

IN THE SUPREME COURT OF NEVADA

In the MATTER OF THE JORDAN DANA
FRASIER FAMILY TRUST

AMY FRASIER WILSON,

Appellant,

v.

U.S. BANK WEALTH MANAGEMENT;
BRADLEY L. FRASIER, M.D.; NORI
FRASIER; STANLEY H. BROWN, JR.,
Special Administrator, ESTATE OF DINNY
FRASIER; CHAPMAN UNIVERSITY;
TEMPLE BETH SHOLOM OF ORANGE
COUNTY, INC.; IRVINE COMMUNITY
ALLIANCE FUND; AMERICAN SOCIETY
FOR PREVENTION OF CRUELTY TO
ANIMALS; ST. JUDE CHILDREN'S
RESEARCH HOSPITAL, INC.; SARA CADY;
DANIELLE FRASIER AROESTE; ELIOT
CADY; ELISSA CADY; and BRENDAN
FRASIER,

Respondents.

Electronically Filed
Apr 22 2024 03:22 PM
Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Second Judicial District Court, Washoe County
The Honorable Tammy Riggs, District Judge
District Court Case No. PR16-00128

**APPENDIX TO APPELLANT'S OPENING BRIEF
VOLUME 2 OF 6**

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Attorneys for Appellant

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CERTIFICATE OF SERVICE

I certify that I am an employee of SOLOMON DWIGGINS FREER & STEADMAN, LTD. and that on the 22nd day of April, 2024, **APPELLANT’S OPENING BRIEF** (“Brief”), and **APPELLANT’S APPENDIX (VOLUMES 1-6)** (“Appendix”) were filed electronically with the Clerk of the Nevada Supreme Court, and that I caused a true and correct copy of the Brief and Appendix to the following in the manner set forth below:

Via:

[XXX]

E-Service by eFlex:

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Ryan J. Earl, Esq. LAW OFFICES OF RYAN J. EARL 548 W. Plumb Lane, Suite B Reno, Nevada 89509 <i>Counsel for Chapman University; Temple Beth Shalom of Orange County, Inc.; Irvine Community Alliance Fund; American Society for Prevention of Cruelty to Animals; and St. Jude Children’s Research Hospital</i>	G. David Robertson, Esq. Richard Williamson, Esq. ROBERTSON, JOHNSON, MILLER & WILLIAMSON 50 W. Liberty St., Ste 600 Reno, Nevada 89501 <i>Attorney for Premier Trust, Inc. former Trustee</i>

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/s/ Terrie Maxfield
An Employee of SOLOMON DWIGGINS FREER &
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7 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**
8 **IN AND FOR THE COUNTY OF WASHOE**

9
10 In the Matter of the

Case No.: PR16-00128

11 JORDAN DANA FRASIER FAMILY TRUST

Dept. No.: 15

12 _____ /
13
14 **HEARING STATEMENT – AMY FRASIER WILSON**

15 COMES NOW, AMY FRASIER-WILSON, in pro per and interested party to the above
16 entitled action, hereby files this October 11, 2018 Hearing Statement – Amy Frasier Wilson
17 (“Hearing Statement”), as follows. The basis of this Hearing Statement is to call the Court’s
18 attention to the fact that there are new fact allegations and issues of law regarding matters of
19 substance which need to be addressed by the Court during the October 11, 2018 hearing
20 scheduled to resolve matters relating to Jordan Dana Frasier Family Trust.
21

22 **I. INTRODUCTION**

23
24 It is with much gratitude to the Court for issuing the Order on August 16, 2018 to
25 reschedule the hearing to October 11, 2018 to bring finality to this matter. The Court has
26 graciously authorized the submission of this Hearing Statement relevant to this case and the
27 following are my new fact allegations and issues of law regarding matters of substance.
28

1 **II. NEW FACT ALLEGATIONS AND ISSUES OF LAW**

2 **A. A FAMILY HOME CARE (AFHC) BREACH OF AGREEMENT**

3 The Court should be aware that Dinny Frasier entered into an agreement with A Family
4 Home Care Inc (AFHC) effective August 30, 2016 which has not been honored by AFHC. (see
5 Exhibit 2) The Agreement included the Privacy Issues Form which my Mother signed, that
6 authorized Family Home Care and it's employees to discuss her health condition, diagnosis,
7 health status, care, care needs and any other health care issue that might pertain to my Mother
8 without restrictions. This document gave access without restrictions to the following family
9 members and friends: Bill Wilson, Amy Frasier, Brooks Travis and Nicole (Shrive), Premier
10 Trust Officer. The executed Agreement also included the pricing for both hourly and 24 hour
11 care service. The 24 hour care services rate was listed on the Agreement as \$408 per 24 hour
12 care period. Agreement definition of the 24 hour care periods may be comprised of one
13 consecutive 24 hour shift, two consecutive 12 hour shifts, or three consecutive 8 hour shifts.
14

15 AFHC has not honored the Agreement Privacy Issues Form authorization providing
16 access without restrictions to Amy and Bill. This contractual breach began when my Mother was
17 admitted to the emergency room on October 29, 2016 and we were not notified of her admission.
18 This lack of communication continues to the present. In addition, Bill and I contacted Jonathan
19 Irish, VP AFHC on November 2, 2016 via speaker phone to notify him that we should have been
20 notified when Dinny went to the emergency room, whether Nori or anyone told the caregiver not
21 to notify us. We explained that that Bill and I were on my Mother's Medical Power of Attorney
22 and the Agreement Privacy Issues Form that provided us access without restrictions. Bill sent
23 follow-up email to Jonathan Irish with Dinny Frasier Medical Power of Attorney, dated 05/29/15
24 attached. (see Exhibits 3, 4). This lack of access without restrictions continues to the present as
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1 demonstrated by 2018 Premier Trust request for information and the refusal by AFHC to comply
2 due the false claim that Dinny does not authorize the release of information.

3 AFHC has provided to Dinny 24 hour care services since August 30, 2016. AFHC has
4 provided two shifts per 24 hour care period, consisting of day shift 7AM – 7PM and night shift
5 7PM – 7AM. This falls under the Agreement definition for 24 hour care period comprising of
6 “two consecutive 12 shifts”. A quick review of what AFHC has billed my Mother would raise
7 serious doubt that my Mother has been correctly billed by AFHC at \$408 per 24 hour care period
8 rate. (See Exhibit 5). The delta between the \$408/ 24 hr. care period rate from August 30, 2016
9 to October 5, 2018 and what has been billed could exceed \$150K.

12 The explanation on why the possible \$150K discrepancy exists due to the comparison
13 between what was agreed by Dinny and what was actually billed should be on the list for the
14 Court ordered Investigator to address during the upcoming review.

17 **B. VOGT, RESNICK, ETC RETAINER CHECK AND RELATED DOCUMENTS**

18 There remains a major issue for what actually occurred when my Mother entered into
19 her current legal relationships during 2016. The letter to Brooks Travis dated November 1, 2016
20 is unquestionably a letter that my Mother did not write. (see Exhibit 6). This letter and the email
21 that Jonathan Irish sent on November 27, 2016 to Nicole Shrive (see Exhibit 7) creates more red
22 flags. Jonathan states in his email that “Cynthia” was the caregiver present when my Mother
23 spent time at the Irvine neighbor on or about November 2016. Yet in a previous court filing, it is
24 stated that “Desarae” was the caregiver present when my Mother spent time at the Irvine
25 neighbor on or about November 2016. This is important since it was reported that Dinny signed
26 the retainer and agreement for legal representation by Barnet Resnick, Vogt, Resnick, etc on this
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1 day. It was reported that my Mother signed the retainer check and agreement in the presence of
2 three witnesses, the Irvine neighbor Bruce Schwartz, Desarae and my sister Nori Frasier. In the
3 "Cynthia" version, Jonathan states that Nori reportedly told Cynthia to stay outside while the
4 meeting was held inside. Nori was very upset because my Mother had made changes to the
5 Survivor Trust which excluded Nori. Nori acknowledged in both a court filing and email that
6 Nori wrote the check, but claimed that my Mother signed the retainer check (see Exhibit 8).

8 The questionable retainer check was reviewed by Mr. James Black, Examiner of
9 Questioned Documents, curriculum vitae (see Exhibit 9). On October 4, 2018, Mr. Black
10 examined an image of the check number 461, dated November 25, 2016, and drawn on Bank of
11 America Account number 094611907. This document bears the purported signature of Dinny
12 Frasier. Seven exemplars of the signature of the signature of Dinny Frasier were supplied
13 consisting of images of checks. Mr. Black directed his attention to the Check Signature. The
14 examination revealed that the signature is hesitant and slowly executed. Mr. Black's expert
15 opinion indicates this slowness and hesitancy is a manifestation of a simulation. A simulation is
16 the reproduction of the signature of another produced with the intention that it pass as genuine
17 when, in fact, it is not. Some examples are tracing, freehand drawing and photocopier
18 manipulation. It is the opinion of Mr. Black that the Check Signature is a simulation. (see
19 Exhibit 10). Thus, it is possible to impeach the veracity of any other document bearing the same
20 signature on the same day to the same firm as it could be considered a stimulation as well. This
21 could be the explanation on why the retainer check signature was not recognized by my Mother
22 when asked by Nicole Shrive January 6, 2017. The questionable retainer check that Mr. Black
23 has opined with the signature is a simulation and any other documents bearing the same
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signature on the same day to the same firm should be on the list for the Court ordered
Investigator to address during the upcoming review

C. ALLEGATIONS OF UNDUE INFLUENCE BY BARNET RESNICK

In the Statement of Barnet Resnick Regarding RPC 1.14, Mr. Resnick demonstrates that he is either throwing mud towards Amy and Bill, or he lacks a sound knowledge of the facts regarding the Survivor's Trust Amendment. My Mother amended the Survivor's Trust in May 2015. My Mother fell in July 2016. My Mother was not medicated and recuperating at a rehabilitation facility, nor was she helpless when she amended her trust in 2015. She was very strong and made all of her own decisions. This pattern of spreading lies about both Bill and I must stop now. My Mother excluded both my two siblings, Brad and Nori due to actions that deeply hurt my Mother in ways that Mr. Resnick will never know. I respect the Court's valuable time and will only provide several examples which provide an understanding of why my Mother made the decisions that she did in May 2015.

On the same day my father died, Brad rushed into my Mother's house and grabbed my Father's 18K gold Rolex watch without asking my Mother whether he could have it. The same night both Brad and Nori went through the entire house to look for all of the trust and financial records. Nori was trying to get into the safe, but she could not figure it out so Brad did it himself. My Mother became so angry that Brad and Nori were going through all of the paperwork, her drawers, safe so soon after my Father died. My Mother said it was like a feeding frenzy.

My Mother did not have her checkbook with her when we were making the funeral arrangements for my Father, so both Brad and Nori were fighting with each other who would use

1 their credit cards to purchase the funeral arrangements to obtain the points/miles on their credit
2 card. This fight continued when we made the funeral arrangements for my Mother. My Mother
3 became very angry over this fighting between Brad and Nori.
4

5 It was understood that Frasier Family Thanksgiving family dinner was always at Brad's
6 house since it was the biggest house and my Father liked to go there for Thanksgiving dinner.
7 So on the first Thanksgiving after my Father died, Brad's wife decided that she was not going to
8 hold Thanksgiving dinner, first claiming that she was sick and then that she said she did not want
9 Nori and myself to come to the house. My Mother felt abandoned and alone that Brad would not
10 invite her, and she became was very angry at both Brad and his wife.
11

12 It was discovered by Brad that Nori was paying her Chase credit card from my Father and
13 Mother's personal checking account for just over \$10K. (see Exhibit 11) The payments began
14 when my Father went into the nursing home in July 2014, and continued after he had passed
15 away Oct 22, 2014. My Mother was mortally wounded that Nori would as she called, "steal
16 from her own Mother". Nori never told my Mother about the payments even after my Father
17 passed, and she claimed that it was a side deal she had with my Father.
18

19 My Mother claimed that Nori took her jewelry, my Father's jewelry, clothes, sewing
20 materials and machines, Swarovski and Waterford crystal. My Mother tried to list all of things
21 that were missing, but all she could do was cry. My Mother became very concerned that Nori
22 was going to take more money and things from her.
23

24 Brad went on a cruise after my Father passed away with his wife's family and my Mother
25 was wounded that Brad should have taken her on the cruise. I told this to Brad that my Mother
26 wanted to go on the cruise, but Brad just said she does not want to go, and she has the dogs. But
27
28

1 Brad never asked my Mother if she wanted to go on the cruise. My Mother remained angry
2 about not being invited by Brad.

