

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.

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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 5 OF 6**

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Attorneys for Appellant

CHRONOLOGICAL APPENDIX

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3	Confirming Order, 08-29-2016	1	APP121 – APP121
4	Supplemental Petition for Instructions, 11-29-2016	1	APP122 – APP132
5	Motion to Approve and Enforce Settlement Agreement and to Vacate Trial Date, 04-14-2017	1	APP133 – APP147
6	Second Supplemental Petition for Instructions, 05-31-2017	1	APP148 – APP171
7	Order Regarding Hearing, 07-06-2017	1	APP172 – APP173
8	Order Granting Motion to Approve and Enforce Settlement Agreement and to Vacate Trial Date, 07-06-2017	1	APP174 – APP178
9	Order Regarding Ancillary Hearing Issues, 07-06-2017	1	APP179 – APP180
10	Supplemental Response to Objection to Accounting, 09-17-2018	1	APP181 – APP214
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32	Supplement to Reply in Support of Objection to Proposed Administrative & Procedural Order After Hearing, 08-24-2023	6	APP826 – APP831
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23	The Estate of Dinny Frasier's Response to the Trustee's Objection to the Joint Petition to Confirm Settlement Agreement..., 08-11-2023	5	APP651 – APP660
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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:

Patricia Halstead, Esq. HALSTEAD LAW OFFICES 615 S. Arlington Avenue Reno, Nevada 89509 <i>Counsel for U.S. Bank Wealth Management, Trustee</i>	Patrick Millsap, Esq. WALLACE & MILLSAP 510 W. Plumb Lane, Ste. A Reno, Nevada 89509 <i>Attorneys for Stanley Brown, Special Administrator, Estate of Dinny Frasier</i>
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>

[XXX] U.S. Mail, Postage Prepaid:

Elissa Cady 3735 Quimby Road San Jose, California 95148	Bradley L. Frasier, M.D. 3609 Vista Way Oceanside, California 92056
Nori Frasier 4372 Pacifica Way, Unit 3 Oceanside, California 92056	Eliot Cady 23 Cynthia Lane Hollis Center, Maine 04042
Danielle Frasier Aroeste 7232 Sitio Arago Carlsbad, California 92009	Brendan Fraiser 3585 Brook Street, Apartment 7 Lafayette, California 94549
Mark G. Simons Simons Hall Johnston PC 690 Sierra Rose Dr Reno, Nevada 89511	Dr. Sara Cady 1181 Reading Drive, Apartment 5308 Montgomery, Illinois 60538
The Honorable Tammy Riggs Second Judicial District Court, Dept. 3 75 Court Street Reno, Nevada 89501	

/s/ Terrie Maxfield
An Employee of SOLOMON DWIGGINS FREER &
STEADMAN, LTD.

1 Patricia Halstead, Esq.
2 NV. Bar No. 6668
3 Halstead Law Offices
4 615 S. Arlington Avenue
5 Reno, NV 89509
6 (775) 322-2244
7 phalstead@halsteadlawoffices.com
8 Attorney for U.S. Bank Private Wealth Management, Trustee

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

11 In the Matter of Case No.: PR16-00128
12 JORDAN DANA FRASIER FAMILY TRUST Dept. No.: PR

13 **DR. BRADLEY FRASIER'S AND NORI FRASIER'S JOINDER TO OBJECTION TO**
14 **IDENTIFIED PROVISIONS OF THE PROPOSED SETTLEMENT AGREEMENT**
15 **THAT ARE DIRECTLY CONTRARY TO CONTROLLING TRUST MANDATES BY**
16 **WHICH THE TRUSTEE IS BOUND**

17 Based upon their communicated desire to support U.S. Bank Private Wealth
18 Management's Objection to Identified Provisions of the Proposed Settlement Agreement that
19 Are Contrary to Controlling Trust Mandates by Which the Trustee is Bound, filed by U.S.
20 Bank Private Wealth Management ("U.S. Bank"), on June 30, 2023 (the "Objection"), U.S.
21 Bank hereby submits this joinder as signed by Dr. Bradley Frasier and Nori Frasier who may
22 also lodge their concerns individually and independently here from. By and through their

23 ///

24 ///

25 ///

26 ///

signatures below, Dr. Bradley Frasier and Nori Frasier acknowledge and hereby submit their joinder in support of the Petition.

Bradley Frasier, M.D.

Nori Frasier
Nori Frasier

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

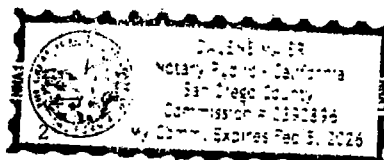
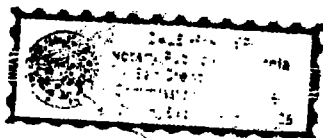
The foregoing instrument titled DR. BRADLEY FRASIER'S AND NORI FRASIER'S JOINDER TO OBJECTION TO IDENTIFIED PROVISIONS OF THE PROPOSED SETTLEMENT AGREEMENT THAT ARE DIRECTLY CONTRARY TO CONTROLLING TRUST MANDATES BY WHICH THE TRUSTEE IS BOUND was acknowledged before me on the _____ day of _____, in the year 2023 by **BRADLEY FRASIER**.

(Signature of notarial officer)

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

The foregoing instrument titled DR. BRADLEY FRASIER'S AND NORI FRASIER'S JOINDER TO OBJECTION TO IDENTIFIED PROVISIONS OF THE PROPOSED SETTLEMENT AGREEMENT THAT ARE DIRECTLY CONTRARY TO CONTROLLING TRUST MANDATES BY WHICH THE TRUSTEE IS BOUND was acknowledged before me on the 6 day of August, in the year 2023 by **NORI FRASIER**.

Dalene Mar
(Signature of notarial officer)



signatures below, Dr. Bradley Frasier and Nori Frasier acknowledge and hereby submit their joinder in support of the Petition.

Bradley Frasier, M.D.

Nori Frasier

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

The foregoing instrument titled DR. BRADLEY FRASIER'S AND NORI FRASIER'S JOINDER TO OBJECTION TO IDENTIFIED PROVISIONS OF THE PROPOSED SETTLEMENT AGREEMENT THAT ARE DIRECTLY CONTRARY TO CONTROLLING TRUST MANDATES BY WHICH THE TRUSTEE IS BOUND was acknowledged before me on the ____ day of _____, in the year 2023 by **BRADLEY FRASIER**.

(Signature of notarial officer)

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

SEE ATTACHED CALIFORNIA CERTIFICATE

KIRAN B. MISRA 08/02/2023

The foregoing instrument titled DR. BRADLEY FRASIER'S AND NORI FRASIER'S JOINDER TO OBJECTION TO IDENTIFIED PROVISIONS OF THE PROPOSED SETTLEMENT AGREEMENT THAT ARE DIRECTLY CONTRARY TO CONTROLLING TRUST MANDATES BY WHICH THE TRUSTEE IS BOUND was acknowledged before me on the ____ day of _____, in the year 2023 by **NORI FRASIER**.

(Signature of notarial officer)

CALIFORNIA ALL PURPOSE ACKNOWLEDGEMENT

CIVIL CODE SECTION 1189

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

State of California

County of SAN DIEGO

On 08/02/2023 before me, KIRAN B. MISRA, NOTARY PUBLIC
personally appeared BRADLEY FRASIER

who proved to me on the basis of satisfactory evidence to be the person~~(s)~~ whose name~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity~~(ies)~~, and that by his/her/their signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

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

WITNESS my hand and official seal.



Signature Kiran B Misra
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Description of Attached Document: Re: JORDAN DANA FRASIER FAMILY TRUST

Document Date: _____ Number of Pages: 2-4
KBA

Signer(s) other than named above: None

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AFFIRMATION

The foregoing document titled DR. BRADLEY FRASIER'S AND NORI FRASIER'S JOINDER TO OBJECTION TO IDENTIFIED PROVISIONS OF THE PROPOSED SETTLEMENT AGREEMENT THAT ARE DIRECLTY CONTRARY TO CONTROLLING TRUST MANDATES BY WHICH THE TRUSTEE IS BOUND does not contain the social security number of any person.

Respectfully submitted this 8th day of August 2023.

