeks a 60-day continuance
16 to conduct discovery. She does not explain how that evidence is material. She simply demands
17 some unspecified "more" and throws in the magic phrase "violation of due process" as the harm
18 that will occur if she does not get it.¹ Her motion does not comply with NRS 16.010 and must be
19 denied.

20 **III. CONCLUSION.**

21 For the foregoing reasons, Todd respectfully requests that this Court deny Wendy's Motion
22 in Limine seeking to preclude evidence of prior bad acts.

23 ///

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25 ///

26 ///

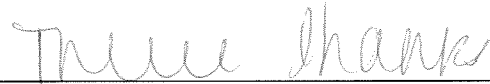
27 _____
28 ¹ Should this Court desire a bench brief on the ways in which Wendy's due process rights have been protected by this Court, rather than violated, Todd will be happy to provide that brief.

AFFIRMATION
Pursuant to NRS 239B.030

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

DATED this 4th day of February, 2019.

ROBISON, SHARP, SULLIVAN & BRUST
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/s/ DONALD A. LATTIN

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SSJ's Issue Trust and Samuel S. Jaksick, Jr.,
Family Trust and Kevin Riley*

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, SHARP, SULLIVAN & BRUST, and that on this date I caused to be served a true copy of the **TODD B. JAKSICK'S OPPOSITION TO WENDY JAKSICK'S EMERGENCY MOTION TO EXTEND DISCOVERY DEADLINES AND TRIAL FOR CAUSE AND ALTERNATIVELY MOTION TO CONTINUE TRIAL PURSUANT TO NRS 16.010** on all parties to this action by the method(s) indicated below:

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

X by using the Court's CM/ECF electronic service system courtesy copy addressed to:
Donald A. Lattin, Esq.

L. Robert LeGoy, Jr., Esq.

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7 ☒ by electronic email addressed to the above.

8 ☐ by personal delivery/hand delivery addressed to:

9 ☐ by facsimile (fax) addressed to:

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

11 DATED: This 4th day of February, 2019.

12 
13 V. JAYNE FERRITTO
14 Employee of Robison, Sharp, Sullivan & Brust

CODE: 3880

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of SSJ's Issue Trust; and Kevin Riley as former Trustee of the
Samuel S. Jaksick, Jr., Family Trust and Trustee of the
Wendy A. Jaksick 2012 BHC 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:

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.

AND RELATED CLAIMS

**PARTIAL RESPONSE TO SUPPLEMENTAL DECLARATION OF MARK J. CONNOT
IN SUPPORT OF MOTION TO CONTINUE**

Stanley S. Jaksick ("Stan"), Todd B. Jaksick ("Todd"), Michael Kimmel ("Michael"),
Kevin Riley ("Kevin"), individually and as Co-Trustees of the Samuel S. Jaksick, Jr. Family Trust,
and Todd B. Jaksick as Trustee of the SSJ's Issue Trust, by and through their counsel of record,

1 hereby responds to Mark J. Connot's Supplemental Declaration in Support of Wendy's Motion to
2 Continue Trial ("Connot Decl.").

3 **THE MAUPIN, COX & LEGOY PRODUCTION**

4 Wendy served the subpoena on Maupin, Cox & LeGoy("MCL") on August 6, 2018. *See*
5 Connot Decl. at 5:14-15. MCL timely served its Objection and Response on August 20, 2018.
6 Wendy did nothing further to resolve the objections or discuss MCL's response until filing her
7 Motion to Compel ("Motion to Compel") on December 6, 2018, nearly four months later and only
8 two months prior to trial.
9

10 At the time Wendy filed her Motion to Compel, the parties had already been ordered by
11 this Court to participate in mandatory discovery dispute conferences. After the first discovery
12 dispute conference, it became clear that there would be no time for the Discovery Commissioner
13 to adjudicate all of the issues regarding discovery, because of the sheer number of discovery
14 requests made by Wendy. Shortly after the first discovery dispute conference on December 11,
15 2018, counsel for Todd as Trustee contacted counsel for Wendy to discuss the MCL response to
16 the subpoena. Thereafter, without any order from the Court or obligation to do so, MCL began
17 producing non-privileged documents. The Connot Decl. outlines the dates on which MCL
18 produced documents. The glaring omission from the Connot Decl. is that MCL produced
19 documents prior to **any** order of this Court or the Discovery Commissioner. Had MCL waited for
20 full briefing of the Motion to Compel, the Motion would not even have been submitted for decision
21 until well after the New Year. Again, due to Wendy's delay in addressing the MCL response to
22 her subpoena.
23
24

25 Wendy's claim that MCL's withholding of documents was "gamesmanship" is unfounded
26 and further demonstrates Wendy's counsel's lack of civility which has permeated these

1 proceedings. MCL asserted the attorney-client privilege based on the express language of the trust
2 documents and NRS 163.004. During the hearing on the attorney-client privilege issue,
3 Commissioner Ayers struggled with his decision, at one point even commenting that perhaps this
4 was an issue Judge Hardy should make, as it was an issue of first impression for the Discovery
5 Commissioner. He lamented that there was no time to fully brief the issue and further look into
6 the issue himself prior to making his decision. In the end, the Discovery Commissioner required
7 disclosure of the documents previously withheld based on attorney-client privilege, which were
8 produced.
9

10 The only documents listed on the privilege log that have not been produced are those
11 documents related to personal estate planning of Todd B. Jaksick, which were neither requested
12 in, nor are relevant to this litigation.