3
4 Brad came to my Mother in December 2014 to tell her that he needed her help to transfer
5 money out of a Trust account so it could be transferred from Brad and his wife to their daughter,
6 Danielle. (see Exhibit 12) The transaction was capped at \$28K to allow it to be considered as a
7 gift for 2014 to Brad and his wife. Another transaction for \$14K was scheduled to occur in
8 January 2015. This was done by Brad to avoid exceeding the allowable gift level in 2014 since
9 he had gone to the skilled nursing home in September 2014 to have my Father sign the transfer
10 letter for \$28K. The transfer was to Danielle directly, and it was considered from both my Father
11 and Mother. But my Mother did not know about the September 2014 transfer until the bank
12 called her to let her know that the December 2014 transfer had been completed. My Mother felt
13 like Brad had pulled a fast one on her. At that point, she froze the account so no one could
14 transfer any more money. During same time frame, November/December 2014, Brad was
15 working out his deal with my Mother to pay her back for the medical building. Brad was
16 attempting to use undue influence on my Mother since he claimed that she had dementia, yet he
17 was trying to enter into agreements with someone that he claimed did not have capacity. Either
18 he believed she had capacity to enter into an agreement or he did not believe she had capacity.
19 Brad has claimed he understood my Mother's condition better since he was a medical doctor.
20 But if that was the case, then he should be held to a higher standard of dealing with those that
21 have limited capacity and are not represented by counsel.

22
23 Brad became repeatedly very abusive and acrimonious toward my Mother and she
24 became very angry at him, very hurt that she raised a son that would treat his Mother that way.
25 Brad left voice messages that my Mother would listen to over and over. My Mother would call
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1 me after listening to the voice messages, sounding very angry, crying, and I would tell her to stop
2 listening to the messages.

3
4 Lastly, Henry Coopersmith, my Father and Mother's long time Estate Planning Attorney
5 provided memo notes regarding the February 2014 meeting with my Father and Mother. (see
6 Exhibit 13). The changes that were anticipated to be made in the memo were the result of my
7 Father and Mother being enraged that Brad's wife came in October 2013 to demand that my
8 Father to move the medical building out of my Father and Mother's Trust. My Father told my
9 Mother, Nori, Bill and myself that Brad's wife said if my Father did not move the building out
10 of the trust, then Brad would have to share it with his sisters and he would not get any money.
11 My Father took that personally, that neither Brad nor his wife appreciated everything that he had
12 done for them. My Mother felt the same way, and from that point forward, my Father and
13 Mother disparaged Brad and his wife.
14

15
16 These are some of the examples that could help illuminate why my Mother made the
17 decisions regarding the Survivor's Trust, and demonstrate that just because you have lived next
18 door for 30 years to someone, and not even bother to attend my Father's funeral, you do not
19 know what is going on behind closed doors.
20

21 **D. MULRAIN ISSUES**

22 The timeline of Janie Mulrain should be challenged since it was claimed that she went
23 though a through vetting process. The concern is why would such a complex case was handed
24 over to someone with less than 3 years of experience? (see Exhibit 14). Questions remain why
25 my Mother interviewed Janie Mulrain on December 10, 2016, and signed the Agreement with
26 Janie Mulrain on the same day, yet Janie Mulrain began billing my Mother on 12/08/16. (see
27 Exhibit 17) **But just as troubling is that Janie Mulrain billed my Mother for taking her out**
28

1 on her birthday 03/27/18. Janie Mulrain billed my Mother \$600.00 for 4 hours at \$150/hr
2 plus \$12.83 mileage! I wonder if my Mother knew about this billing? This raises questions
3 about the billing of the \$172K that Janie Mulrain demands that she should be paid. This should
4 be on the list for the Court ordered Investigator to address during the upcoming review
5

6 Janie Mulrain has made a number of statements in Court filings that need to be fact
7 checked. One such statement was that Janie had contacted APS in December 2016 regarding
8 Bill, and referenced in an Exhibit that was redacted. I contacted APS to inquire about the report.
9 I was informed that there was never a call or report regarding Bill in December 2016, and if there
10 was, APS would have contacted Bill. No such contact ever occurred. Yet the actual APS call
11 was for Nori in December 2016. (see Exhibit 15). Neither Bill or I had been near my Mother's
12 house since I tried to drop off a card and gift to my Mother in first week in November 2016.
13 This type of mud continues to be thrown around by Janie Mulrain with the hope that something
14 sticks.
15

16
17 Janie Mulrain works on pure manipulation as she did with making my cousin Wendy
18 Erhman afraid to communicate with me. Wendy told me that Janie told her that if she spoke to
19 me or Bill, Janie would block her from talking to Dinny. The 01/03/17 email was the last email
20 we have received from Wendy. (see Exhibit 16)
21

22 Nori has had problems as well with Janie Mulrain, and has considered taking legal action
23 against her. (see Exhibit 18). On July 1, 2018, Karen Burk, one of my Mother's caregivers, was
24 working the 7AM-7PM day shift for my Mother and has provided her Declaration to the
25 following. (see Exhibit 19) Janie Mulrain came to see my Mother to review several matters.
26 The first matter that Janie Mulrain discussed with my Mother was that Nori had allegedly
27 written to Janie claiming that my Mother was choked around the neck by a caregiver named
28

1 Sarah. Dinny told Janie that it never happened. Janie also said that Nori claimed Karen bruised
2 Dinny's arms. Janie said that was not true since she was there with Dinny when the blood work
3 was completed. Karen indicated that my Mother was angry for the rest of the day when Nori and
4 her family came over to see my Mother. These allegations by Nori seemed very strange because
5 if this was true, I suspect Nori would have been more vocal in her concern for my Mother via
6 emails that she sometimes sends to me. On August 12, 2018, while Bill and I were at my
7 Mother's house, Bill called Nori from my Mother's home phone. Bill talked with Nori to ask her
8 if she ever wrote or communicated to Janie Mulrain regarding any of the caregivers choking my
9 Mother. Nori flatly denied ever hearing anything about any choking incident, and said she never
10 communicated anything to Janie Mulrain regarding such alleged allegation. Janie Mulrain stated
11 in her Request for Fees Exh 1 Page 12 , (see Exhibit 20) that Nori contacted her on August 13,
12 2018 to inform Janie Mulrain that Bill and Amy informed Nori that a caregiver choked Dinny.
13 But I never spoke with Nori regarding any choking. Only Bill had spoken with Nori. Janie
14 Mulrain then goes to state that Nori or Bill and Amy never reported the alleged allegation to the
15 authorities. That is because it never occurred other than what Janie Mulrain told Dinny on July 1,
16 2018 to get Dinny angry at Nori.

17 This form of manipulation by Janie Mulrain was also seen by Karen Burk when Janie
18 told Karen when she met Janie for the first time in May 2018 that Nori and Dinny claimed that
19 Bill pushed Dinny down the stairs. This prejudicial statement to Karen was intended by Janie
20 Mulrain to be create a negative first impression of Bill and Amy. Karen did not believe this since
21 she asked Dinny how did the fall occur, and Dinny told her that she tripped on her nightgown.

22 But there is a major ethical issue being raised here. If Janie Mulrain believed what Nori
23 and Dinny informed her was actually true regarding Bill pushing Dinny down the stairs, then

1 Janie Mulrain had an ethical obligation as a fiduciary to report such elder abuse to the
2 authorities. And if she did not believe this to be true, then she has an ethical obligation not to
3 repeat such alleged allegations to others in the attempt to influence and inflame.
4

5 Also during the July 1, 2018 meeting between Janie Mulrain and Dinny, Karen in her
6 Declaration (see Exhibit 19) states that Janie Mulrain told Dinny that Dinny would be charged
7 anytime the children called the nurse to ask about her medications, health care, etc. Dinny did
8 not understand why she should be charged for telephone calls. Janie Mulrain was also trying to
9 get my Mother to sign a piece a paper which she claimed was to pay the nurse. My Mother
10 reportedly did not want to sign the piece of paper, stalling for close to 30 minutes until Janie
11 Mulrain told her, "Dinny, you don't have to sign it, I can sign it because I have Power of
12 Attorney over you. I was being nice to come over here to let you know". Dinny finally signed
13 the piece of paper, but was not happy after being forced by Janie to sign the paper. Only one
14 piece of paperwork was signed on July 1, 2018. This is of concern since Karen worked the entire
15 day shift 7AM – 7PM and Janie Mulrain did not come back later in the day. Yet Janie Mulrain
16 presented the letter that Dinny Frasier reportedly signed July 1, 2018 document that "I authorize
17 Janie to tell my my kids to only visit when someone else is here" The question is this the
18 document my Mother signed on July 1, 2018 that Janie Mulrain forced her to sign, and was it the
19 result of the story that Janie Mulrain told my Mother that Nori claimed a caregiver had choked
20 my Mother. This should be on the list for the Court ordered Investigator to address during the
21 upcoming review
22

23 The issue of the choking created a smoke screen over the real issue of what happened to
24 my Mother when she fell on June 11, 2018. We heard mixed stories on how she fell, but nobody
25 has provided any true answers to this point. We know that my Mother's bed has been changed to
26
27
28

1 help avoid falling, and she has a special chair help the caregiver to get her up without falling. So
2 did she fall in the house or somewhere else? I could see she had a scalp contusion, so I know
3 something happened to her. This question of what happened to my Mother only creates more
4 questions. I would request that the caregivers notes, medical notes for June 11, 2018 to be
5 provided to the Court to indicate what truly happened to my Mother. This should be on the list
6 for the Court ordered Investigator to address during the upcoming review
7

8 Bill and I ask questions when we go see my Mother. My Mother does not know what is
9 going on, she does not remember what she just had for lunch. The statements by the caregivers
10 that Bill and I ask her about financial, trust matters are totally false. My Mother would not
11 understand anything about the Trust or any other complex matters if you talked with her. We
12 just keep it light. But we want to know if she went out the day before we come, if she went to
13 the movies, plays, etc so we know that if we are there on Sunday, she will be tired and need to
14 rest or something else is wrong. Asking about things like how her week was, did she go out,
15 doctor appointments, etc is just conversation.
16

17 Jonathan Irish, AFHC has made false allegations from 2016 when he claimed that Bill
18 and I took photos and pages out of the caregivers book, and that Bill forced his way past the
19 caregiver (see Exhibits 1, 21) We strongly deny both of these alleged allegations.
20

21 Janie Mulrain and "Dinny's Team" recently implemented a protocol for visitation with
22 Dinny, including the requirement that a visitation monitor be present and visits only last two
23 hours. The initial visitation monitor, Allyn Anderson, was someone that all of the children
24 appreciated his rapport and support of my Mother. And then he was fired. This should be on the
25 list for the Court ordered Investigator to address during the upcoming review
26
27
28

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A. Instructions for the in-person review of Dinny Frasier by Court Appointed Investigator to address the above new fact allegations addressed in this Hearing Statement.

I declare, under penalty of perjury under the laws of the State of Nevada and the State of California, that the foregoing is true and correct. I declare under oath that the contents of the objection and statement to which the declaration is attached are true and correct to the best of my knowledge.


Amy Frazer
10
Mission Viejo

Amy Frasier-Wilson
10 Via Sonrisa
Mission Viejo, CA 92692
949-825-9563
In Pro Per

1 CERTIFICATE OF SERVICE

2 I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the
3 within action. On the 8 day of October 2018, 2017, I served the within documents(s):

4 ~~OBJECTIONS TO ACCOUNTING AND STATEMENT OF CONCERNS~~

5 HEARING STATEMENT

6 ☒ **BY ELECTRONIC MEANS:** by transmitting via electronic means the
document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
NRCP 5(b)(2)(D).

7 G. David Robertson, Esq.
8 Johnathan J. Tew, Esq.
9 Courtney Miller O'Mara, Esq.
Richard D. Williamson, Esq.
Michael A. Rosenauer, Esq.

10 **BY HAND:** by personally delivering the document(s) listed above to the person(s) at the
11 address(es) set forth below. NRCP 5(b)(2)(A).

12 ☒ **BY MAIL:** by placing the document(s) listed above in a sealed envelope with
13 postage thereon fully prepaid, in the United States mail at Reno, Nevada addressed as set forth
below. NRCP 5(b)(2)(B).

14 **BY DEPOSITING WITH THE CLERK:** by causing document(s) to be deposited
15 with the Clerk of the Court, as the party or their attorney has no known address. NRCP
16 5(b)(2)(C)

17 **BY PERSONAL DELIVERY:** by causing personal delivery by Reno/Carson
18 Messenger Service of the document(s) listed above to the person(s) at the address(es) set forth
below.

19 Michael E. Sullivan, Esq.
20 Scott L. Hernandez, Esq.
21 Robinson, Belaustegui, Sharp & Low
22 71 Washington Street
Reno, Nevada 89503
Attorneys for Dr. Bradley L. Frasier

23 Bradley J. Richardson, Esq. [pro hac vice} David Sherak, Esq. [pro hac vice}
24 Barnet Resnick, Esq. [pro hac vice} Courtney Miller O'Mara, Esq.
25 c/o Fennemore Craig, P.C.
300 East Second Street, Suite 1510
26 Reno, NV 89501
Attorneys for Dinny Frasier, individually

27 Bradley L. Fraiser, MD
28 3609 Vista Way
Oceanside, CA 92056

ROBERTSON, JOHNSON,
MILLER & WILLIAMSON
G.David Robertson, Esq.
Richard D. Williamson, Esq.
50 West Liberty Street, Suite 600
Reno, Nevada 89501
Attorneys for Premier Trust, Inc.