/s/ Patricia Halstead
Attorney for U.S. Bank Private Wealth Management, Trustee

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee or otherwise affiliated with Halstead Law Offices and that on 8th day of August 2023, I caused a true and correct copy of the foregoing document titled DR. BRADLEY FRASIER'S AND NORI FRASIER'S OBJECTION TO IDENTIFIED PROVISIONS OF THE PROPOSED SETTLEMENT AGREEMENT THAT ARE DIRECLTY CONTRARY TO CONTROLLING TRUST MANDATES BY WHICH THE TRUSTEE IS BOUND to be served by depositing a copy of the document in the U.S. Mail, first class postage prepaid, to the following:

Stanley Brown, Esq.
c/o Patrick Millsap, Esq.
510 W. Plumb Lane, Ste. A
Reno, NV 89509

Bradley L. Frasier, M.D.
3609 Vista Way
Oceanside, CA 92056

Nori Frasier
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Oceanside, CA 92056

Amy Frasier Wilson
c/o Mark Simons, Esq.
690 Sierra Rose Drive
Reno, NV 89511

Chapman University; Temple Beth
Shalom; Irvine Community Alliance
Fund; ASPCA; and St. Jude Children's
Research Hospital
c/o Ryan Earl, Esq.
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/s/ Martina Beatty

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5 690 Sierra Rose Drive
6 Reno, Nevada 89511
7 Telephone: (775) 785-0088
8 Facsimile: (775) 785-0087

9 *Attorneys for Amy Frasier Wilson*

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

12 In the matter of the

CASE NO.: PR16-00128

13 JORDAN DANA FRASIER FAMILY
14 TRUST

DEPT. NO.: 15

15 **AMY FRASIER WILSON'S SUPPLEMENT AND RESPONSE TO OBJECTION**

16 Amy Frasier Wilson, ("Amy") by and through her undersigned counsel submits the
17 following Supplement and Response in support of the Joint Petition to Confirm Settlement
18 Agreement ("Petition").

19 **I. REASON FOR SUPPLEMENT AND RESPONSE.**

20 Counsel for US Bank ("Bank") has objected to the Petition arguing this Court does
21 not have jurisdiction to grant the Petition in total and/or does not have the authority to
22 terminate Trust B. The Bank's objection relies exclusively upon interpretation of
23 California law and ignores the applicable and controlling Nevada statutes, decisional law
24 rendered by Judge Hardy and the Nevada Supreme Court's decision.

25 The Bank's position is not only baseless, but also improperly and wrongfully
26 brought before this Court. This is because the Bank's objection is barred by the
27 application of judicial estoppel, barred by judicial admission, barred by the law of the
28

1 case, barred by the inability to contest Judge Hardy's controlling Order of October 15,
2 2018, and barred by the express terms of NRS 164.010, 164.015 and the incorporation of
3 those powers enumerated in NRS 153.031. In addition, the Bank's arguments distort the
4 clear intent of the terms of Trust B, which is that it is simply an asset protection trust to
5 allow Amy to receive public assistance. Amy has not and does not receive public
6 assistance so the purpose and intent of keeping Trust B irrevocable and non-terminable
7 does not exist, mandating termination as requested. Each of these points will be
8 addressed in more detail below. In addition, Amy will address the basis for awarding her
9 all of the personal property under the terms of the Settlement Agreement. As used
10 herein, subtrust A and subtrust B are used interchangeably with Trust A, Trust B, the
11 Survivor's Trust A and Tax Exempt Trust B.
12

13 **II. THE DIVISIVE AND ABUSIVE HISTORY OF LITIGATION.**

14 As detailed in the Petition, all parties (other than US Bank and Mr. Resnick) have
15 sought to achieve a global resolution and termination of the Frasier Family Trust and
16 subtrust A and subtrust B. Until this point in time, that objective could not be realized. It
17 can now be realized by the granting of the Petition in total including termination of both
18 Trust A and Trust B after successful mediation.
19

20 As Judge Hardy stated when he previously modified Trusts A and B pursuant to
21 the provisions of NRS 164.015 and NRS 153.031 (both statutes vesting this Court with
22 the jurisdictional authority to grant this Petition in total as discussed in more detail below),
23 the following concerns about the abuse and litigiousness of these proceedings were
24 overly concerning to him as follows:
25

26 When I was in private practice I was a nationally certified elder law attorney
27 through the National Academy Elder Law Attorneys. On my 13 years on the bench
28 I have presided for six years over adult guardianship issues, and now I preside

1 over contested probate and trust matters. I have experienced elderly clients and
2 litigants with full capacity. I also have sensitivity to facts indicating cognitive
3 compromises on the continuum of capacity. Regrettably, I also have experience,
4 too much experience, with the economic principle called Parkinson's Law, wherein
5 litigation expands to fill the space created by the availability of litigation funds. The
6 shameful litigation I have observed as a judge in 13 years is the litigation where
7 lawyers have access to large sums of money without a client directing, approving,
8 or understanding litigation choices and costs.

9 I left the May 9th hearing concerned that this dispute is creating an injustice
10 for a dear woman in the final season of her life. I heard conflicting arguments from
11 counsel about Ms. Frasier's capacity, her directions in this litigation, but I received
12 no evidence from Ms. Frasier herself. I was concerned about whether - - **I was**
13 **concerned that Ms. Frasier appeared to be surrounded by a private attorney**
14 **[Mr. Resnick] and a private fiduciary [employed at the insistence of Mr.**
15 **Resnick] acting as an agent under a power of attorney instrument and that**
16 **she was refusing to speak with her co-trustee without her private attorney**
17 **present. I began to detect a form of isolation and thought it possible, if not**
18 **probable, that Ms. Frasier's decisions were being directed by Mr. Resnick**
19 **who might not have wanted the scrutiny and oversight Premier asserted.**

20 **This Court's concerns increased with reading the post-hearing moving**
21 **papers and learning that Ms. Frasier was attempting to terminate Premier**
22 **only increased. I was concerned that it was not Ms. Frasier who was**
23 **directing this litigation, and I expected her to be present to persuade this**
24 **Court that it was she who was directing this litigation.**

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

28 I carefully read as follows: Quote, **this Court is concerned about Ms.**
Frasier's cognition and capacity and the external influences that have been
excluded from and introduced into Ms. Frasier's life. The alleged pattern of
altered personal relationships, revolving professional relationships, to
include the recent substitution of local counsel, isolation of her capacity,
investing confidence in those spacially close, despite the absence of familia
or friendship antecedes is familiar to this Court.

Exhibit 1, excerpts of Transcript of Proceedings on October 17, 2017, pp. 4-5.¹

¹ All exhibits identified herein are authenticated by the Declaration of Mark G. Simons attached hereto as **Exhibit 10**.

1 In response to Judge Hardy's concerns, Mr. G. David Robertson, former attorney
2 for Premier Trust, the predecessor to Bank in these proceeding, stated on the record, "as
3 an officer of the court" the following:

4 I was able to meet with Ms. Frasier personally for a brief period, an hour,
5 hour and a half, something like that a few weeks ago. I don't want to
6 divulge any of the communications that occurred during that meeting, and
7 Mr. Resnick asked me to sign a confidentiality agreement and I did. I would
8 just say that I believe my opinion is that as an officer of the court that if Ms.
Frasier were here today, no question in my mind that it wouldn't be within
five minutes that the Court would find its concerns were validated.

9 Ex. 1, pp. 11:19-12-3.

10 In Judge Hardy's Order After Hearing on December 12, 2021, Judge Hardy also
11 commented on Bradley Frasier ("Bradley") and his involvement in the ongoing litigation
12 and Bradley's abusive assertions of self-dealing and incompetence against Mr.
13 Robertson. Order, p. 5. In addition, Judge Hardy noted that Bradley had been
14 represented by three (3) attorneys in succession yet continued to personally
15 communicate with Mr. Robertson. *Id.*, p. 5-6. In response to Bradley's criticism of Mr.
16 Robertson, Judge Hardy noted: "This Court knows Mr. Robertson to be a careful and
17 professional attorney; thus, no further comment or action is warranted." *Id.*, p. 5, fn. 2.

18
19 **III. THE BANK'S ARGUMENTS IN OPPOSITION TO ENFORCEMENT OF THE**
20 **SETTLEMENT AGREEMENT AND TERMINATION OF TRUST B HAVE NO**
21 **MERIT.**

22 Strangely, the Bank is opposing the Petition arguing primarily this Court does not
23 have jurisdiction to render the relief requested. Instead, Bank argues this Court should
24 ignore controlling Nevada statutory authority, ignore the Bank's predecessor attorneys'
25 conduct in invoking Nevada statutory authority in these proceedings, ignore Judge
26 Hardy's prior Order of October 15, 2018, invoking Nevada's statutory authority to modify
27
28

1 the trusts at issue in this case and ignore the Nevada Supreme Court's decision affirming
2 this Court's invocation of Nevada's statutory authority.