13 With respect to MCL billing statements, prior to the statements in the Connot Decl., there
14 had been no communications, verbal or otherwise, regarding production of those documents as it
15 related to the MCL subpoena response.
16

17 Counsel for Wendy claims that she still lacks “material information responsive to her
18 Subpoena” based on MCL’s “last minute production and withholding of documents based on its
19 extensive privilege log,” and as such, the Co-Trustees should not be allowed to call Robert LeGoy
20 or Brian McQuaid as witnesses at trial. The Co-Trustees should not be sanctioned for Wendy’s
21 counsel’s lack of diligence in pursuing discovery. As this Court is aware, initial disclosures were
22 made by every party but Wendy by mid-February 2018. Wendy did not serve her MCL Subpoena
23 until August 6, 2018. MCL timely objected on August 20, 2018, and Wendy did nothing, including
24 any “meet and confer”, to resolve those objections or file a motion to compel until December 6,
25 2018. Wendy would not have even had that motion fully briefed and submitted until well after the
26

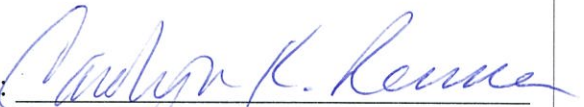
1 New Year. Had MCL not voluntarily, and without order of this Court produced documents, Wendy
2 would have had no documents until after a decision on the Motion to Compel, which necessarily
3 would have been near the end of January. Wendy failed to diligently pursue discovery, and now
4 requests the Court to penalize the Co-Trustees for her lack of diligence. For these reasons,
5 Wendy's requests should be denied.

6 **NRS 239B.030 Affirmation**

7 Pursuant to NRS 239B.030, the undersigned hereby affirms that this document does not
8 contain the Social Security Number of any person.

9 Dated this 1st day of February, 2019.

10 MAUPIN, COX & LEGOY

11
12 By: 

13 Donald A. Lattin, NSB # 693

14 Carolyn K. Renner, Esq., NSB #9164

15 4785 Caughlin Parkway

16 Reno, NV 89519

17 *Attorneys for Michael Kimmel, Todd*
18 *B. Jaksick and Stanley S. Jaksick, Co-*
19 *Trustees of the Samuel S. Jaksick, Jr.,*
20 *Family Trust; Todd B. Jaksick as*
21 *Trustee of SSJ's Issue Trust; and*
22 *Kevin Riley as former Trustee of the*
23 *Samuel S. Jaksick, Jr., Family Trust*
24 *and Trustee of the Wendy A. Jaksick*
25 *2012 BHC Family Trust*
26

CERTIFICATE OF SERVICE

I hereby certify that I am an employee of MAUPIN, COX & LeGOY, Attorneys at Law,
and in such capacity and on the date indicated below I served the foregoing document(s) as follows:

Via E-Flex Electronic filing System:

<p>Philip L. Kreitlein, Esq. Stephen C. Moss, Esq. Kreitlein Leeder Moss, Ltd. 1575 Delucchi Lane, Suite 101 Reno, Nevada 89502 philip@klmlawfirm.com <i>Attorneys for Stan Jaksick as Co-Trustee of the Samuel S. Jaksick, Jr. Family Trust</i></p> <p>Mark Connot, Esq. Fox Rothschild LLP 1980 Festival Plaza Drive, #700 Las Vegas, NV 89135 MConnot@foxrothschild.com</p> <p><i>And</i></p> <p>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 zach@dallasprobate.com <i>Attorneys for Wendy A. Jaksick</i></p>	<p>Adam Hosmer-Henner, Esq. Sarah A. Ferguson, Esq. McDonald Carano Wilson LLP 100 W. Liberty Street, 10th Floor Reno, NV 89501 ahosmerhenner@mcdonaldcarano.com sferguson@mcdonaldcarano.com <i>Attorneys for Stan Jaksick, individually; as beneficiary of the Samuel S. Jaksick, Jr. Family Trust and SSJ's Issue Trust; and as Co-Trustee of the Samuel S. Jaksick, Jr., Family Trust</i></p>
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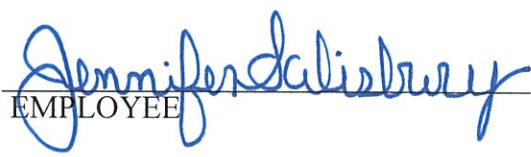
Via placing an original or true copy thereof in a sealed envelope with sufficient postage
affixed thereto, in the United States mail at Reno Nevada, addressed to:

<p>Alexi Smrt 11 Bahama Court Mansfield, Texas 76063</p>	<p>Luke Jaksick c/o Wendy A. Jaksick 6501 Meyer Way Apt. # 0705 McKinney Texas 75070</p>
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Dated this 12th day of February, 2019.


EMPLOYEE