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

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

Executed on 10/8/18, Reno, Nevada.

/s/ Lindsay Wheeler, High Sierra Legal

Index of Exhibits

<u>Exhibit</u>	<u>Description</u>	<u>Pages</u>
1	Declaration of William (Bill) Wilson,	8
2	AFHC Agreement, effective Aug 30, 2016	8
3	11/02/16 Email to Jonathan Irish re: Dinny POA	2
4	Dinny Frasier Health Care POA, May 29, 2015	12
5	AFHC Billings Summary	14
6	Brooks Travis Letter Nov. 1, 2016	2
7	AFHC Caregiver Witness Discrepancy	5
8	Nori Frasier re: Retainer Check May 2017	2
9	James A. Black curriculum vitae	8
10	James A. Black Retainer Check Analysis & Check Copy	3
11	BOA Chase Card Payments Summary Nov 2014	2
12	First Citizens Trust Transfers & Checks, Dec 2014	4
13	Coopersmith Memo, Feb 2014	3
14	Janie Mulrain Professional Fiduciaries Bureau 02/09/17	2
15	Mulrain – APS Discrepancies	5
16	Wendy Erhman Email Jan 2017	2
17	Mulrain Vetting/Billing Issues	6
18	Nori Frasier Email – Mulrain	2
19	Declaration of Karen Burk	5
20	Mulrain – Choking	2
21	Jonathan Irish AFHC Email Communications Nov 2016	16

EXHIBIT “8”

EXHIBIT “8”

EXHIBIT “8”

FW: Premier Trust - Second Supplemental Petition for Instructions

Nori Frasier <nori_frasier@hotmail.com>

Wed, May 31, 2017 at 6:50 PM

To: David Robertson <gdavid@nvlawyers.com>, "Amy Frasier (digitalmermaid8@gmail.com)" <digitalmermaid8@gmail.com>, "Mike Sullivan (MSullivan@rbsllaw.com)" <MSullivan@rbsllaw.com>, "comara@fclaw.com" <comara@fclaw.com>, "kcaverly@hcesq.com" <kcaverly@hcesq.com>, "Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net)" <bresnick@vrslaw.net>, "BRICHARDSON@fclaw.com" <BRICHARDSON@fclaw.com>

Cc: "Nicole Shrive (nshrive@premiertrust.com)" <nshrive@premiertrust.com>, Rich Williamson <rich@nvlawyers.com>, Teresa Stovak <teresa@nvlawyers.com>, Nori Frasier <nori_frasier@hotmail.com>, "rick@cady.net" <rick@cady.net>

David,

You are 100% incorrect about the retainer check for Barry.

She visited Bruce her neighbor, my mother asked me to write the check out (as she was upset after seeing her house in the state it was in) and she would sign it as it was her decision. Not sure why you are out for Barry as she trusts him and this is important I believe.

I wrote the check out and she signed the check 100% in front of an attorney. There were 3 witnesses for her signing the check.

Not sure what you are trying to prove by all this information after the case.

Kindly, Nori

From: David Robertson <gdavid@nvlawyers.com>**Sent:** Wednesday, May 31, 2017 6:06 PM**To:** Amy Frasier (digitalmermaid8@gmail.com); Nori Frasier (nori_frasier@hotmail.com); Mike Sullivan (MSullivan@rbsllaw.com); comara@fclaw.com; kcaverly@hcesq.com; Barnet Resnick (bresnick@VRSLaw.net) (bresnick@VRSLaw.net); BRICHARDSON@fclaw.com**Cc:** Nicole Shrive (nshrive@premiertrust.com); Rich Williamson; Teresa Stovak**Subject:** FW: Premier Trust - Second Supplemental Petition for Instructions

[Quoted text hidden]

EXHIBIT “9”

EXHIBIT “9”

EXHIBIT “9”

JAMES A. BLACK

EXAMINER OF QUESTIONED DOCUMENTS

QUALIFICATIONS

James A. Black is an Examiner of Questioned Documents and Handwriting Identification Expert in private practice since 1981. He has a Bachelor of Science degree from the California State University at Long Beach and has completed additional studies in the biological and physical sciences at the same institution.

Prior to starting his own practice, he studied document examination full time for two years in the Los Angeles office of his father, David A. Black, of Sellers and Black. David A. Black was a prominent document examiner in Southern California for over forty years. During this training period all aspects of questioned documents examination were studied, including handwriting and handprinting examination, identification of writer(s), typewriters and other mechanical impressions, copy machines, erasures and other forms of alteration, obliterated writing and their decipherment, paper and inks, and numerous other document problems. James Black completed, under David Black's direction, the course of study prescribed by the United States Army.

James A. Black has qualified as an expert witness on numerous occasions in the identification of handwriting, signatures and questioned document matters in Superior Courts of the counties of Los Angeles, Orange, Kern, San Bernardino and others, as well as Federal Court, The Administrative Law Courts of the California State Bar, the Medical Board of the State of California, the California Department of Motor Vehicles and others. Mr. Black's opinions have, on numerous occasions, been accepted by stipulation in lieu of personal testimony. He has been retained by governmental agencies such as the California Department of Justice, the California Franchise Tax Board and the United States Department of Justice. Mr. Black is the contract document examiner for the police department of the city of Orange, California. He has lectured at the Forensic Evidence seminar of the California Association of Public Defenders and is a guest lecturer at the Department of Criminal Justice at the California State University at Long Beach. A review of Mr. Black's credentials and experience by a committee of Los Angeles County Superior Court judges resulted in his appointment to the Panel of Experts assisting the Court in providing expertise to prosecutors and defense counsel.

James A. Black is a member of the International Association for Identification, a Fellow of the Questioned Documents Section of The American Academy of Forensic Sciences and is a former chairman of the Questioned Documents Subcommittee of the Forensic Sciences Committee of the American Society of Testing and Materials.

Five articles published in *The Journal of Forensic Identification* and in the *Journal of Forensic Sciences* were written by James Black.

James A. Black conducts examinations in a laboratory which makes scientific use of microscopes, a multi-spectral imaging system, grids, filters, scientific measuring instruments, photographic equipment, an ESDA, a library of over one hundred volumes of books relating to documentary evidence and an extensive typewriter library. Specialized training in computer technology and its application to questioned documents examinations has been completed. The cumulative volume of his caseload is thousands of cases and hundreds of trials.

PMB 152, 24331 MUIRLANDS BOULEVARD, SUITE 4, LAKE FOREST, CALIFORNIA 92630

Telephone: (949) 380-1733 Telecopier: (949) 380-0187 jblackQDE@gmail.com

EXHIBIT A

Articles Published by James A. Black

1. "The Interaction of Visualization Fluids and Fingerprints" published in the January/February, 1990, issue of the *Journal of Forensic Identification*.
2. "Malpractice and the Forensic Sciences Consultant" published in the January/February, 1992, issue of the *Journal of Forensic Identification*.
3. "The SONY HCP-C10 Pocket Copier" published in the May/June, 1992, issue of the *Journal of Forensic Identification*.
4. "Application of Digital Image Enhancement Software With the Macintosh Computer to Questioned Document Problems" published in the May, 1992, issue of the *Journal of Forensic Sciences*
5. "Simulated Signatures - Forgery by Imitation" published in the May/June, 1995, issue of the *Journal of Forensic Identification*.

EXHIBIT B

Trials in which James Black has testified since 2010

1/8/10	Dante Mauna –V- Santa Monica Auto Plaza LLC..LASC Department A (Santa Monica). Judge Gerald Rosenberg.
3/8/10	Estate of John S. Moore. LASC Department A (Pasadena). Judge Mary Thornton House.
3/23/10:	Orange County Nameplate –V- Counterman. OCSC Dept. C-11. Judge Andrew P. Banks.
1/12/10	Capital One –V- A+ Muffler. OCSC Department C-13. Judge Gregory Munoz.
4/22/10	Ruelas, et al –V- the State of California. San Bernardino County, California, Superior Court Department R-8. Judge David A. Williams.
5/21/10	In re: The Edward and Nancy Belezso Trust. LASC Department C (Van Nuys). Judge James A. Steele.
6/3/10:	Bankruptcy of Preston. Federal Bankruptcy Court 5B, Santa Ana, California. Judge Theodor C. Albert.
7/27/10:	Allan Ketchens –V- Bernice Ketchens. OCSC Department L-24. Judge Robert D. Monarch.
9/21/10:	Trikha –V- Trikha. OCSC Dept. C-4. Judge Michael Brenner.
3/29/11	People –V- Joseph Hawkins LASC Dept 10 (Compton). Judge Gary Hahn (preliminary hearing).
4/1/11	Wanczuk -V- Wanczuk. San Diego Superior Court Department 16. Judge Gregory W. Pollack.
4/13/11	Pacific Mercantile Bank -V- David Yeskin, et al. OCSC Department CX104. Judge Kim G. Dunning.
8/19/11	Musafi -V- Safari. OCSC Dept. L-68. Judge Lon F. Hurwitz.
1/12/12	Waters -V- Kiel, Farmers & Merchants Bank, et al. OCSC Dept. 19. Judge Charles Margines.

4/25/12 Dissolution of Paulsson. OCSC Department C-65. Judge Mark S. Millard.

7/24/12 Atallah -V- Underwood. IVAMS, Rancho Cucamonga. Judge Kathleen Bryant.

8/24/12 Estate of Joseph Kalous. San Bernardino Superior Court, Department S-16.
Judge Michael Welch.

8/27/12 Chinh Nguyen -V- Phieu Phan & Yen Le. OCSD Department C-14. Judge
Frank Miller.

9/5/12 United Self Defense Studios -V- Z-Ultimate Self Defense Studios. OCSC Dept.
C-20. Judge David R. Chaffee.

9/6/12 Termination of Gonzalez. ADR Arbitration Services.
Arbitrator Robert A. Steinberg.

1/28/13 JP Morgan -V- Bogorodski. Riverside Superior Court, Department 2-G. Judge
Harold Hopp.

1/29/13 Overland Corners -V- Lisa Chan, et al. LASC Dept. 32. Judge Mary Strobel.

3/6/13 Jeffrey -V- Rojas. OCSC Dept. 21. Judge David T. McEachen.

3/12/13 Comerica Bank -V- Beautiful Creations by Angela. San Bernardino Superior
Court, Dept. S-32. Judge Donald R. Alvarez.

3/19, 25/13 People -V- Perez. OCSC Dept. C-30. Judge Richard F. Toohey.

7/29/13 Smart -V- Dahl. OCSC Dept. C-23. Judge Robert J. Moss.

8/21/13: Ultimate New Home Sales -V- Mark Tasch. OCSC Dept. C-15. Judge Kirk
Nakamura.

10/3/13 People -V- Rousseau. San Bernardino County Superior Court, Department S-35.
Judge David Cohn.

10/18/13 He -V- Yang. LASC Dept. B (Burbank). Judge Donna Fields Goldstein.

2/3/14 Slauson -V- Bayard. LASC Dept. 14. Judge Terry A. Green.

3/4/14 People -V- Santiestaban. OCSC Dept. C-39. Judge M. Marc Kelly

3/4/14 Dissolution of Nourian. LASC Dept. 43. Judge Robert E. Willett.

7/8/14 Dissolution of Hatch. LASC Dept. 43. Judge Robert E. Willett.

EXHIBIT C

4/3/2015 Hernandez -V- Mawad, MD. San Bernardino Superior Court, Department S28. Judge Michael A. Sachs.

4/16/2015 Dissolution of Maedo. LASC Dept. S14 (Long Beach). Judge Ana Maria Luna.

4/22/2015 Yem -V- Alvandi. LASC Dept. 17. Judge Richard E. Rico.

8/11/2015 Vi-Cal Metals, Inc. -V- Barillas. OCSC Dept. C-11. Judge Andrew P. Banks.

2/10/2016 Estate of Daniel Huff. LASC Dept. 67. Judge William P. Berry.

3/29/2016 Dissolution of Bukosky. OCSC Dept. L-73. Judge Clay M. Smith.

4/7/2016 Oceanus Trading Co. -V- HSK Consultants. LASC Dept. 35. Judge Joseph R. Kalin.

5/2/2016 Estate of James Hoffman. OCSC Dept. C-24. Judge Randall Sherman.

6/30/2016 Soliemani -V- Green Dental. LASC Dept. 44. Judge Mark Borenstein.

9/8/2016 People -V- Tulsiani. OCSC Dept. 36. Judge Glenda Sanders.

11/9/2016 David Engineering -V- Speciality Financing, Inc. Riverside Dept. 1. Judge Gloria Connor Trask.

12/7/2016 Estate of Paul Wilson. Riverside SC, Dept. 8. Judge Thomas H. Cahraman.

12/15/2016 Dissolution of Wiese. OCSC Dept. L-73. Judge Clay M. Smith.

3/10/2017 Balderama -V- de la Vega. LASC Dept. 62. Judge Michael L. Stern.