3 **A. BANK IS BARRED BY JUDICIAL ESTOPPEL TO CONTEST THE RELIEF**
4 **SOUGHT IN THE PETITION.**

5 Bank spends an inordinate amount of effort trying to convince this Court that it
6 does not have jurisdiction to grant the Petition and terminate Trust B. Bank's arguments
7 are all barred because the Bank is judicially estopped from making such arguments. As
8 stated in *Rissetto v. Plumbers & Steamfitters Local 343*, 94 F.3d 597, 600-01 (9th Cir.
9 1996):

11 Judicial estoppel, sometimes also known as the doctrine of preclusion of
12 inconsistent positions, precludes a party from gaining an advantage by taking one
13 position, and then seeking a second advantage by taking an incompatible position.
14 . . . Judicial estoppel is intended to protect against a litigant playing fast and loose
15 with the courts.

16 *Id.* The Nevada Supreme Court articulated the purpose and intent of applying judicial
17 estoppel *In the Matter of Frei Irrevocable Tr.* 133 Nev. 50, 55, 390 P.3d 646, 651-52
18 (2017), wherein the Court held:

19 Judicial estoppel is a principle designed to "guard the judiciary's integrity,"
20 and "a court may invoke the doctrine at its own discretion." . . . It is a doctrine that
21 applies "when a party's inconsistent position [arises] from intentional wrongdoing or
22 an attempt to obtain an unfair advantage." . . . "Whether judicial estoppel applies is
23 a question of law that we review de novo."

24 *Id.* The Co-Trustees of the Frasier Family Trust initiated these proceedings asserted to
25 the Court that pursuant to NRS Chapter 164, this Court had authority to exercise
26 jurisdiction over the entirety of the trusts and all subtrusts, including interpretation,
27 construction and enforcement thereof. Judge Hardy exercised such authority. Such
28 authority was not appealed or contested. Accordingly, the Bank is barred as a matter of

1 law from contesting this Court's jurisdiction to terminate Trust B and/or that Nevada
2 statutory law *does not* govern these proceedings.

3 **1. THE ORIGINAL PETITION: NRS Chapter 164 Application.**

4 Bank stands in the shoes of its predecessor Premier Trust. On March 2, 2016,
5 Premier Trust and Dinny G. Frasier ("Dinny"), as Co-Trustees of the Frasier Family Trust
6 filed their Petition for Confirmation of Trustees, for Construction of the Trust Instruments,
7 and for Instructions ("Original Petition"). The Original Petition cited to and relied upon "the
8 provisions of NRS chapter 164" and specifically cited to and relied upon NRS 164.010(1)
9 for this Court to exercise its jurisdiction in these proceedings. Original Pet., p. 1, p.4.
10 Specifically, and fatal to the Bank's objection, the Original Petition states:
11

12 Pursuant to NRS 164.010, this Court has jurisdiction of the trusts, the
13 matters brought forth in this petition, and other matters which the Court may need
14 to determine in the future in relation to the trusts.

15 *Id.*, ¶39. The Original Petition was **verified** by both Dinny and Premier Trust. *Id.*, pp. 9,
16 10. The Court was also asked to exercise its authority to grant "such other and further
17 relief and determinations as the Court may deem just and proper." *Id.*, ¶H.

18 **2. THE ORIGINAL PETITION: Recommendation and Confirming**
19 **Order.**

20 On April 21, 2016, the Probate Commissioner issued his Recommendation
21 approving the Court's exercise of jurisdiction over the Trust pursuant to NRS Chapter 164
22 stating:

23 Pursuant to NRS 164.010, the Court does hereby assume jurisdiction of the
24 Jordan Diane Frasier Family Trust and all other subtrusts created thereunder.

25 *Id.* On August 29, 2016, the Court entered its Confirming Order confirming and adopting
26 the Recommendation in total.
27
28

1 **3. THE SECOND SUPPLEMENTAL PETITION: NRS Chapter 164**
2 **Application.**

3 On May 31, 2017, Premier Trust filed its Second Supplemental Petition for
4 Instructions ("2nd Supplement). As with the Original Petition, Premier Trust once again
5 affirmed and relied upon "the provisions of NRS chapter 164". In addition, Premier Trust
6 cited to and relied upon NRS 164.030(1) for this Court to exercise its jurisdiction in these
7 proceedings for the Court to issue "instructions in the administration of the trust of for a
8 construction of the trust instrument" 2nd Supplement, p. 1, ¶14. Specifically, and
9 again dispositive of the rejection of the Bank's objection, the 2nd Supplement states:
10

11 Accordingly, this Court has jurisdiction of the Frasier Trusts and Co-
12 Trustees, the matters brought forth in this Second Supplemental Petition, **and any**
13 **other matter which the Court may need to determine in the future in relation**
14 **to the Frasier Trusts or the Co-Trustees.**

15 *Id.*, ¶15 (emphasis added). The 2nd Supplement was again **verified** by Premier Trust.

16 *Id.*, p.11.

17 **4. JUDGE HARDY'S ORDER MODIFYING THE TRUST TO**
18 **EFFECTUATE THE TERMS OF THE SETTLEMENT AGREEMENT.**

19 As this Court is aware, in 2017, the Court was faced with enforcement of a prior
20 settlement agreement relating to the affairs of the Frasier Family Trust and subtrusts A
21 and B. On October 15, 2018, Judge Hardy was requested to determine the enforceability
22 of the settlement agreement and then to modify the trusts, pursuant to his statutory
23 authority to effectuate the terms of the settlement. Again, fatal to the Bank's current
24 objection, Judge Hardy ordered as follows:

25 **Specifically, both Mrs. Frasier and PT have petitioned this Court**
26 **regarding the internal affairs of the Trust, including the Trust's**
27 **administration of the Medical Building as stated above. When issuing orders**
28 **regarding the internal affairs of the Trust pursuant to NRS 164.015, the Court**
may afford the relief set forth in NRS 153.031. NRS 164.015(1). NRS
153.031(1)(n) empowers the Court to direct modification of a trust. Pursuant

1 **to the Court's statutory authority to modify a trust instrument under NRS**
2 **153.031(1)(n), the Court finds good cause to modify the Trust**

3 **Exhibit 2**, Judge Hardy's October 15, 2018 Order, p. 3:16-22 (emphasis added). As
4 Judge Hardy's Order makes abundantly clear, Nevada law controls the internal affairs of
5 the trusts including construction of the trust's terms. Premier Trust and Dinny previously
6 admitted and consented to this Court's jurisdictional authority to interpret, construe and
7 modify the trusts according to Nevada statutory law.
8

9 As Judge Hardy noted, NRS 164.015(1) "empowers the Court to direct modification
10 of a Trust" under NRS 153.031's provisions. NRS 153.031 provides, in part:

11 A trustee or beneficiary may petition the court regarding any aspect of the
12 affairs of the trust, including: . . .

13 (b) Determining the construction of the trust instrument;
14

15 . . .

16 (n) **Approving or directing the modification or termination of the**
17 **trust . . .**

18 *Id.* (emphasis added). The Petition, which is presented to this Court under the authority
19 of NRS Chapter 164, specifically empowers this Court to modify and terminate trusts,
20 exactly the same relief requested in the Petition. The Bank's opposition fails to address
21 controlling law, fails to address the consent and affirmance of this Court's authority and
22 fails to address Judge Hardy's exercise of authority to modify and amend Trust B, and, as
23 such, should be disregarded by this Court.

24 The Bank stands in the shoes of the prior Trustees, Dinny and Premier Trust, and
25 both petitioned this Court to exercise its authority granted under Nevada statutes. Judge
26 Hardy exercised such authority and the Nevada Supreme Court affirmed such authority.
27
28

1 **B. BANK IS BARRED BY JUDICIAL ADMISSIONS TO CONTEST THE**
2 **RELIEF SOUGHT IN THE PETITION.**

3 On the same grounds applicable to the bar of judicial estoppel, the Bank is barred
4 by Dinny's and Premier Trust's judicial admissions confirming this Court's statutory
5 authority vested in it under NRS Chapter 164 and NRS 153.031. Judicial admissions are
6 powerful events in the law. "Judicial admissions are defined as deliberate, clear,
7 unequivocal statements by a party about a concrete fact within that party's knowledge."
8 *Reyburn Lawn & Landscape Designers, Inc. v. Plaster Development Co., Inc.*, 127 Nev.
9 331, 343, 255 P.3d 268, 276 277 (2011). Dinny and Premier Trust have already
10 admitted this Court's authority to enforce settlement agreements and to amend and/or
11 terminate the trusts over which this Court has authority and the Bank's objection is facially
12 baseless. See 29A Am. Jur. 2d Evidence § 783 (July 2010) ("A judicial admission is a
13 party's unequivocal concession of the truth of a matter, and removes the matter as an
14 issue in the case. It is a voluntary concession of fact by a party or a party's attorney
15 during judicial proceedings.").

16
17
18 **C. THE LAW OF THE CASE BARS THE BANK'S OBJECTION.**

19 The law of the case applies to these proceedings on remand. *In the Estate of*
20 *Adams By & Through Adams v. Fallini*, 132 Nev. 814, 819, 386 P.3d 621, 624 (2016) the
21 Nevada Supreme Court explained as follows:

22 "The law-of-the-case doctrine refers to a family of rules embodying the general
23 concept that a court involved in later phases of a lawsuit should not re-open
24 questions decided (i.e., established as law of the case) by that court or a higher
one in earlier phases."

25 *Id.* (citation omitted). This case is on remand from the *Matter of Jordan Dana Frasier*
26 *Family Tr.*, 136 Nev. 486, 471 P.3d 742 (2020). The Nevada Supreme Court affirmed this
27 Court's "assumption of jurisdiction over the trust under NRS 164.010." *Id.*, at 486, 471
28

1 P.3d at 743. The Nevada Supreme Court also noted the Court was asked to also “provide
2 guidance regarding dispute”. *Id.* at 487, 471 P.3d at 743. Under the law of the case, this
3 Court has complete jurisdiction over the trusts and NRS 153.031 empowers the Court to
4 direct modifications and termination of Trust B as requested in the Petition.

5
6 **D. JUDGE HARDY’S CONTROLLING ORDER CANNOT BE CONTESTED
BY THE BANK IN THESE PROCEEDINGS.**

7
8 The Bank is also barred from contesting that this Court has complete jurisdiction
9 over the trusts under NRS Chapter 164 and NRS 153.031 as Judge Hardy has already
10 ruled in his October 15, 2018 Order because Judge Hardy’s ruling *cannot be contested,*
11 *revisited or amended.* Judge Hardy’s October 15, 2018 Order was not appealed,
12 because all parties consented, agreed and acknowledged the Court’s exercise of
13 jurisdiction over the trusts under NRS Chapter 164 and NRS 153.031 to modify and
14 terminate the trusts. Ex. 2.

15 This Court cannot revisit, amend, modify or alter Judge Hardy’s ruling because a
16 district court judge does not have the jurisdictional authority to review or alter another
17 judge’s order. In *Rohlfing v. District Court*, 106 Nev. 902, 906, 803 P.2d 659, 662 (1990),
18 the Nevada Supreme Court recognized: “[t]he district courts of this state have equal and
19 coextensive jurisdiction; therefore, **the various district courts lack jurisdiction to**
20 **review the acts of other district courts.**” (emphasis added)). See *also* Nev. Const. art.
21 6, § 4 (“The Supreme Court and the court of appeals have appellate jurisdiction in all civil
22 cases arising in district courts”); art. 6, § 6 (setting the jurisdiction of the district
23 courts); NRS 3.220 (providing that district court judges possess equal, coextensive and
24 concurrent jurisdiction and power—not appellate power over each other); *Warden v.*
25 *Owens*, 93 Nev. 255, 563 P.2d 81 (1977) (holding that a district court lacks jurisdiction to
26
27
28

1 vacate another district court's judgment of conviction and remand a case to another
2 district court).

3 **E. THE BANK'S OBJECTION IS BARRED BY THE TERMS OF NRS**
4 **164.010.**

5 Again, Dinny and Premier Trust petitioned this Court to assume jurisdiction over
6 the Frasier Family Trust and subtrusts A and B, which this Court did. Pursuant to NRS
7 160.010(5)(d), this Court is specifically vested with the following authority:

8 (d) [The Court] May consider at the same time granting orders on other
9 matters relating to the trust, including, without limitation, matters that might be
10 addressed in a declaratory judgment relating to the trust under subsection 2 of
11 NRS 30.040 or petitions filed pursuant to NRS 153.031 or 164.015 whether such
12 matters are raised in the petition to assume jurisdiction pursuant to this section or
in one or more separate petitions that are filed concurrently with the petition to
assume jurisdiction.

13 The broad power and authority of the Court pursuant to NRS 153.031 is discussed above.
14 In addition, NRS 30.040(2) provides:

15 2. A maker or legal representative of a maker of a will, trust or other
16 writings constituting a testamentary instrument may have determined any question
17 of construction or validity arising under the instrument and obtain a declaration of
rights, status or other legal relations thereunder.

18 Accordingly, contrary to the Bank's arguments, this Court is also vested with the authority
19 to obtain interpretation and application of the terms of the trusts and subtrusts, and may
20 further modify or terminate such trusts according to the provisions of NRS 153.031. The
21 Bank fails to address the application of NRS 153.031, and such failure is a concession
22 the Bank's arguments are without merit. *Edwards v. Emperor's Garden Rest.*, 122 Nev.
23 317, 330 n.38, 130 P.3d 1280, 1288 n.38 (2006) (court need not consider claims that are
24 not cogently argued and supported with relevant authority).
25

26 ////
27
28

IV. TRUST B SHOULD BE TERMINATED.

The foregoing information highlights to this Court the necessity for granting the Petition in total and terminating both Trust A and Trust B. This litigation has existed for going on eight (8) years with one successful appeal. There is no valid reason to refrain from terminating Trust B as detailed in the Petition. Prior counsel Mr. Robertson filed his Pre-Hearing Statement on May 5, 2017, stating the following:

- “The Trustees and Amy Frasier Wilson sought a global resolution of all disputes at the Mediation, but the Mediator was unable to convince all parties to achieve that outcome.” P. 2:24-26.
- “The Trustees therefore worry that substantial litigate is still likely to arise in the future. Accordingly, the Trustee respectfully request that the Court confirm this Settlement, but do so in a manner which hopefully diminishes the likelihood for future litigation.” P. 2:26-28.
- “Although Premier has diligently tried to pursue a global resolution of the various pending disputes, it has thus far been unable to achieve a global resolution.” P.3:27-28.
- “the Trustees’ concerns about future litigation” and the need to “discourage future litigation”. P. 7:20-21.

Pre-Hearing Statement on May 5, 2017, on file herein. Global resolution was sought by the Bank’s prior counsel and trustee, however, Bank and Mr. Resnick are desirous to continue the litigious behavior in these proceedings.

In addition, Premier Trust advised the Court of Bradley’s litigious and vexatious conduct wherein Bradley left messages for his mother stating “I’m going to beat the crap out of you”, “your attorney is a real idiot”, “*Starts Yelling* we are going to court and you are going to pay a lot of money in legal fees and some am I and the lawyers are going to win.”, “So tell that asshole Bill and stupid Amy that if they’re going to be greedy they’re going to lose”, “You can tell Amy and Bill that I’m going to sue them for undue influence and I’m going to take them for everything they have” *Id.*, pp. 8-10.