3/13/2017 Luchetti -V- Kote. OCSC Dept. C-7. Judge Thomas H. Schulte.

5/16/2017 Crop production Services -V- Captiva Verde Farming. OCSC Dept. CX102. Judge William D. Claster.

6/7/2017 Dissolution of Lintz. OCSC Dept. L-60. Judge Frank Ospino.

6/12/2017 Kenneth James -V- Bayside Insurance. OCSC Dept. CX-101. Judge Glenda Sanders.

6/29/2017 Gonzales -V- Calderon. San Bernardino Superior Court,
7/3/2017 Dept. S-32. Judge Wilfred J. Schneider, Jr.

7/3/2017 People -V- Antionette Hipp. OCSC Dept. C-44. Judge Cheri Pham.

9/25/2017 Estate of Michael Fields. OCSC Dept. CX-102. Judge William D. Claster.

10/26/2017 Mendez-V- Cash Stop. ADR Arbitration Services, Orange County. Judge Francisco F. Firmat.

2018

3/5/2018: Leon-Robles -V- Keyes Lexis. JAMS, Downtown Los Angeles. Judge Colman A. Swart.

5/18/2018 Vinas -V- Hayes. OCSC Dept. 13. Judge Melissa McCormack.

7/30/2018 State Bar of California -V- KD Hughes-Cione. California State Bar court, Department A, Judge Cynthia Valenzuela.

9/6/2018: Dissolution of Jagger. OCSC Department 65. Judge Mark Millard.

9/17/2018 Estate of Richard Schultz. LASC Dept. 79. Judge Paul Suzuki.

9/24/2018

Cases in which James Black has been deposed since 2010

9/10/10	Trikha -V- Trikha
6/27/11	Waltz -V- Blue Water Mortgage
11/18/11	Waters -V- Kiel
4/23/12:	Dissolution of Paulsson
4/24/12	Golestaneh No -V- Mitra Jafary & Behrouz Safi-Samghabadi
10/15/12	Overland Corners, LLC -V- Lisa Chan
3/28/13	Chan -V- Cooper
4/16/13	Ultimate New Home Sales -V- Tasch
8/28/13	Yuan He -V- Wei Wen Yang
2/5/14	Ragland -V- US Bank
5/29/14	Dissolution of Fazeli
2/25/15	Majlessi -V- Vindel
7/27/2015	Vi-Cal Metals -V- Barillas & Cortez
7/30/2015	Dental Management Consultants -V- Ambarchyan Dental Corporation
8/6/2015	Burkhardt -V- Robinson
10/3/2016	Nguyen -V- Tran
12/19/2016	Lee -V- Gong & Zhu
8/10/2017	Middleton -V- Dasher, MD
9/5/2017	Estate of Fields
5/8/2018	Vinas -V- Hayes

EXHIBIT “10”

EXHIBIT “10”

EXHIBIT “10”

JAMES A. BLACK
EXAMINER OF QUESTIONED DOCUMENTS
PMB 152, 24331 MUIRLANDS BOULEVARD, SUITE 4
LAKE FOREST, CALIFORNIA 92630
(949) 380-1733
TELECOPIER: (949) 380-0187

October 4, 2018

Amy Frasier Wilson
10 Via Sonrisa
Mission Viejo, California 92692

Re: Jordan Dana Frasier Family Trust

Dear Ms. Wilson:

I am an examiner of questioned documents and handwriting identification expert. A copy of my resume is attached hereto, labeled **EXHIBIT A**. In this matter, my fee for testimony at trial, deposition or arbitration is \$500.00 per hour with a two hour minimum. My fee for all other activities is \$300.00 per hour plus costs. As of this writing, I have received \$800.00. A list of the articles I have written which have been published is attached hereto labeled **EXHIBIT B**. A list of the cases in which I have testified since 2008 is attached hereto, labeled **EXHIBIT C**. A list of the cases in which I have testified at deposition since 2008 is attached hereto, labeled **EXHIBIT D**.

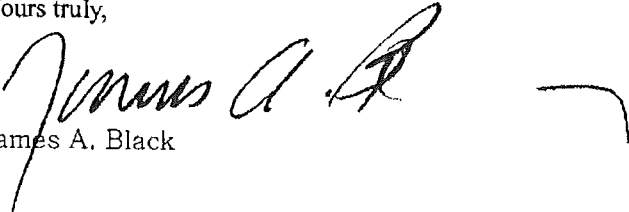
On October 4, 2018, I examined an image of check number 461, dated November 25, 2016, and drawn on Bank of America Account number 094611907. This document bears the purported signature of Dinny Frasier. Hereinafter the signature on the check is referred to as the Check Signature and a reproduction is attached hereto, labeled as **EXHIBIT E**.

Seven exemplars of the signature of the signature of Dinny Frasier were supplied consisting of images of checks. Hereinafter the Dinny Frasier signatures on these exemplars are referred to as the Exemplars.

I then directed my attention to the Check Signature. This examination revealed that the signature is hesitant and slowly executed. In my opinion, this slowness and hesitancy is a manifestation of a simulation. A simulation is the reproduction of the signature of another produced with the intention that it pass as genuine when, in fact, it is not. Some examples are tracing, freehand drawing and photocopier manipulation. It is my opinion that the Check signature is a simulation.

Thank you for the opportunity to assist in the resolution of this matter. Until our next contact, I remain

Yours truly,


James A. Black

DINNY G FRASIER
31521 PASEO CAMPEON
SAN JUAN CAPISTRANO CA 92675-1628

461

11-35/1210 CA
82618

11/25/16

Date

Pay To The Order Of Vogt, Resnick, Sherak \$10,000.00
Ten thousand & xx/100 Dollars



Bank of America

AOH R/T 121000358

For Retainer

Dinny Frasier

121000358

1907110461

Mayfield Check

EXHIBIT E

APP243

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

In the Matter of the

Case No.: PR16-00128

**JORDAN DANA FRASIER FAMILY
TRUST**

Dept. No.: 15 [PR]

ORDER MODIFYING THE TRUST TO EFFECTUATE TERMS OF THE
SETTLEMENT AGREEMENT

This case began when Mrs. Dinny Frasier and Premier Trust ("PT") filed a "Petition for Confirmation of Trustees, for Construction of the Trust Instruments, and for Instructions" on March 2, 2016. The Petition requested this Court assume jurisdiction of the Trust¹ pursuant to NRS 164.010, confirm Mrs. Frasier is a co-trustee of the Trust, confirm PT as the corporate and primary co-trustee of the Trust, order PT to provide an annual accounting of the Trust to Mrs. Frasier, and provide guidance on PT's duties with respect to a medical office building in which the Trust allegedly had partial ownership. After a lawfully noticed hearing on the Petition before the Honorable Probate Commissioner Robin Wright on April 13, 2016, Commissioner Wright issued a Recommendation for Order on April 21, 2016. The Recommendation stated this Court assumed ongoing jurisdiction over the Trust pursuant to NRS 164.010 until otherwise ordered by the Court. The Recommendation also confirmed PT was the primary Co-Trustee of the Trust. The

¹ The Jordan Dana Frasier Family Trust and the Trusts created thereunder shall hereinafter be known as the "Trust."

1 District Court then adopted and confirmed the Recommendation for Order in a
2 Minute Order dated August 18, 2016 with the exception of Paragraph 13 of the
3 Recommendation. The Court subsequently issued a written Order on August 29,
4 2016 adopting Commissioner Wright's Recommendation for Order, except for
5 Paragraph 13 of the Recommendation. Therefore, this Court has had ongoing
6 jurisdiction over the Trust pursuant to NRS 164.010 since August of 2016.

7 Following the Court's assumption of jurisdiction over the Trust, a primary
8 dispute in this matter involved a medical office building jointly held by Dr. Bradley
9 Frasier's Trust and the Trust as set forth on the applicable Deed. The Court set a
10 bench trial on May 8, 2017, to determine the Trust's and Dr. Frasier's legal rights
11 and responsibilities with respect to the medical building. The Court required the
12 Parties to attend mediation prior to the bench trial. On February 24, 2017, PT filed
13 a "Status Report" indicating the Parties mediated their issues with the medical
14 building on January 27, 2017 and resolved the medical building litigation.

15 Thereafter, the Parties disputed the terms of settlement, and in certain
16 respects, contested whether there was an enforceable settlement agreement reached
17 during mediation. In response, this Court conducted an evidentiary hearing on May
18 9, 2017 regarding the enforceability of the Settlement Agreement submitted to the
19 Court for consideration. After the hearing, the Court ordered the Settlement
20 Agreement reached during the January 27, 2017 mediation was valid and
21 enforceable. The Court further clarified the Agreement should be enforced as written
22 subject only to the requirement that equalization payments should be made upon
23 Mrs. Frasier's passing and that Amy Frasier Wilson will receive the Mission Viejo
24 property and her equalizing payments, if any, outright and free of the Trust.
25 Therefore, the disputes arising out of the Trust's and Dr. Frasier's joint ownership of
26 the medical building were resolved by the Parties during mediation, and the terms of
27 their Settlement Agreement were validated and confirmed by this Court in a July 6,
28 2017 Order.

1 The Settlement Agreement confirmed by the Court requires disposition of
2 certain real property from the Trust to Mrs. Dinny Frasier's Children – Bradley
3 Frasier, Nori Frasier, and Amy Frasier Wilson. Specifically, the Settlement
4 Agreement requires the Trust to transfer the following Real Properties to the
5 Children:

- 6 • "4372 Pacific Way Unit 3, Oceanside, CA" to Nori Frasier;
 - 7 • "10 Via Sonrisa, Mission Viejo, CA" to Amy Frasier Wilson; and
 - 8 • "3609 Vista Way, Oceanside, CA (the 'Medical Building')" to Bradley Frasier.
- 9 (hereinafter collectively known as the "Properties")

10 In effect, the Settlement Agreement requires Mrs. Frasier to execute a trust
11 instrument to distribute the Properties to her Children in accordance with the
12 Settlement Agreement. However, a question has now arisen regarding whether Mrs.
13 Frasier is competent to modify the terms of the Trust to effectuate disposition of the
14 Properties consistent with the Settlement Agreement. In such instances, the Court
15 has statutory authority to provide the relief codified in NRS 153.031.

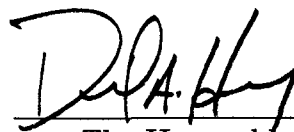
16 Specifically, both Mrs. Frasier and PT have petitioned this Court regarding the
17 internal affairs of the Trust, including the Trust's administration of the Medical
18 Building as stated above. When issuing orders regarding the internal affairs of the
19 Trust pursuant to NRS 164.015, the Court may afford the relief set forth in NRS
20 153.031. NRS 164.015(1). NRS 153.031(1)(n) empowers the Court to direct
21 modification of a trust. Pursuant to the Court's statutory authority to modify a trust
22 instrument under NRS 153.031(1)(n), the Court finds good cause to modify the Trust
23 as follows:

- 24 1. The Trust is hereby modified and amended to permit PT to distribute the
25 following Properties to the following Beneficiaries:
 - 26 a. 4372 Pacific Way Unit 3, Oceanside, CA to Nori Frasier;
 - 27 b. 10 Via Sonrisa, Mission Viejo, CA to Amy Frasier Wilson; and
 - 28 c. 3609 Vista Way, Oceanside, CA to Bradley Frasier.

- 1 2. PT is hereby authorized pursuant to this Court Order to execute any necessary
2 deeds, recorded documents, conveyance documents, Trust documents and/or
3 any other documents necessary to effectuate the property transfers from the
4 Trust to the Beneficiaries identified in Paragraph 1.
- 5 3. PT's conduct in executing this Order is hereby ratified and indemnified by the
6 Trust from and against any and all liability arising out of its performance of
7 the requirements of this Court Order, including but not limited to the real
8 property conveyances identified in Paragraph 1.
- 9 4. PT shall make the real property transfers identified in Paragraph 1 as soon as
10 is practicable.
- 11 5. The Trust is only modified to the extent necessary to effectuate the real
12 property transfers identified in Paragraph 1. This Court Order is not intended
13 to permit, deny, or rule upon the validity of any other Trust Amendments.
14 Instead, this Court Order is issued solely to effectuate the real property
15 transfers identified in Paragraph 1 in order to aid the Parties in completing
16 the terms of the Settlement Agreement previously approved by the Court.

17 **IT IS SO ORDERED**

18
19 DATED this 15 day of October, 2018.

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23 The Honorable David A. Hardy
24 District Court Judge
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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

JORDAN DANA FRASIER FAMILY
TRUST

Case No. PR16-00128

Dept. No. 15

ORDER AFTER HEARING

Before this Court are several submitted matters. This order is intended to be final as to all outstanding issues. This Court has re-read all relevant file materials and the pending moving papers, considered the witness evidence and attorney arguments, reviewed all admitted written exhibits, and analyzed the parties' pre-hearing papers and written closing arguments. This Court now finds and orders as follows.

Summary of Parties' Requests

1. Premier Trust petitioned to resign, for ratification and confirmation of its actions, and for settlement of its accounts.
2. Ms. Dinny Frasier filed written objections to Premier's accountings, but at the October 11-12, 2018, hearing she limited her evidence and arguments to two issues: 1) the unproductivity of two real properties, and 2) the source for a \$4,000 fee payment to Mr. Bradley Frasier's attorney.
3. Mr. Bradley Frasier objects to the payment of Premier's legal fees as unnecessarily incurred. He seeks an order requiring the \$302,395.24 in legal fees the trusts

1 incurred over a nearly 3-year period be repaid to the trusts by either Premier or its
2 attorneys.

3 4. Ms. Amy Frasier Wilson makes several objections to her mother's personal
4 care, legal representation, and attendant costs.

5 5. Ms. Janie Mulrain asks this Court to approve payment of her fees and costs
6 incurred as Ms. Dinny Frasier's private fiduciary and care manager.

7 Findings of Fact

8 1. As a factfinder, this Court is authorized to consider its everyday common
9 sense and judgment, and determine what inferences may be properly drawn from direct
10 and circumstantial evidence. See Lewis v. Sea Ray Boats, Inc., 119 Nev. 100, 105, 65 P.3d
11 245, 248 (2003); Nev. 1GI.5 (2011); Nev. 2EV.3 (2011); Nev. J.I. 1.05 (1986).

12 2. Joe and Dinny Frasier created the Jordan Dana Frasier Family Trust. They
13 had three children and accumulated substantial wealth during their marriage. The Frasier
14 children are Bradley, Nori, and Amy.¹

15 3. The intra-family dynamic of the Frasier family cannot be summarized in a
16 brief order. Dinny's attorney represented this is a "top 10" dispute he has seen in 52 years
17 of practice. Ms. Mulrain's attorney described the family dynamic as "continual upheaval
18 and endemic dysfunction." A review of the file reveals allegations of fraud, isolation,
19 exploitation, criminality, professional incompetence, self-dealing, personality complexities,
20 etc. The attorney descriptions are not hyperbole.

21 4. This Court has no desire to shame or gratuitously comment upon the Frasier
22 children's relationships with each other and their mother. Yet these relationships, together
23 with Dinny's age-related vulnerabilities and deficits, are the overarching and animating
24 features of this litigation. These relationships led to the involvement of numerous for-fee
25 professionals charged with individuated representation. Disputes became lengthy and
26 expensive, but the Frasier children appear unaware of how their intra-family dynamic is
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¹ This Court typically adheres to formalities but elects to use first names to simplify these facts.

1 perceived by this Court or the professionals retained to create order within a disordered
2 family.

3 5. In 2008, Jordan and Dinny Frasier conveyed \$325,000 to Bradley so he and
4 his wife could purchase a medical building. The nature of the transaction as a gift, loan, or
5 equity investment is not known. The transaction itself is understandable as many families
6 participate in informal financial arrangements. Problems arise, as demonstrated here, if
7 the family relationships deteriorate. When family relationships deteriorate, and
8 participants become entrenched in their own perspectives, the law becomes a necessary
9 but unwieldy tool to formalize and enforce what had previously been informal and
10 unenforceable. Courts cannot follow informal family conventions, yet they are limited in
11 their ability to reconstruct the past with protective legal actions the litigants failed to take.

12 6. Bradley acknowledges his father Joe thought the \$325,000 was a gift while
13 his mother Dinny considered it a loan. There was no Form 709 gift tax return filed, which
14 makes the transaction problematic as a gift. There was no written contract, which makes
15 the transaction problematic as a loan. There is evidence (in the form of a recorded deed
16 and debt instrument) the transaction was an investment. However, there is no partnership
17 agreement, other investment entity, or operating agreement, which makes the transaction
18 problematic as an investment. The uncertain nature of the transaction is the first fact
19 Premier did not create but was required to navigate.

20 7. Bradley sought commercial financing to purchase the building. Joe and
21 Dinny were co-borrowers (either individually or as trustees of their trust) on the
22 promissory note secured by a deed of trust. They were not personal guarantors of the
23 note. Regardless of whether the escrow company insisted the trust have title ownership,
24 or whether there were other influences leading to title ownership, the Frasier Family Trust
25 took a recorded legal interest as 50% joint tenants in the medical building property.
26 Bradley overlooks the legal effect of the joint tenancy deed, which vested an equity
27 ownership in the trust. This is the second fact Premier did not create but was required to
28 navigate.

1 8. Joe and Dinny Frasier did not report income or claim expenses related to
2 their legal ownership of the building. Their estate attorney and various CPAs concluded
3 there was no IRS mischief because Joe and Dinny held their interest as passive investors
4 and were only required to report a gain or loss upon sale. Additionally, it appears Bradley
5 reported all income and claimed all expenses associated with the building. This is the
6 third fact Premier did not create but was required to navigate.

7 9. Joe and Dinny met with an estate attorney on February 28, 2014. The
8 attorney's internal memo reveals that Joe told the attorney the trust's one-half ownership
9 investment in the medical building was \$800,000. For reasons summarized in the memo,
10 Joe and Dinny intended to bypass Bradley and gift their interest in the medical building to
11 Bradley's children. These intentions were never formalized in amended estate documents
12 and the memorandum was not admitted for the truth of the matter asserted. The
13 memorandum was admitted to show its effect upon Premier, who was tasked with
14 resolving an entrenched medical building dispute while balancing competing beneficiary
15 interests and fulfilling its fiduciary duties. See NRS 51.035.

16 10. Joe died on October 22, 2014. Thereafter, Dinny was the sole trustee of the
17 Frasier Family Trust. Dinny was experiencing age-related cognitive changes at the time,
18 which continue to affect her participation in this dispute. At the time of Joe's death, the
19 trust owned two real properties, the joint tenancy interest in the medical building,
20 personal property, and various investment accounts. One of the two real properties
21 owned by the trust, a home located in Palm Desert, California, is referred to as the
22 Lavender home. Joe and Dinny used the Lavender home seasonally. It was also
23 periodically used and enjoyed by other family members. The second real property owned
24 by the trust, a home in Irvine, California, is referred to as the Pinewood property. The
25 Pinewood property was Joe and Dinny's long-term residence. Dinny was emotionally
26 labile and connected to both properties as they represented fond feelings of the past.

27 11. Upon Joe's death, the Frasier Family Trust was divided into a tax exempt
28 subtrust and a survivor's subtrust. The trust's legally recorded equity interest in the

1 medical building was allocated to the tax exempt subtrust. Dinny (through her estate and
2 tax professionals) caused a federal Form 706 estate tax return to be filed, which listed the
3 trust's 50% equity ownership interest in the medical building. This is the fourth fact
4 Premier did not create but was required to navigate.

5 12. In December, 2014, Dinny and Bradley agreed to treat the \$325,000
6 transaction as a loan for Bradley to repay. The existence of this agreement is evidenced by
7 Bradley's \$50,000 initial repayment. However, there is no written evidence of the
8 repayment agreement so the material terms of interest rate and amortization were not
9 confirmed. Subsequently, Dinny and Bradley's relationship deteriorated and they became
10 estranged. Bradley ascribes the estrangement to his sister Amy's undue influence.

11 13. Bradley became frustrated with the irresolution of the trust's interest in his
12 building. He left several unkind messages on Dinny's voicemail that caused Dinny to
13 react negatively. This deepened the estrangement between mother and son. The
14 estrangement between mother and son is the fifth fact Premier did not create but was
15 required to navigate.

16 14. Dinny's estate attorney recommended that Dinny appoint Premier as
17 co-trustee, which she did in May, 2015.

18 15. Premier initially attempted to work with Bradley to resolve the medical
19 building issue. Bradley made several proposals and indicated a willingness to
20 compromise to reach a resolution. He was willing to re-pay the money as a loan at a
21 negotiated interest rate.² Bradley became more frustrated, finally asserting incompetence
22 and/or self-dealing by Premier as the causes for delay. Bradley was represented by three
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24
25 ² Premier's attorney stated in court that Bradley did not want to "pay anything." Bradley points to this
26 statement as demonstrably untrue, thus authorizing an order denying all legal fees to Premier. Bradley also
27 suggests a report of professional misconduct is warranted. Mr. Robertson's statement, in isolation, is not
28 supported by the facts of record. However, Mr. Robertson later contextualized his statement by connecting
it to Bradley's insistence on repaying a loan instead of purchasing the trust's equity position. Upon
reflection, Mr. Robertson's statement could have been more careful. But it was neither prejudicial nor
intentionally false. Mr. Robertson made the statement in the course of a lengthy dispute in which he, his
firm, and his client were being relentlessly criticized. This Court knows Mr. Robertson to be a careful and
professional attorney; thus, no further comment or action is warranted.

1 successive attorneys during this time, yet he continued to personally communicate his tax
2 and legal analyses to Premier and its attorneys. Based upon testimony, there were
3 between 70 and 100 emails between Bradley and Premier's attorneys on the medical
4 building issue alone. Premier was involved in many other trust matters and its email
5 folder for the Frasier Family Trust contains approximately 5,000 emails.

6 16. According to Bradley, resolution was a simple matter and Premier and its
7 attorneys were obstructionist for their own financial benefit. However, Premier was
8 limited by the facts created before it became involved, including: 1) the uncertain nature of
9 the medical building purchase transaction, 2) the trust's recorded legal equity ownership
10 in the building, 3) the estate tax return filed after Joe's death, which confirmed the trust's
11 equity ownership interest in the medical building, and 4) Dinny and Bradley's
12 estrangement, resulting in Dinny's refusal to communicate with Bradley or agree to his
13 proposals. In addition to these pre-existing challenges, several CPAs advised Premier
14 against accepting Bradley's proposal and Premier was concerned about how beneficiaries
15 Nori and Amy would respond if it acceded to Bradley's demands to change the ownership
16 interests.³ Premier's position was that it could not simply amend the estate tax return,
17 ignore the trust's legal equity ownership, re-classify the equity position as a loan to be
18 repaid, transfer assets between the two subtrusts, and cause the original lender to release
19 the trust as a borrower on the promissory note, all while demonstrating equal fidelity to
20 other income and residual beneficiaries. At Dinny's request, and consistent with the
21 transactional documents, Premier maintained that Bradley should purchase the trust's
22 one-half equity interest in the building.

23 17. Bradley repeatedly insisted that he and his mother had a loan repayment
24 agreement and the matter would be resolved if he could just talk to Dinny. After some
25 effort and a few months, Premier persuaded Dinny to talk to Bradley to make progress on

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27 ³ This Court notes, without detail, that the intra-family relationships became so destructive that Dinny hired
28 a personal fiduciary/care manager and severed all ties with her children. Dinny later executed an
amendment disinheriting her three children from the subtrust over which she still had amendment (or
power of appointment) authority.

1 the issue. Premier facilitated a telephone call and requested that Bradley and Dinny be
2 civil to each other. Premier reassured Dinny she could terminate the call at any time if she
3 felt uncomfortable. The telephone call was a disaster. It lasted only a few minutes and
4 Bradley and Dinny were unkind to each other. Thereafter, Dinny repudiated the
5 executory loan repayment agreement and directed Premier to treat the \$325,000 as an
6 equity investment in 50% of the medical building. She was co-trustee at the time.

7 18. Premier consulted Dinny's former estate attorney and four separate CPAs,
8 who all disagreed with Bradley's tax analysis and proposed resolution. Bradley's CPA
9 was unable to persuade Dinny's CPA to resolve the issue as Bradley proposed. Regardless
10 of which position or professional was correct, Premier could not regard one beneficiary to
11 the disregard of the others. To do so would expose Premier to potential liability.

12 19. Premier and Dinny filed a petition for confirmation as co-trustees and for
13 other relief on March 2, 2016. Dinny suffered a fall at her Pinewood home in August, 2016.
14 Premier then purchased a single level home for Dinny in San Juan Capistrano, California.
15 Dinny was not satisfied with her new home and wanted to return to the same
16 neighborhood in Irvine where she had lived for several decades. Dinny's accident and
17 move to San Juan Capistrano caused the Lavender and Pinewood properties to be unused.

18 20. On October 5, 2016, Judge Stiglich entered an order directing the parties to
19 mediation within 120 days. Bradley was resistant to mediation because of its expense and
20 his confidence the dispute could be resolved as he proposed.

21 21. Following her fall and resulting move, Dinny's relationship with Premier
22 deteriorated. She hired personal counsel in November, 2016, severed all direct
23 communication with Premier, and agitated against Premier's continuing role as trustee.

24 22. Premier filed a supplemental petition for instructions on November 29, 2016,
25 in which it informed the court it was "embroiled in a dispute over ownership of a medical
26 building" and asked for an order regarding its disposition as well as instructions on how
27 Premier should handle the Frasier family's internal disputes. In its petition, Premier also
28

1 noted the parties had been unwilling to schedule the previously ordered mediation.

2 Premier orally renewed its mediation request on December 6, 2016, before Judge Polaha.

3 23. The parties participated in judicial mediation in January, 2017, and reached a
4 settlement on the medical building and other issues. The settlement did not incorporate
5 the analytical structure Bradley had insisted upon in the two preceding years. In
6 substance, it was far better for Bradley than what he had been seeking. Regrettably,
7 litigation continued until this Court entered an order enforcing the settlement.