1 Also included in the filings in this case are Bradley's venomous emails to Amy
2 stating: "You are so evil. If there were a hell, that's where you would and should end up
3 for eternity." **Exhibit 3.** Bradley also shared his hostilities with Mr. Robertson stating:
4 "You son of a bitch! You want to steal all of my mother's money now? I am going to the
5 FBI to report this one. You are an immoral criminal!" **Exhibit 4.** Even more recently,
6 Bradley has emailed Amy's and the Estate's counsel stating: "Just saw the backroom deal
7 you made with Amy and the charities. . . . I thought you both had more integrity than that.
8 My mistake." **Exhibit 5.** And, not to be outdone, Bradley emailed the undesigned
9 counsel stating: "We're tired of unethical attorneys manipulating our parents' estate and
10 our evil psychopath sister and her grifter husband changing our parents' wishes for their
11 estate. . . The fact you vacated the trial without a clear path is legal malpractice?".
12

13 **Exhibit 6.**

14 Nevada law is clear that irrevocable trusts can be modified and terminated. *In the*
15 *Matter of Frei Irrevocable Tr.* 133 Nev. 50, 53, 390 P.3d 646, 650 (2017). The Settlement
16 Agreement contemplates the termination of Trust B and specifically includes termination
17 of Trust B as a condition enforceable under NRS 164 and 153. However, because the
18 Court must exercise its statutory authority to terminate Trust B, the parties could not
19 condition the totality of the Settlement Agreement on the subsequent act of the Court.
20

21 However, the terms of the Settlement Agreement were negotiated fairly and
22 reasonably so that payment of funds to both Bradley and Nori would occur from Trust B,
23 without further delay. This in turn allows Bradley and Nori's heirs to receive the benefit of
24 these rapid distributions.
25

26 Pursuant to the terms of Trust B, the residual beneficiaries are not to be
27 considered and Amy's rights and entitlement is paramount. See Tax-Exempt Trust ("it is
28

1 the settlors' desire that this trust fund be preserved **primarily for the benefit of Amy**
2 **Michelle Frasier Wilson, and not for any remainder beneficiaries.**" (emphasis
3 added). Despite the Bank's strained interpretation, the limitation on Trust B's distribution
4 out of trust to Amy was to protect her ability to receive public assistance. In fact, it can be
5 argued that the Tax-Exempt Trust was intended to be subject to termination because it
6 states "Amy is to be preferred to more remote beneficiaries." The primary method to
7 benefit Amy and to prefer her over remote beneficiaries is to state exactly this in that what
8 is best for Amy is paramount. What is best for Amy is to receive her share of the assets
9 from Trust B free and clear of the trust so that she is not exposed to further litigation and
10 further professionals billing hundreds of thousands of dollars depleting the remainder of
11 her money for "administration" of a needless and unwarranted trust.
12

13
14 Of further note, with the enactment of the Affordable Care Act (ACA), pre-existing
15 health conditions which once prevented health coverage for individuals like Amy, were no
16 longer of concern. Amy is now eligible to receive insurance coverage even for preexisting
17 conditions. The purpose of withholding the funds in Trust B for Amy to assist her with
18 public assistance is not relevant or material and Amy should be disbursed the proceeds of
19 Trust B.²
20

21 In addition, under Nevada law, a "spendthrift clause, in and of itself, does not
22 prevent modification" or termination of an irrevocable trust. *Matter of Frei Irrevocable Tr.*,
23

24
25 ² Also demonstrating the lack of candor with this Court, the Bank fails to address
26 California Probate code 15409, which, consistent with NRS 153.031 allows a court to
27 terminate Trust B when "the continuation of the trust would defeat or substantial impair
28 the accomplishment of the purpose of the trust." With the enactment of the ACA and
Amy's lack of public assistance, the purpose of Trust B no longer exists warranting its
termination as requested.

1 133 Nev. 50, 54, 390 P.3d 646, 650 (2017). Amy was distributed the Mission Viejo house
2 free and clear out of trust. In Judge Hardy's July 6, 2017, Order Granting Motion to
3 Approve and Enforce Settlement Agreement and Vacate Trial Date, Judge Hardy ruled:

4 [A]s to the distribution of the Mission Viejo Property to Amy Frasier Wilson
5 free of trust, all parties at the hearing acknowledge this was the intent of the
6 Settlement Agreement and the Court accepts that representation.

7 July 6, 2017, Order, p.4:3-5. Accordingly, this Court has already ordering distributions
8 directly to Amy out of trust.
9

10 **V. MR. ROBERTSON CONFIRMS TRUST B SHOULD BE TERMINATED.**

11 Mr. Robertson has confirmed the merits, reasons and justification for the
12 Settlement Agreement and Petition. Mr. Robertson, former counsel to Dinny and Premier
13 Trust, has extensive experience in trust administration and is a prominent attorney in our
14 community. As stated by Judge Hardy, Mr. Robertson's credentials are impeccable. See
15 **Exhibit 7**, Declaration of G. David Robertson at ¶¶2-3.

16 Mr. Robertson agrees that the Petition is warranted and is an appropriate and
17 legally sound basis for concluding the ongoing litigation of all disputes. Mr. Robertson
18 agrees that the modification and termination of Trust B under the terms of the Settlement
19 Agreement pursuant to the Court's authority vested in it under NRS Chapter 164 and
20 NRS 153.031 is also appropriate and legally sound. *Id.* at ¶4.

21 Mr. Robertson agrees that the Trustees had previously petitioned the Court to
22 assume jurisdiction over the trust and subtrust A and B pursuant to NRS Chapter 164
23 which incorporates the powers of the Court to modify and/or terminate trusts as contained
24 in NRS 153.031. Mr. Robertson further confirms that in 2017, the Trustees and Amy were
25 also seeking a global settlement agreement that would have necessarily incorporated the
26
27
28

1 modification and termination of Trust B, however, that agreed upon resolution could not
2 occur at that time due to other unrelated issues. *Id.* at ¶¶5-6.

3 In addition, Mr. Robertson confirms it is his opinion and belief, based on his
4 extensive involvement in this matter, that Mr. Resnick has attempted to manipulate both
5 Dinny and the Frasier estate proceedings in every way possible for his own personal
6 benefit. *Id.* at ¶7.

7
8 Based upon the reasons stated in the Petition and in this Supplement, Mr.
9 Robertson *disagrees* with the Bank's assertions and contentions that California law is
10 applicable to the Petition and the remedies and relief requested. Rather, Mr. Robertson
11 *agrees* the Petition, and the relief requested therein, is warranted and appropriate under
12 Nevada law. *Id.* at ¶¶8-9.

13
14 **VI. AMY SHOULD BE AWARDED ALL OF THE PERSONAL PROPERTY AS
15 STATED IN THE SETTLEMENT AGREEMENT.**

16 Amy's position is pursuant to the terms of the Settlement Agreement, all personal
17 property appraised in the amount of approximately \$32,381.00 is held in the Survivor's
18 Trust. This is because the personal property was appraised by Yvonne Karn for Bank in
19 July 2019 and was paid by Bank from Trust A in the total amount of \$21,125. See **Exhibit**
20 **8**. This personal property was located at the San Juan Capistrano house and/or Irvine
21 house, both of which were always in Trust A. See **Exhibit 9**, Appraisal. Thus, the
22 property listed on the inventory list by Karn should be considered part of the corpus of
23 Trust A. As Amy understands, there has never been an inventory or appraisal of
24 personal property located at the Palm Desert house which is in Trust B, accordingly,
25 whatever personal property in the Palm Desert house (and not part of the appraised
26
27
28

1 personal property) should be part of Trust B and divided equally upon termination of Trust
2 B in total.

3 **VII. CONCLUSION.**

4 Amy respectfully requests the Court grant the Petition in total, including the
5 termination of Trust B as requested allowing her to receive directly and out of trust all
6 proceeds she is entitled to receive.
7

8 **AFFIRMATION:** This document does not contain the social security number of any
9 person.

10 DATED this 8th day of August, 2023.

11 SIMONS HALL JOHNSTON PC
12 690 Sierra Rose Drive
13 Reno, NV 89511

14 By: 

15 MARK G. SIMONS
16 *Attorneys for Amy Frasier Wilson*
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of SIMONS HALL JOHNSTON PC and that on this date I caused to be served a true copy of the **AMY FRASIER WILSON'S SUPPLEMENT AND RESPONSE TO OBJECTION** on all parties to this action by the method(s) indicated below:

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

BRADLEY FRASIER, M.D.
3609 Vista Way
Oceanside, California 92056

NORI FRASER
4372 Pacifica Way, Unit 3
Oceanside, CA 92056

DR. SARA CADY
1181 Reading Drive, Apt. 5308
Montgomery, IL 60538

DANIELLE FRASIER AROESTE
7232 Sitio Arago
Carlsbad, CA 92009

ELIOT CADY
23 Cynthia Lane
Hollis Center, Maine 04042

ELISSA CADY
3735 Quimby Road
San Jose, CA 95148

BRENDAN FRASIER
3235 Divisadero Street
San Francisco, CA 94123

☒ I hereby certify that on the date below, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

PATRICK R. MILLSAP, ESQ.
F. MCCLURE WALLACE, ESQ.
RICHARD WILLIAMSON, ESQ.
Attorneys for DINNY FRASIER

PATRICIA C. HALSTEAD, ESQ.
Attorney for US BANK NATIONAL ASSOCIATION

1
2 RYAN EARL, Esq.