8 24. This Court removed Dinny and confirmed Premier as the sole trustee on
9 October 17, 2017.

10 25. Dinny never asked Premier to rent the Lavender or Pinewood properties
11 while she was a co-trustee or after she was represented by independent counsel. Evidence
12 suggests Dinny did not want to rent the properties even though she was aware of their
13 ownership costs.

14 26. At the October 11-12, 2018 hearing, Dinny presented evidence of the
15 aggregate value of renting the properties, which amount she asserts as loss damages
16 against Premier. This value did not account for the continuing costs of ownership, lease
17 management, and the challenges of renting a home that was either contemplated for sale
18 or concomitantly listed for sale. Neither Dinny nor Premier offered any evidence of how
19 the vacant homes were unproductive (i.e., causing financial loss) in light of the
20 acknowledged increases in the real properties' values.

21 27. There is email correspondence indicating some discussions between Dinny's
22 private fiduciary and Premier that Dinny wanted to purchase another home in the same
23 Irvine neighborhood in which she had previously lived for so long. The email
24 correspondence further demonstrates that Dinny was slow to make decisions and had an
25 emotional connection to the Pinewood home. Dinny's fiduciary expressed her hope the
26 Pinewood home would be sold to facilitate the purchase transaction for a new Irvine
27 home. With assistance, Dinny did look at several potential replacement homes in Irvine.
28

28. Premier submitted the question of purchasing a replacement home to an internal committee of trust officers and concluded it should not purchase a fourth home while the trust continued to own three vacant homes. Instead, Premier proposed that Dinny enter into a lease option and live in the leased home for 6-12 months to confirm it met her desires. Then, after some transitional time, Dinny could exercise the option to buy and Premier would sell the Pinewood home to finance the replacement home purchase in Irvine. Premier specifically considered the fiduciary propriety of maintaining the Lavender and Pinewood homes as a proper allocation of trust assets because of the increasing value of the two homes. The absence of a comparison analysis between equity appreciation and rental opportunity loss, to include how rental or sale proceeds would be re-invested, makes it impossible for this Court to measure the damages Dinny seeks.

29. There is conflicting evidence on the Pinewood sale issue that Premier was unable to explain. Premier sent an authorization to Dinny to move personal property from the Pinewood home to San Jaun Capistrano to prepare the Pinewood home for sale. Dinny signed and returned the authorization in April, 2017. Premier did not follow through with the sale after receiving the written authorization from Dinny. It appears the authorization fell into the shadows created by the deepening disagreements between Dinny and Premier, Premier's experience with Dinny's uncertainties, the absence of communication between Dinny and Premier, the absence of clear direction from Dinny's personal attorney, the employment departure of the trust officer assigned to the Frasier Family Trust, and the slow transition of the trust to another trust officer.

Analysis

1. *Unproductivity of Lavender and Pinewood real properties.* Dinny's allegation of financial loss caused by the two homes' unproductivity is factually and legally problematic. The facts must be viewed within the larger context of Premier's interactions with Dinny, Dinny's private fiduciary, Dinny's personal attorney, and all three of Dinny's children. Dinny seeks to penalize Premier for its failure to rent the Lavender property in 2015, shortly after it assumed co-trustee duties and well before Dinny was injured by the

1 fall that made it difficult for her to visit the seasonal home. Dinny further seeks to
2 penalize Premier for its failure to rent the Pinewood property in September, 2016. Yet this
3 was a chaotic and busy time during which Dinny was injured and relocated to a recently
4 purchased home. Retrospective analysis in the proverbial “Monday morning armchair” is
5 not appropriate. Just a few months later, in the Spring of 2017, Premier was under
6 scrutiny from all sides and was not empowered to take dramatic action for a co-trustee
7 who refused to communicate with it and was seeking its dismissal. Premier’s decision not
8 to sell the properties must be viewed within the same context.

9 2. The third amendment to the Frasier Family Trust relieves a trustee of the
10 typical fiduciary standards on investments and specifically authorizes the trustee to retain
11 unproductive assets and make asset allocation decisions *on any reasonable basis*. In so
12 doing, the trustee’s decisions can be informed by the settlors’ investment decisions and
13 historical practices.

14 3. Legally, Premier’s investment decisions are governed by trust provisions and
15 the prudent investor rule codified at NRS 164.745. “A trustee shall invest and manage
16 trust property as a prudent investor would, considering the terms, purposes, requirements
17 for distribution, and other circumstances of the trust. In satisfying the standard, the trustee
18 shall exercise reasonable care, skill and caution.” NRS 164.745(1). Further, when making
19 investment decisions, a trustee shall consider “[a]n asset’s special relationship or special
20 value . . . to one or more of the beneficiaries.” NRS 164.745(3)(h). Compliance with the
21 prudent investor standard depends on the circumstances and conduct of the trustee at the
22 time of decision making and is not based on hindsight. NRS 164.765; see also Donato v.
23 BankBoston, N.A., 110 F.Supp.2d. 42, 52 (D.R.I. 2000); French v. Wachovia Bank, Nat.
24 Ass’n, 800 F. Supp. 2d 975, 990 (E.D. Wis. 2011) (“The test is not whether, in hindsight, a
25 more lucrative investment could have been made . . . [but] whether, under the
26 circumstances then prevailing, a prudent man would have acted differently”).
27
28

1 4. Finally, Dinny failed to prove damages by a preponderance of evidence. The
2 aggregate rental analysis is incomplete as the appreciated values of the properties during
3 this same time is unknown. Dinny failed to prove by preponderant evidence that Premier
4 was unreasonable or in breach of its fiduciary duties when it did not rent or sell the
5 properties.

6 5. *Allocation of \$4,000 payment for legal fees.* On December 11, 2017, this Court
7 entered an order directing Premier to distribute \$54,000 to Bradley by a certain date and
8 time. The purpose of the order was to effectuate a \$50,000 payment provision of the
9 settlement previously reached by the parties. The \$4,000 payment was not a sanction; it
10 was included to avoid an injustice to Bradley. See NRS 153.031(3). The \$50,000 had not
11 been paid, in part, because Dinny directed Premier not to pay it. Premier was in a difficult
12 position between the demand for payment by Bradley and the direction from its
13 co-trustee. Thus, when this Court ordered that Premier “distribute” \$54,000 to Bradley, it
14 intended the \$50,000 plus the \$4,000 in attorneys’ fees be distributed from the trusts.

15 6. *Bradley’s request for sanctions.* Bradley seeks to sanction Premier \$302,395 by
16 denying the trust as a payment source for its attorneys’ fees. The evidence demonstrates
17 the medical building dispute involved complex tax issues upon which even the
18 accountants could not agree. Bradley’s insistence the dispute be resolved only by treating
19 the trusts’ investment as a loan instead of an ownership interest exacerbated the problem
20 by making resolution more difficult.

21 7. Bradley is undoubtedly intelligent and accomplished. And he seems
22 unaware of how his direct, confrontational style can be alienating to others. Bradley’s
23 style is one of the influences in this unfortunate dispute. His request is not joined by other
24 beneficiaries, including Dinny – who bears the financial burden of Premier’s attorneys’
25 fees.

26 8. Bradley has not challenged any particular fees as unreasonable or unnecessary
27 even though detailed legal invoices were filed and available for his review. Rather, his
28

1 objection is that *all* of the legal fees were unnecessary because *none* of them would have
2 been required if only the trustees and their counsel had accepted his proposal. Bradley's
3 position is untenable. The legal fee invoices demonstrate that Premier's attorneys dealt
4 with many other issues besides the medical building, such as questions regarding Dinny's
5 capacity to amend the survivor's trust, the legal impact of amendment, allegations from
6 multiple parties that other parties were asserting undue influence over Dinny, issues
7 regarding retention and payment of caregiver services for Dinny, the fact that Dinny
8 severed all direct communication between her and Premier and thereafter required
9 Premier to communicate with her through counsel, etc. Thus, Bradley has failed to
10 identify with any reasonable specificity what portion of the legal fees were allegedly
11 unnecessary because they related solely to the medical building dispute. Finally, Bradley
12 has not demonstrated by a preponderance of evidence that Premier is solely responsible
13 for the way the Frasier Family Trust has been administered. The sanction Bradley seeks is
14 neither supported by the evidence nor available under Rule 11 or NRS 7.085.

15 9. *Objection to Ms. Mulrain's Fees.* Amy's only objection to the accountings
16 related to payment of Ms. Mulrain's fees. Amy generally alleges that Dinny lacks capacity
17 or knowledge about Ms. Mulrain's professional services and costs. Amy questions the
18 qualitative and quantitative services provided by Ms. Mulrain. Amy also expressed other
19 concerns about Dinny's personal care and attorney-client relationship with Mr. Resnick.
20 Amy did not prove her objections by a preponderance of the evidence. This Court is
21 unable, based upon the evidence of record, to invalidate Dinny's contract with
22 Ms. Mulrain. All other objections to Ms. Mulrain's fees have been resolved by
23 Ms. Mulrain's submission of detailed invoices and Mr. Resnick's representation that
24 Ms. Mulrain is not seeking double payment.

25
26 10. *Ancillary Issues.* This Court previously expressed its concerns and invited the
27 parties to comment upon the propriety of an independent investigator to confirm Dinny's
28 capacity, removing Ms. Mulrain as Dinny's attorney-in-fact, and appointing a guardian ad
litem. Upon reflection, this Court must adhere to its jurisdictional authority over the trusts

1 and modestly intervene in personal issues in accordance with NRS 164.010 and
2 NRS 164.015. Additionally, all persons related to these ancillary issues reside in California
3 and the parties' convenience compels California as the appropriate forum to address these
4 issues.

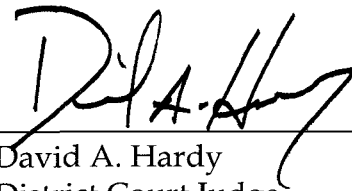
5 **Conclusions**

6 11. Premier's Resignation Petition and its Ratification Petition are granted in
7 their entirety. U.S. Bank shall be substituted in Premier's place as trustee of the trusts,
8 effective December 28, 2018. Premier and U.S. Bank shall jointly use best efforts to
9 effectuate a smooth transition of the trusts. Premier's Accounting Petition is also granted
10 in its entirety, with the sole exception being that the trustee shall pay Ms. Mulrain the
11 amount of \$180,596.68 from the appropriate trust(s) before it relinquishes financial control
12 to U.S. Bank. This Court will retain jurisdiction over administration of the trusts to resolve
13 any outstanding disputes over amendment of the trusts, to oversee the orderly trust
14 transition to U.S Bank, and to resolve any related issues. This Court is prepared to sign an
15 order relinquishing all jurisdiction if stipulated and submitted for decision.
16

17 12. Dinny's petition to confirm the third and fourth amendments is approved.
18 Amy opposes the motion with arguments previously considered by this Court. Amy also
19 alleges an arithmetic error in calculating the children's offset distributive balances. This
20 Court acknowledges the possibility of an error, but does not rule on whether the
21 distribution amounts listed in the fourth amended have been calculated correctly.
22 Mr. Resnick and Premier's current counsel shall file a reply to the alleged arithmetic error
23 no later than January 11, 2019, at 5:00 p.m.. Amy's other objections, primarily to capacity,
24 are denied.

25 **IT IS SO ORDERED.**

26 Dated: December 21, 2018.

27 
28 David A. Hardy
District Court Judge

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

In the Matter of the

Case No: PR16-00128

JORDAN DANA FRASIER FAMILY TRUST

Dept. No.: 15 [PR]

SUPPLEMENTAL ORDER CONFIRMING
FIFTH AMENDMENT TO THE TRUST

Mrs. Dinny Frasier Petitioned this Court on November 19, 2018 (the "Petition") to confirm the Third and Fourth Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family Trust (the "Trust") to effectuate certain terms of a court-sanctioned settlement agreement and disposition of the remainder of the Survivor's Trust to certain beneficiaries upon the death of the Survivor – Mrs. Dinny Frasier. The Third and Fourth Trust Amendments were attached to the Petition as Exhibit 13.

The Fourth Amendment to the Trust effectuates certain equalization payments required by the Settlement Agreement sanctioned by this Court in its July 6, 2017 Order. Mrs. Amy Frasier Wilson objected to the Petition, and confirmation of the Fourth Amendment to the Trust, in part, because the Fourth Amendment incorrectly calculated the equalization payments required by the Settlement Agreement. *See* December 21, 2018 Court Order p. 13, lns. 17-24. In response, the Court ordered Mr. Resnick to file a reply to Mrs. Frasier Wilson's arithmetic error allegation. *Id.* at p. 13, lns. 22-24.