3 *Attorney for ASPCA, Temple Beth Shalom, St. Jude's Children's*
4 *Hospital, Chapman University, Irvine Community Alliance Fund*

5 DATED this 8 day of August, 2023.

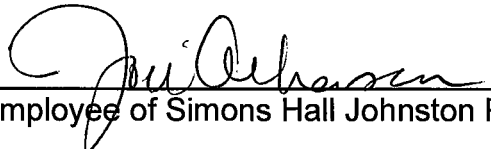
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28 Employee of Simons Hall Johnston PC

EXHIBIT LIST

NO	DESCRIPTION	PAGES
1	10/17/2017 Transcript Excerpts	5
2	10/15/2018 Order	4
3	Bradley Frasier 6/28/2017 Email	1
4	Bradley Frasier 7/12/2017 Email	1
5	Bradley Frasier 6/26/2023 Email	1
6	Bradley Frasier 6/28/2023 Email	2
7	Declaration of David Robertson	2
8	Cash Disbursement	1
9	Appraisal	102
10	Declaration of Mark G. Simons	2

EXHIBIT 1

EXHIBIT 1

1 CODE #4185

2 SUNSHINE REPORTING SERVICES

3 151 Country Estates Circle

4 Reno, Nevada 89511

5 (775) 323-3411

COPY

6

7

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

9 IN AND FOR WASHOE COUNTY

10 HONORABLE DAVID A. HARDY, JUDGE

11 -o-o-

12 IN RE:

13 Case No. PR16-00128

14 Dept. No. 15

15 JORDAN DANA FRASIER FAMILY
16 TRUST,

17 TRUST/CONSERVATORSHIP

18

19

20 TRANSCRIPT OF PROCEEDINGS

21 ORAL ARGUMENTS

22 OCTOBER 17, 2017

23 RENO, NEVADA

24

25

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

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

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

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

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

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

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

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

4 THE COURT: Counsel.

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

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

1 STATE OF NEVADA)
2 WASHOE COUNTY) ss.
3

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

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

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

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

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21

/s/ Amy Jo Trevino
AMY JO TREVINO; CRR #825

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EXHIBIT 3

EXHIBIT 3

David Robertson

From: Amy Wilson <digitalmermaid8@gmail.com>
Sent: Friday, July 07, 2017 1:37 PM
To: David Robertson
Subject: Fwd:

David,

The below email was sent by Bradley Frasier after the Joinder was filed with the Court.

Thank you,

Amy Frasier-Wilson

----- Forwarded message -----

From: Bfrasier <bfrasiermd@gmail.com>
Date: Wed, Jun 28, 2017 at 8:14 PM
Subject:
To: digitalmermaid8@gmail.com

You are so evil. If there were a hell, that's where you would and should end up for eternity. You will get what's coming to you someday as the forces of karma will take care of you.

Sent from my iPhone

EXHIBIT 4

EXHIBIT 4

David Robertson

From: Bfrasier <bfrasiermd@gmail.com>
Sent: Wednesday, July 12, 2017 1:20 PM
To: David Robertson
Cc: Mike Sullivan; Scott Hernandez

You son of a bitch! You want to steal all of my mother's money now? I am going to the FBI to report this one. You are an immoral criminal!

Sent from my iPhone

EXHIBIT 6

EXHIBIT 6

Mark Simons

From: Bfrasier <bfrasiermd@gmail.com>
Sent: Wednesday, June 28, 2023 10:57 AM
To: Patrick Millsap
Cc: Mark Simons; Nori Frasier
Subject: Re: Nice end-around!

Mark,

I fully expected this from you, given the secrecy of the negotiations. You should have included Nori and me if you're changing the Trust. Yes, I would question the integrity of the way the secret negotiations were handled. Nori and I learned very late that Amy had used undue influence to convince our mother to disinherit us and our children. That was a secret negotiation with Travis that was perpetuated by Robertson. We're tired of unethical attorneys manipulating our parents' estate and our evil psychopath sister and her grifter husband changing our parents' wishes for their estate.

As previously requested, please provide the specific legal reasons why you are changing the B Trust without consent of the beneficiaries. The fact you vacated the trial without a clear path is legal malpractice!

We will pursue that option if we have to.

Best regards,

Bradley L. Frasier, M.D.

Sent from my iPhone

On Jun 27, 2023, at 9:11 AM, Patrick Millsap <Patrick@wallacemillsap.com> wrote:

Dr. Frasier,

As you know, the B Trust is divided three ways following Ms. Frasier's passing. The only provision of the B Trust the Settlement Agreement modifies is Amy's 1/3 interest. The Agreement does *not* modify yours or Nori's interest in the B Trust. Instead, the Agreement actually benefits your interest in the B Trust by agreeing the A Trust will make the equalization payments to the B Trust contained in the Fifth Amendment to the A Trust. Therefore, in response to your question below yours and Nori's involvement in negotiations was not necessary because the Agreement does not modify or effect your interest in the B Trust and, instead, is actually designed to expedite distribution of that Trust. I hope this helps clarify your question Dr. Frasier and I am always available to discuss this further with you if you that would help. Thank you Dr. Frasier. – Pat

Patrick R. Millsap, Esq.

Founding Member & Attorney-at-Law



510 W. Plumb Ln., Suite A
Reno, Nevada 89509
(775) 683-9599

From: Brad Frasier <bfrasiermd@gmail.com>
Sent: Monday, June 26, 2023 11:04 PM
To: Mark Simons <msimons@shjnevada.com>; Patrick Millsap <Patrick@wallacemillsap.com>
Subject: Nice end-around!

Counselors:

Just saw the backroom deal you made with Amy and the charities. Since you are altering the B Trust terms, you should have included Nori and me in the negotiations. Not sure what legal right you have to change an irrevocable trust without the consent of two of the three beneficiaries. Please provide me with the legal reason why you did it.

I thought you both had more integrity than that. My mistake.

Dr. Frasier

EXHIBIT 7

EXHIBIT 7

DECLARATION OF G. DAVID ROBERTSON

I, G. David Robertson hereby declare as follows:

1. I am over the age of 18 and I make this declaration under penalty of perjury under the laws of the United States and the State of Nevada. I could and would competently testify about the information this declaration contains.

2. I am an attorney licensed to practice law in the State of Nevada, and am a Senior Shareholder at Robertson, Johnson, Miller & Williamson. I am former counsel to Dinny Frasier ("Dinny") and Premier Trust ("Premier"), as Co-Trustees of the Jordan Dana Frasier Family Trust, and resulting subtrusts, and have extensive experience in trust administration in our community. This Declaration is provided in my individual capacity at Mr. Simons' request and not on behalf of Dinny, Premier or any other client.

3. I agree the Petition is warranted and is an appropriate and legally sound basis for concluding the ongoing litigation of all disputes.

4. I also agree the modification and termination of Trust B under the terms of the Settlement Agreement is also appropriate and legally sound pursuant to the Court's authority vested in it under NRS Chapter 164 and NRS 153.031.

5. I agree that the Co-Trustees Dinny and Premier had previously petitioned the Court to assume jurisdiction over the trust and subtrust A and B pursuant to NRS Chapter 164 which incorporates the powers of the Court to modify and/or terminate trusts as contained in NRS 153.031.

6. I further confirm that in 2017, the Co-Trustees and Amy were also seeking a global settlement agreement that would have necessarily incorporated the modification and termination of Trust B, however, that agreed upon resolution could not occur at that time due to other unrelated issues.

1 7. In addition, I confirm it is my opinion and belief, based on my extensive
2 involvement in this matter, that Mr. Resnick has attempted to manipulate both Dinny and
3 the Frasier estate proceedings in every way possible for his own personal benefit.

4 8. Based upon the reasons stated in the Petition and in this Supplement, I
5 *disagree* with the Bank's assertions and contentions that California law is applicable to
6 the Petition and the remedies and relief requested.

7 9. Rather, I *agree* with the Petition, and the relief requested therein is
8 warranted and appropriate under Nevada law.

9 I, G. David Robertson, do hereby swear under penalty of perjury under the laws of
10 the State of Nevada and the United States of America that the foregoing assertions are
11 true and correct to the best of my knowledge.