Mr. Resnick, on behalf of Mrs. Dinny Frasier, filed a Supplement to the Petition, as well as the Reply ordered by the Court, confirming there was a scrivener's

1 error in the Fourth Amendment to the Trust. Specifically, the Fourth Amendment
2 used incorrect property valuation figures in calculating the equalization payments
3 required by the Settlement Agreement. *See* Exhibit 1 to the December 21, 2018
4 Supplement to Petition; *see also* Exhibit 1 to the January 9, 2019 Reply. To correct
5 the scrivener's error, Mrs. Frasier executed a Fifth Amendment to the Trust, which
6 uses the correct property valuation figures to calculate the equalization payments
7 required by the Court-sanctioned Settlement Agreement. *See* Fifth Amendment to
8 the Trust attached as Exhibit 2 to the December 21, 2018 Supplement to Petition.
9 The Fifth Amendment to the Trust is alike in form and substance to the Fourth
10 Amendment to the Trust, with the exception of correcting the erroneous property
11 valuation figures and equalization payments set forth in the Fourth Amendment to
12 the Trust.

13 Thus, this Court hereby supplements and revises its December 21, 2018 Order
14 as follows:

15 1. The Fourth Amendment to the Trust was previously confirmed by this Court
16 in the December 21, 2018 Order of the Court.

17 2. The Fourth Amendment incorrectly calculated the equalization payments
18 required by the Settlement Agreement approved by the Court in its July 6, 2017
19 Court Order.

20 3. Mrs. Frasier executed a Fifth Amendment to the Trust on December 4, 2018
21 correcting the arithmetic error in the Fourth Amendment. All other provisions of the
22 Fifth Amendment to the Trust are alike in form and content to the Court confirmed
23 Fourth Amendment to the Trust.

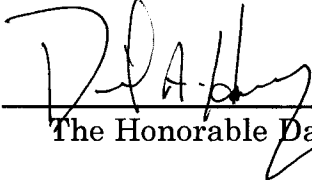
24 4. The Fifth Amendment to the Trust is hereby confirmed in place of the Fourth
25 Amendment to the Trust to correct the miscalculated distribution payments required
26 by the Settlement Agreement between the Parties.

27 ///

28 ///

1 5. All other provisions of the December 21, 2018 Court Order remain the same.

2
3 Dated this 14 day of January, 2019

4
5
6 By: 
The Honorable David Hardy

136 Nev. 486
Supreme Court of Nevada.

In the MATTER OF the JORDAN
DANA FRASIER FAMILY TRUST.

Amy Frasier Wilson, Appellant,

v.

Stanley H. Brown, Jr., Special Administrator of
the Estate of Dinny Frasier, Deceased; Premier
Trust, Inc.; Janie L. Mulrain; Nori Frasier;
and Bradley L. Frasier, M.D., Respondents.

No. 77981

|

FILED AUGUST 27, 2020

Synopsis

Background: In proceedings concerning the administration of a revocable non-testamentary trust, surviving settlor filed petition to confirm her third and fourth amendments to the trust, and one of settlor's children filed objection challenging, among other things, settlor's capacity. The District Court, Washoe County, [David A. Hardy](#), J., entered order denying the challenge to settlor's capacity and confirming the amendments, among other things, and supplemental order confirming a subsequent amendment. Objecting child appealed.

Holdings: The Supreme Court, [Hardesty](#), J., held that:

[1] trial court's failure to conduct evidentiary hearing on challenge to settlor's capacity required reversal of order denying the challenge and confirming the trust amendments, but

[2] district court could award professional fees to individual retained to serve as settlor's personal fiduciary without resolving challenge to settlor's capacity to enter into that relationship.

Affirmed in part, reversed in part, and remanded.

West Headnotes (4)

[1] **Appeal and Error** 🔑 Statutory or legislative law

Supreme Court reviews questions of statutory interpretation de novo.

[2] **Trusts** 🔑 Validity

Trusts 🔑 Trial or hearing

Under the plain language of statute governing challenges to the validity of a revocable non-testamentary trust, district courts must resolve questions of fact concerning the competency of the settlor to make the trust, the freedom of the settlor from duress, menace, fraud, or undue influence at the time of execution of the will, the execution and attestation of the trust instrument, or any other question affecting the validity of the trust in a trial before the court; at a minimum, an evidentiary hearing is required on the factual question raised in the challenge. [Nev. Rev. St. § 164.015](#).

1 Case that cites this headnote

[3] **Appeal and Error** 🔑 Issues not addressed below in general

Trial court's failure to conduct evidentiary hearing on challenge to trust settlor's capacity required reversal of trial court's order denying the challenge and confirming amendments to revocable non-testamentary trust, and remand for an evidentiary hearing; plain language of statute governing challenges to the validity of a revocable non-testamentary trust required district court to hold an evidentiary hearing, make factual findings, and properly resolve capacity in a final appealable order before enforcing the amendments. [Nev. Rev. St. § 164.015\(3\)-\(4\), \(6\)](#).

1 Case that cites this headnote

[4] **Trusts** 🔑 Costs

District court could award professional fees to individual retained by trust settlor's attorney to serve as settlor's personal fiduciary and holder of settlor's power of attorney without resolving challenge raised by one of settlor's children that settlor lacked capacity to enter into a power-of-attorney relationship and had been unduly influenced; fee application was supported by detailed invoices and attorney's representation that individual was not seeking double payment, and power-of-attorney relationship was entered into in another state, making issues relating to the validity of that relationship better suited to resolution by the courts of that state. *Nev. Rev. St. § 164.010*.

Appeal from district court orders resolving petitions concerning the internal affairs of a nontestamentary trust and confirming amendments to the trust. Second Judicial District Court, Washoe County; *David A. Hardy*, Judge.

Attorneys and Law Firms

Doyle Law Office, PLLC, and *Kerry St. Clair Doyle*, Reno, for Appellant Amy Frasier Wilson.

Michael A. Rosenauer, Ltd., and *Michael A. Rosenauer*, Reno, for Respondent Janie L. Mulrain.

Robertson, Johnson, Miller & Williamson and *G. David Robertson* and Alison Gansert Kertis, Reno, for Respondent Premier Trust, Inc.

Wallace & Millsap LLC and *Patrick R. Millsap* and *Fred M. Wallace*, Reno, for Respondent *Stanley H. Brown, Jr.*, Special Administrator of the Estate of Dinny Frasier.

Bradley L. Frasier, M.D., Oceanside, California, in Pro Se.

Nori Frasier, Oceanside, California, in Pro Se.

BEFORE PARRAGUIRRE, *HARDESTY* and *CADISH*, JJ.

OPINION

By the Court, *HARDESTY*, J.:

****743 *486** NRS 165.015 governs contests to the validity of a revocable nontestamentary trust. Following the assumption of jurisdiction over the trust under *NRS 164.010*, the district court must hold an evidentiary hearing and make factual findings when an interested ***487** person challenges a settlor's or trustee's fitness in accordance with *NRS 164.015* and issue an order binding in rem on the trust and appealable to this court. Here, a trust beneficiary challenged the settlor's capacity to execute amendments to the trust, and the district court entered an order denying the objections and confirming the amendments. Because the district court did not hold an evidentiary hearing or provide factual findings regarding the challenge to the settlor's mental capacity prior to approving the amendments to the trust, as required by NRS 165.015, we reverse and remand for further proceedings.

I.

Jordan and Dinny Frasier, residents of California, created the Jordan Dana Frasier Family Trust in order to protect their wealth and provide for their three children—appellant Amy Frasier Wilson, respondent Dr. Bradley Frasier (Brad), and respondent Nori Frasier. As originally constructed, Jordan and Dinny were the co-trustees of the Family Trust. When Jordan passed away in 2014, the Family Trust divided into two subtrusts—the Survivor's Trust and the Tax Exemption Trust—for which Dinny was the sole trustee and the sole income beneficiary until her death.¹ Dinny subsequently appointed respondent Premier Trust, Inc., a Nevada trust corporation, as co-trustee.

In March 2016, Dinny and Premier filed a petition in the district court to confirm them as co-trustees and to provide guidance regarding a dispute that had arisen between the Family Trust and Brad. The dispute concerned whether money that was provided to Brad from the Family Trust for the purchase of a medical building was a gift, loan, or equity investment. In June 2016, Dinny executed a Second Amendment to the Survivor's Trust, designating Amy as the sole beneficiary and disinheriting both Brad and Nori. In August, the district court assumed jurisdiction pursuant to *NRS 164.010*² and ordered the parties to attend mediation.

In November, Premier filed a supplemental petition for instructions on how to handle allegations from Dinny's children, because “each of the children has, at one time or another, questioned Dinny's competency” and claimed their siblings or other persons were exerting undue influence

over Dinny. In late 2016, California attorney *488 Barnett Resnick **744 began representing Dinny in her personal capacity and retained respondent Janie Mulrain to act as Dinny's power of attorney and personal fiduciary. Shortly thereafter, Dinny cut off all contact with her children and grandchildren.

In January 2017, the parties attended court-ordered mediation and reached a settlement agreement whereby Brad would receive title to the medical building, and Amy and Nori would receive title to other properties and would also get equalization payments from the Survivor's Trust upon Dinny's death. The settlement agreement required a capacity determination for Dinny by a qualified gerontologist and Nevada court approval to be effective. In February, Dr. James E. Spar, a qualified gerontologist, examined Dinny and found that "she retains the testamentary capacity (as defined in Cal. Probate Code § 6100.5) required to modify her estate plan," and "she retains the capacity to enter into contracts, *as long as she is not required to rely on her unaided recall alone.*"

On April 27, 2017, Dinny executed a Third Amendment to the Survivor's Trust, which disinherited all of the children and left all of the trust's assets to charity. Dinny additionally filed a motion to approve and enforce the settlement agreement, and the district court ordered an evidentiary hearing on the matter in May 2017. At the evidentiary hearing, Amy argued Dinny lacked mental capacity and was susceptible to undue influence. Amy asserted that she had not had contact with Dinny since October 2016, and she expressed concern about some of Dr. Spar's findings. The district court disagreed with Amy's arguments and ruled that Amy should have summoned Dr. Spar and presented her own expert on Dinny's competency. The district court found that the settlement agreement was a valid and enforceable agreement. Near the end of the hearing, Amy requested that the district court appoint a guardian ad litem for Dinny, which the district court declined to do at that time. On May 19, 2017, Dr. Spar examined Dinny a second time and concluded that she was competent to make a decision to replace her co-trustee, as well as to make other trust-related decisions. In late May, Premier filed a second supplemental petition for instructions, claiming, among other things, that it was "extremely concerned" about Dinny, her finances, and her overall welfare. Amy joined in Premier's petition, agreeing with Premier's concerns over Dinny's welfare and additionally arguing that Mulrain exerted undue influence over Dinny.

In July 2017, the district court issued three orders that (1) set a hearing to determine Dinny's capacity and required Dinny to attend the hearing in person (hereinafter, July 2017 capacity order); (2) approved and enforced the settlement agreement; and (3) decided, among other issues, that Dinny had the authority to amend the Survivor's Trust if she was capacitated. In the district court's July 2017 capacity order, the district court concluded that "based upon the current allegations, no amendment to any trust documents will *489 be effective without proof to this [c]ourt of [Dinny]'s testamentary and contractual capacity. The evaluation provided by Dr. Spar is not preponderant proof of [Dinny]'s capacity." On September 22, 2017, Dr. Spar evaluated Dinny a third time. Dr. Spar determined that Dinny was

functioning in the range of mild to moderate global cognitive impairment, with deficits mainly in spontaneous recall of previously learned facts and information [Additionally, Dinny] retains testamentary and contractual capacity, is quite aware of her overall circumstances, and remains capable of guiding you in the process of seeking a settlement of her current legal dilemma.

The district court set Dinny's capacity hearing for October 2017, but neither Dinny nor an examining physician attended. Dinny's counsel represented that the physician had a last-minute scheduling conflict and that Dinny was not present because her primary care physician advised her that traveling to Nevada would endanger her mental and physical health. No capacity determination was made at this hearing. Throughout the remainder of the proceedings below, Dinny never personally appeared, nor did the district court hold a hearing on her capacity. In December 2017, the district court ordered (1) Dinny's removal as co-trustee, (2) that Resnick and Mulrain **745 provide an accounting for the district court's review, and (3) that Brad's motion seeking payment of \$50,000 allotted to him in the settlement agreement be granted.

In June 2018, Dinny filed a petition for final accounting and requested the removal of Premier and appointment of a sole successor trustee. In August, Premier filed petitions requesting approval of its resignation as trustee, that the district court ratify and confirm all of Premier's actions, and to settle Premier's account. The district court set a hearing to resolve Premier's requests and determine Mulrain's fees and permitted prehearing statements by the parties. Amy then objected to Mulrain's fee request, questioning whether Dinny had capacity in 2016 to enter into a fiduciary relationship with Mulrain. Amy additionally claimed that Mulrain was

exerting undue influence over Dinny, complained about the competency of Dinny's caregivers, and requested that the court appoint an investigator to examine Dinny's environment and report to the district court whether Dinny was competent and free from undue influence. Additionally in August, Dinny was evaluated by Dr. Sandra Klein, who opined that Dinny's "safety is a primary concern now.... [S]he is not capable of appreciating the situation or consequences of her decisions independently.... [She is] vulnerable to undue influence by others when it comes to her financial affairs."