12 DATED this 8th day of August, 2023.

13
14
15
16 /s/ G. David Robertson
17 G. DAVID ROBERTSON

EXHIBIT 8

EXHIBIT 8

FRASIER SURVIVORS TRUST
ACCOUNT NUMBER: XXXXXXXX7700



Page 8 of 14
July 1, 2019 to July 31, 2019

CASH TRANSACTION DETAIL

	Date Posted	Description	Income Cash	Principal Cash
Taxable Interest				
First American Government Oblig Fd Cl Y #3763 FGVXX				
	07/01/19	Interest From 6/1/19 To 6/30/19	1,122.68	
Total Taxable Interest			\$1,122.68	\$0.00
Paid To/For Beneficiary				
Miscellaneous Payment				
	07/01/19	Cash Disbursement Paid To AAA Quality Repair Removal-Religious Symbol		-85.00
	07/12/19	Cash Disbursement Paid To Southern California Edison Payment To Southern California Edison Utilities-Gas/Elect	-26.46	
	07/16/19	Cash Disbursement Paid To American Society Of Appraisers Inv #71519 Dtd 07/15/19 - 07/10-07/18/19 Services		-21,125.00
	07/22/19	Reversal Paid To American Society Of Appraisers Inv #71519 Dtd 07/15/19 - 07/10-07/18/19 Services		21,125.00
	07/22/19	Cash Disbursement Paid To Yvonne M. Karn, Asa Reissue Ck For Prof.Svcs/Catalog Pers Items		-21,125.00
	07/31/19	Cash Disbursement Paid To Command One Security, Inc Inv #142765 Qtrly Charge		-105.00

EXHIBIT 10

EXHIBIT 10

DECLARATION OF MARK G. SIMONS

Mark G. Simons hereby declares as follows:

1. I am over the age of 18 and I make this declaration under penalty of perjury under the laws of the United States and the State of Nevada. I could and would competently testify about the information this declaration contains.
2. I am an attorney licensed to practice law in the State of Nevada, and am a Partner at Simons Hall Johnston PC. I represent Amy Frasier Wilson ("Amy"), in this matter.
3. This declaration is submitted in support of Amy Frasier Wilson's Supplement and Response to Objection ("Supplement") in the above-captioned matter by Amy.
4. Exhibit 1 to the Supplement are true and correct excerpts of the Transcript of Proceedings of October 17, 2017.
5. Exhibit 2 to the Supplement is a true and correct copy of Judge Hardy's October 25, 2018 Order.
6. Exhibit 3 to the Supplement is a true and correct copy of Bradley Frasier's June 28, 2017 email to Amy Frasier-Wilson.
7. Exhibit 4 to the Supplement is a true and correct copy of Bradley Frasier's July 12, 2017 email to David Robertson.
8. Exhibit 5 to the Supplement is a true and correct copy of Bradley Frasier's June 26, 2023 email to the Estate's counsel and the undersigned counsel for Amy.
9. Exhibit 6 to the Supplement is a true and correct copy of Bradley Frasier's June 28, 2023 email to the Estate's counsel, the undersigned and Nori Frasier.
10. Exhibit 8 to the Supplement is a true and correct copy of a Cash

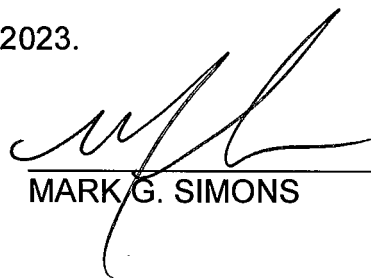
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Transaction Detail showing a 7/22/19 cash disbursement to Yvonne M. Karn in the amount of \$21,125.00.

8. Exhibit 9 to the Supplement is a true and correct copy of Yvonne M. Karn ASA's May 3, 2019 Appraisal.

I, Mark G. Simons, do hereby swear under penalty of perjury under the laws of the State of Nevada and the United States of America that the foregoing assertions are true and correct to the best of my knowledge.

DATED this 8th day of August, 2023.


MARK G. SIMONS

Patricia Halstead, Esq.
NV. Bar No. 6668
Halstead Law Offices
615 S. Arlington Avenue
Reno, NV 89509
(775) 322-2244
phalstead@halsteadlawoffices.com
Attorney for U.S. Bank Private Wealth Management, Trustee

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

In the Matter of Case No.: PR16-00128
JORDAN DANA FRASIER FAMILY TRUST Dept. No.: PR

**RESPONSE TO AMY FRASIER WILSON'S SUPPLEMENT IN SUPPORT OF THE
JOINT PETITION TO CONFIRM THE SETTLEMENT AGREEMENT**

COMES NOW U.S. Bank Private Wealth Management ("U.S. Bank"), as successor trustee of the Jordan Dana Frasier Family Trust and the sub-trusts derived therefrom (also referred to as the "Trustee"), by and through counsel Patricia Halstead of Halstead Law Offices, and hereby responds to Amy Frasier Wilson's Supplement in Support of the Joint Petition to Confirm the Settlement Agreement, which was filed on August 8, 2023. This Response is supported by the following Points and Authorities.¹

POINTS AND AUTHORITIES

1. Misstatements By Amy Frasier Wilson

a. *"Counsel for U.S. Bank has objected . . ." Supplement, p. 1, line 20.*

Counsel is not a party to this matter. Counsel is advocating for her client and her client's position is supported by the law and the facts of the case. Counsel has already endured

¹ U.S. Bank's legitimate concerns with the proposed settlement agreement submitted to the Court on June 26, 2023, were timely brought forth via U.S. Bank's Objection, which was filed on June 30, 2023. Amy Frasier Wilson's supplement in support of the petition to confirm the proposed settlement agreement was not filed until the afternoon of August 8, 2023, only three working days prior to the scheduled hearing, and raised primarily new argument. Given that timeframe, this response is necessarily cursory but is nonetheless undertaken to aid the Court to understand U.S. Bank's valid position and to ensure that the Court can make an informed decision that rests on relevant considerations and applicable facts and law.

1 an unnecessary round of personal and unwarranted attacks and any continuation of such must
2 not be condoned by the Court.

3 *b. U.S. Bank is “arguing this Court does not have jurisdiction to grant the Petition*
4 *in total and/or does not have the authority to terminate Trust B.” Supplement, p. 1, lines 20-*
5 *22; pp. 4-5.*

6 U.S. Bank plainly stated the exact opposite in its Objection. The Court is directed to
7 the Objection, page 5, line 16, whereat U.S. Bank acknowledged that the Court has jurisdiction
8 over the trusts, after which U.S. Bank points out that “California law applies to [the trusts’]
9 construction and enforcement” as supported by NRS 164.045 and the trust language itself.²

10 Given the stated acknowledgment of the Court’s jurisdiction and participation in the
11 process to date, it is perplexing that Amy Frasier Wilson bases nearly the entirety of her
12 Supplement on the false allegation that U.S. Bank has taken a position that the Court does not
13 have jurisdiction. That is simply not true.

14 It remains, as U.S. Bank has already addressed in its Objection, that the Court has
15 jurisdiction to address the Trust pursuant to NRS 164.010 and/or NRS 164.015, which allows a
16 court under identified parameters to take jurisdiction over a trust and which, again, no one is
17

18 ² NRS 164.045, which is found under the heading “**CHOICE OF LAW**” provides:

19 NRS 164.045 Circumstances under which laws of this State govern trusts; change of situs to this State.

20 1. The laws of this State govern the validity and construction of a trust if:

21 (a) The trust instrument so provides;

22 (b) Designated by a person who, under the terms of the trust instrument, has the right to designate the laws that
23 govern the validity and construction of the trust, at the time the designation is made; or

24 (c) The trust instrument does not provide for the law that governs the validity and construction of the trust, a
25 person designated under the terms of the trust instrument to designate the law that governs the validity and
26 construction of the trust, if any, has not made such a designation and the settlor or the trustee of the trust was a
27 resident of this State at the time the trust was created or at the time the trust became irrevocable.

28 2. A person not domiciled in this State may have the right to designate the laws that govern the validity and
construction of a trust if properly designated under the trust instrument.

 3. A trust, the situs of which is outside this State, that moves its situs to this State is valid whether or not the
trust complies with the laws of this State at the time of its creation or after its creation.

 (Added to NRS by 2015, 3548; A 2017, 1696; 2019, 1872)

1 disputing. It also remains that U.S. Bank has already availed itself of NRS 153.031, by which
2 a trustee or beneficiary may petition the Court with regard to the affairs of a trust.

3 Separate and apart from an assumption of jurisdiction and a right to request instruction
4 is the issue of choice of law, which is addressed by NRS 164.045. Tellingly, Amy Frasier
5 Wilson completely ignores this statute and U.S. Bank's briefing of it in the Objection.