In October, the district court held a two-day evidentiary hearing to resolve the outstanding issues related to the Survivor's Trust. Relevant ***490** here, the parties discussed that the Survivor's Trust needed to be amended a fourth time to effectuate the terms of the settlement agreement, but all of the parties expressed concern about whether Dinny had the capacity to amend it. The court determined that it could not "conclude that [Dinny]'s incapacitated. There's too much evidence that she's still engaged in some ways. But I also can't conclude that she's fully capacitated" The parties agreed and arranged to have Dinny evaluated contemporaneously with her execution of the Fourth Amendment to the Survivor's Trust.

On November 12, 2018, Dr. Klein evaluated Dinny again and determined "she is not capable of appreciating the situation or consequences of her decisions independently. She is unable to manipulate information and balance the pros and cons of her immediate situation[] because information becomes overwhelming for her and she needs assistance keeping facts and details correct without forgetting." However, Dr. Klein concluded that Dinny's "cognitive ability has remained stable when compared to her performance on neuropsychological evaluations [on] July 12, 2018 and August 30, 2018. She continues to have [t]estamentary [c]apacity but would need trusted advisors to help her understand information sufficiently to ensure [c]ontractual [c]apacity." On November 13, Dinny executed the Fourth Amendment to the Survivor's Trust to effectuate the terms of the settlement agreement by providing for equalization payments but otherwise left everything to charity. On November 19, Dinny petitioned to confirm the Third and Fourth Amendments to the Survivor's Trust. Amy objected shortly thereafter arguing Dinny lacked capacity and could not understand the complex amendments made to the trust. Additionally, Amy challenged an arithmetic error in calculating the offset distributive balances in the Fourth Amendment to the Survivor's Trust.

In December 2018, the district court entered its order, wherein it denied Amy's challenge to Dinny's capacity, as well as (1) confirmed the Third and Fourth Amendments to the Survivor's Trust, (2) granted Premier's petition to resign as co-trustee and substituted U.S. Bank in its place, (3) granted Mulrain's fees, and (4) explained that it had

previously expressed its concerns and invited the parties to comment upon the propriety of an independent investigator to confirm Dinny's capacity, removing Ms. Mulrain as Dinny's attorney-in-fact, and appointing a guardian ad litem. Upon reflection, this [c]ourt must adhere to its jurisdictional authority over the trusts and modestly intervene in personal issues in accordance with [NRS 164.010](#) and [NRS 164.015](#). Additionally, all persons related to these ancillary issues reside in California and the parties' convenience compels California ****746** as the appropriate forum to address these issues.

***491** Later in December, Dinny petitioned the district court to effectuate the Fifth Amendment to the Survivor's Trust to resolve the alleged arithmetic error Amy raised. In January 2019, the district court entered a supplemental order confirming the Fifth Amendment to the Survivor's Trust.

Amy appeals the district court's December 2018 and January 2019 orders and challenges the court's confirmation of the amendments to the Survivor's Trust and payment of fees to Mulrain.

II.

Amy argues that the district court erred in confirming the Third and Fourth Amendments to the Survivor's Trust without first resolving her allegations about Dinny's lack of capacity.³ Amy complains that the district court declined to resolve the capacity question throughout the proceedings, but she particularly focuses on the district court's failure to address the capacity issue in December 2018, after she objected to Dinny's petition to confirm the Third and Fourth Amendments to the Survivor's Trust. She claims that the district court erred by not holding an evidentiary hearing to resolve whether Dinny lacked capacity to execute those amendments in accordance with [NRS 164.015](#).⁴ We agree.

[1] [2] We review questions of statutory interpretation de novo. *Zohar v. Zbiegien*, 130 Nev. 733, 737, 334 P.3d 402, 405 (2014). [NRS 164.015](#) sets forth procedures for when "an interested person contests the validity of a revocable

nontestamentary trust” over which the district court has jurisdiction pursuant to [NRS 164.010](#). A written challenge to the validity of the trust is treated as a pleading, whether it is raised by a petitioner or by an objector. [NRS 164.015\(3\)](#). When such a challenge is made, [NRS 164.015\(4\)](#) provides that

the competency of the settlor to make the trust, the freedom of the settlor from duress, menace, fraud or undue influence at ***492** the time of execution of the will, the execution and attestation of the trust instrument, or any other question affecting the validity of the trust is *a question of fact and must be tried by the court....*

(Emphasis added.) Based on the plain language of the statute, it is clear that district courts must resolve questions of fact in a trial before the court. At a minimum, an evidentiary hearing is required on the factual question raised in the challenge under [NRS 164.015](#).

[3] In the district court's December 2018 order confirming the Third and Fourth Amendments, the court detailed that some of Amy's objections were “previously considered by this [c]ourt... [and that] Amy's other objections, primarily to capacity, are denied.” Based on our review of the proceedings below, although the district court noted concerns about Dinny's capacity at several points, it *never resolved* the factual question in accordance with [NRS 164.015](#). Thus, despite Dinny's estate's arguments to the contrary, the district court erred when it failed to comply with [NRS 164.015](#) following Amy's objection to the validity of the trust amendments based on Dinny's capacity. [NRS 164.015](#)'s procedural requirements are clear: following Amy's objection and challenge to Dinny's capacity, the district court was required to hold an evidentiary hearing, ****747** make factual findings, and properly resolve capacity in a final appealable order before enforcing the amendments to the trust.⁵ See [NRS 164.015\(3\)-\(4\), \(6\)](#).

Accordingly, we remand for further proceedings. We instruct the district court to hold an evidentiary hearing where Amy, as the plaintiff, has the burden to prove that Dinny (and going forward her estate) as the defendant, lacked capacity under California law.⁶ [NRS 164.015\(3\)](#). The district court's inquiry must resolve whether Dinny possessed capacity to enter into the Third, Fourth, and Fifth Amendments to the Survivor's Trust.⁷

III.

[4] Amy also argues that the district court erred when it approved Mulrain's fees without properly resolving Amy's allegations that Dinny lacked capacity to enter into a power-of-attorney relationship with Mulrain and was unduly influenced by Mulrain. We disagree.

***493** In the district court's December 2018 order, the court noted that Amy's objection to the payment of Mulrain's fees was based on an allegation “that Dinny lacks capacity or knowledge about Ms. Mulrain's professional services and costs.” The district court determined that all other objections had been resolved by “Mulrain's submission of detailed invoices and Mr. Resnick's representation that Ms. Mulrain is not seeking double payment.” The district court found that Amy failed to prove her contentions by a preponderance of the evidence and therefore approved Mulrain's fees. Furthermore, the district court refrained from overstepping “its jurisdictional authority over the trusts,” noting that the personal issues regarding Dinny's power of attorney were best addressed in California, where all of the persons related to those issues resided.

Dinny and Premier's petition for the district court to assume jurisdiction in 2016 was to resolve issues related to the trust in rem. See [NRS 164.010](#). This provided the district court with personal jurisdiction over Dinny to resolve questions regarding her capacity and undue influence as they relate to her administration of the trust, execution of the amendments to the Survivor's Trust, and ability to serve as trustee. *Id.*; [NRS 164.015\(1\)](#). However, Amy has provided no authority permitting or requiring the district court to determine the validity of a power-of-attorney relationship entered into by a California resident in California. And Amy's request for a guardian ad litem, for a conservatorship, or for the district court to order an investigation into Dinny's capacity to manage her personal affairs far exceeded the scope of the district court's jurisdiction related to the trust. See [NRS 164.010\(5\); NRS 164.015\(1\)](#).

Amy has not otherwise shown that Mulrain's fees were unreasonable and thus fails to demonstrate that the district court clearly erred in approving those fees. See *Ogawa v. Ogawa*, 125 Nev. 660, 668, 221 P.3d 699, 704 (2009) (stating that we review a district court's factual findings for an abuse of discretion and will not set aside those findings unless they are clearly erroneous or not supported by substantial evidence). Accordingly, we affirm the district court's order regarding the award of fees to Mulrain.

IV.

In conclusion, when a Nevada court assumes jurisdiction of a revocable nontestamentary trust under [NRS 164.010](#), and an interested person challenges the settlor's or trustee's fitness to amend a trust instrument in accordance with [NRS 164.015](#), the district **748 court must hold an evidentiary hearing, make factual findings, and issue an order that is appealable to this court prior to enforcement of the challenged trust. Because the district court failed to comply with [NRS 164.015](#)'s requirements, we reverse the district court's December 2018 and January 2019 orders, except for its award of fees to Mulrain *494 and its grant to Premier to

resign as co-trustee and be replaced by U.S. Bank in its place, and we remand for further proceedings consistent with this opinion.

We concur:

Parraguirre, J.

Cadish, J.

All Citations

136 Nev. 486, 471 P.3d 742, 136 Nev. Adv. Op. 56

Footnotes

- 1 During the pendency of this appeal, Dinny passed away, and Stanley H. Brown, Jr., was substituted in as the special administrator of her estate (hereinafter, Dinny's estate). See *In re Frasier Family Trust*, Docket No. 77981 (Order Substituting Personal Representative, Sept. 4, 2019).
- 2 In 2017, the Legislature amended [NRS 164.010](#), effective October 2017. 2017 Nev. Stat., ch. 311, § 51, at 1695-96. Because the district court assumed jurisdiction in August 2016, we consider the statute as it applied prior to the amendment.
- 3 Amy also argues that the district court improperly found that it lacked jurisdiction to determine the issue of Dinny's capacity. We disagree. Though the district court's order is confusing, the district court assumed jurisdiction over the Trust pursuant to [NRS 164.010](#) and clearly recognized throughout the proceedings its jurisdiction over trust matters and Dinny's capacity to amend the Survivor's Trust.
- 4 On appeal, Premier does not oppose Amy's contention. Brad responds that Amy's arguments are "certainly a determination for the Supreme Court of Nevada to make," but he fails to support his arguments with relevant legal authority or citations to the record, and he made no attempt to supplement his brief after issuance of our order cautioning him that failure to do so could result in his arguments not being considered. See *In re Frasier Family Trust*, Docket No. 77981 (Order, Nov. 21, 2019); see also [Edwards v. Emperor's Garden Rest.](#), 122 Nev. 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006). Finally, Mulrain joined in the answering brief filed by Dinny's estate, and Nori failed to file an answering brief at all. Accordingly, our opinion addresses only the arguments raised by Amy and Dinny's estate.
- 5 To the extent that Amy also argues that the district court failed to consider whether undue influence affected the validity of the amendments, she never explicitly objected to the validity of the amendments on that basis. Thus, that issue need not be considered on remand.
- 6 The Survivor's Trust provides that California law governs questions regarding the validity of the trusts.
- 7 Nothing in this opinion is intended to nor modifies the district court's December 2018 order granting Premier's petition to resign as co-trustee and substituting U.S. Bank in its place or, as we explain further in this opinion, the district court's award of fees to Mulrain.

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

In the Matter of the

Case No: PR16-00128

JORDAN DANA FRASIER FAMILY TRUST

Dept. No.: 15 [PR]

BARNET RESNICK'S NON-OPPOSITION TO MOTION TO DISQUALIFY

On November 9, 2020, Amy Frasier Wilson filed a Motion to Disqualify Counsel Barnet Resnick from acting as trial counsel during the September 22-24, 2021 evidentiary hearing regarding Ms. Dinny Frasier's competency to amend the Survivor's Trust created by and formed under the Jordan Dana Frasier Family Trust (the "Trust"). See November 9, 2020 Motion to Disqualify at p. 1, lns. 12-14 (stating "Amy Frasier Wilson, by and through counsel, the DOYLE LAW OFFICE, PLLC hereby moves to disqualify Barnet Resnick from acting as trial counsel in this action pursuant to Nevada Rule of Professional Conduct 3.7(a)."). In the spirit of good faith and cooperation, Mr. Resnick stipulates to withdraw from acting as trial counsel in this action as Amy Frasier Wilson requested.

Mr. Resnick advises the Court he will continue to act as administrative counsel to the Trustee of the Trust to advise the Trustee on issues of on-going Trust administration. His continued representation of the Trustee as administrative counsel is more economically efficient than hiring outside counsel to advise the Trustee on Trust administration because it would be costly and time consuming for new administrative counsel to educate themselves on the history and administration

1 of the Trust with which Mr. Resnick is already familiar. Therefore, Mr. Resnick's
2 withdrawal as trial counsel, and continued representation of the Trustee as
3 administrative counsel, is aimed at creating the most economically efficient path
4 toward completing the September 22-24, 2021 Evidentiary Hearing while
5 administering the Trust during the interim period.

6 **Affirmation**

7 The undersigned affirms this document does not contain the social security
8 number or legally private information of any person.

9 **Dated** this 23rd day of November, 2020.

10 By: /s/ *Barnet Resnick*.
11 Barnet Resnick, Esq. [admitted pro hac vice]
12 VOGT/RESNICK/SHERAK, LLP
13 Individual Counsel for Mrs. Dinny Frasier
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