6 As was already addressed in U.S. Bank's Objection, NRS 164.045 mandates the
7 application of California law in addressing any requested modification with regard to which
8 legal direction outside of the trust documents themselves is implicated.³ Objection, p. 5, lines
9 14-21. Nothing argued by Amy Frasier Wilson changes or otherwise impacts that; and, even
10 assuming Nevada law applied, which U.S. Bank does not concede, the applicable law is the
11 same in both California and Nevada (and numerous other jurisdictions) as was already briefed,
12 and the law supports U.S. Bank's position that Amy Frasier Wilson is not permitted an outright
13 distribution of any trust sums (from the A Trust or the B Trust as was briefed) regardless of
14 any agreement made between certain parties.

15 Again, U.S. Bank is bound by the parameters of the trust, the applicable provisions of
16 which have, for literally decades, mandated that Amy Frasier Wilson's distributions be made in
17 trust and not outright.

18 c. *U.S. Bank is "arguing this Court . . . does not have the authority to terminate*
19 *Trust B."* *Supplement, p. 1, line 22.*

20 Not only did U.S. Bank acknowledge the Court's jurisdiction, but U.S. Bank also
21 acknowledged the Court's authority to address the trusts and in doing so pointed out that, when
22 the Court does terminate either or both of the sub-trusts, any sums to be distributed to Amy
23 Frasier Wilson must be distributed to her in trust and not outright pursuant to controlling trust
24 terms and applicable law.

25
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28 ³ Choice of law was not implicated in U.S. Bank's Petition for Instruction as it was premised upon interpretation of the trust documents themselves.

1 d. *U.S. Bank “relies exclusively upon interpretation of California Law and ignores*
2 *the applicable and controlling Nevada statutes, decisional law rendered by Judge Hardy and*
3 *the Nevada Supreme Court’s decision.” Supplement, p. 1, lines 22-23.*

4 U.S. Bank specifically briefed the application of Nevada law, which mirrors California
5 law, as well as the law of numerous other jurisdictions. At page 11 of its Objection, there is a
6 section specifically set out under the heading “Nevada Law Is Not Controlling But Would
7 Nonetheless Render the Same Result.” The same legal standards as applicable by both
8 California and Nevada law are further set out by cited case law from several other jurisdictions,
9 the holdings of which are on point and not challenged on their merits. Objection, pp. 6-10.

10 As for Judge Hardy’s cited statements and the Nevada Supreme Court decision, the
11 statements and the decision were rendered in relation to Dinny Frasier’s competency and must
12 not be conflated with the valid restraints placed upon any distribution to Amy Frasier Wilson.
13 Such restraint was established many years prior to any question of Dinny’s competency even
14 being raised.

15 For context, the initial restraint upon Amy Frasier’ Wilson’s distributions in particular,
16 as opposed to restraints on distribution to all of the Frasier Children, was established by Joe
17 and Dinny in the Third Amendment to the Jordan Dana Frasier Family Trust, dated September
18 21, 1999 – *twenty four (24) years ago* (excluding the prior blanket restraint on all of the
19 children). See Amended Petition for Instructions, filed January 20, 2023, Exhibit 4, Article 2,
20 Subsection C(7), p. 13.⁴

21 That same restraint upon Amy Frasier Wilson’s distribution was carried through by Joe
22 and Dinny to the Fifth Amendment to the Jordan Dana Frasier Family Trust, dated June 7,
23 2000, which is cited in the Objection with respect to its relevance as the last version of the
24 primary trust undertaken by Joe and Dinny prior to Joe’s death and as it applies to distribution
25 to Amy Frasier Wilson from the Tax Exempt Trust (the B Trust).

26
27
28 ⁴ Before that, distributions for each of the Frasier Children were held in trust and distribution was tiered by age. *Id.*, Exhibits 1 and 2, Article II of each.

1 This is not a new issue and the restraint is not in any way related to Dinny's
2 competency. Any observations or rulings in relation to Dinny's competency are inapplicable
3 and irrelevant.

4 2. The History of the Litigation

5 The litigation this trust has spawned is undeniably distasteful on many levels. It has
6 increased family tensions, vastly depleted trust sums, spanned years, and blossomed into
7 personal disputes between counsel (as the Court can glean by the unnecessary and unfounded
8 allegations referencing counsel Resnick). With that said, responsibility for the litigation falls
9 squarely with the litigants themselves, at the heart of which is now Amy Frasier Wilson's
10 attempt to meld a competency challenge with an unsubstantiated right to outright distributions.

11 Plainly stated, putting all the other disputes aside (which U.S. Bank had nothing to do
12 with), the only viable remaining challenge after years of litigation was whether Dinny had
13 capacity to amend the Survivor's Trust (the A Trust) in favor of the Charities and to the
14 exclusion of Amy Frasier Wilson.⁵

15 Even assuming Amy Frasier Wilson were to prevail entirely on that sole remaining
16 issue, and Dinny was found incompetent to enter into the Third Amendment and Restatement
17 of the Survivor's Trust Created Under the Jordan Dana Frasier Family Trust Dated December
18 29, 1980 (Amended Petition for Instructions, Exhibit 10), which was the version of the
19 Survivor's Trust (the A Trust) that excluded Amy Frasier Wilson in lieu of the Charities, *the*
20 *Survivor's Trust (the A Trust) still mandates that Amy Frasier Wilson's distribution be held in*
21 *Trust and not distributed outright.*

22 The restraint was never challenged and was in fact emphasized by the settlement of the
23 Tax Exempt Trust (the B Trust) by which the parties, inclusive of Amy Frasier Wilson,
24 acknowledged the restraint as it was also reflected in the Tax Exempt Trust (the B Trust) and
25 agreed that Dinny would nominate a corporate fiduciary to manage Amy Frasier Wilson's
26 distribution therefrom as reflected at paragraph 14 of the January 27, 2017 Settlement

27
28 ⁵ See a true and correct copy of the Nevada Supreme Court Remand Order, filed August 27, 2020, and provided
herewith as **Exhibit 1**, by which the matter was remanded solely for an evidentiary hearing on "challenges to the
settlor's or trustee's fitness to amend a trust instrument."

1 Agreement. *See* Amended Petition for Instructions, filed January 20, 2023, Exhibit 9,
2 provision 14.

3 Each sub trust subjects Amy Frasier Wilson to the restraint, and applicable law as
4 briefed, regardless of reliance upon Nevada law or California law, disallows Amy Frasier
5 Wilson from negotiating out of the restraint. As such, if anyone should be estopped from
6 making arguments contrary to what has been established via the history of the case and the
7 Court record, it is Amy Frasier Wilson whose trust distributions as granted by her parents
8 *perpetually* had a restraint that was never legally challenged. Rather, Amy Frasier Wilson
9 leveraged settlement of the competency issue to attempt to avoid the valid restraint, which is
10 not legally permissible.

11 3. The Court Cannot Rubber Stamp Termination of the Trust in Violation of
12 Applicable Law Simply to Cease Ongoing Litigation.

13 This matter should unquestionably be brought to a close but it must be resolved in
14 accordance with the law and the mandates of the controlling trust documents, which require
15 that any distribution to Amy Frasier Wilson be made in trust with any remainder distributed, as
16 may be applicable, to Amy Frasier Wilson's husband or to Brad Frasier's children and Nori
17 Frasier's children, who have had no say in Amy Frasier Wilson's recent agreement to deprive
18 them of their right to any residual.

19 With that, it is not U.S. Bank that is precluding resolution, which is clearly the
20 implication, e.g. U.S. Bank is continuing litigation that must be made to end. What U.S. Bank
21 is doing is honoring its duty as trustee and its obligation to follow the terms of the trust and the
22 law as it relates thereto. U.S. Bank would be remiss to ignore its duties to pacify a single
23 beneficiary to the potential detriment of residual beneficiaries and contrary to controlling trust
24 terms and applicable law.

25 Notably, U.S. Bank has consistently made this position clear, its position was
26 accounted for in previous settlement negotiations with Amy Frasier Wilson's prior counsel,
27
28

1 and it was the reason U.S. Bank was not included in the current settlement negotiations.⁶ It is
2 neither litigious nor vexatious for U.S. Bank to take its obligations seriously and present its
3 concerns to the Court as supported by a plethora of applicable law and a proverbial pounding
4 the table claiming otherwise should be unavailing.

5 The Court should also consider that, while any trust established for Amy Frasier
6 Wilson's benefit is to prioritize her for purposes of distribution (as opposed to restraint in
7 distribution for the benefit of remainder beneficiaries), such provision does not mean that a
8 trustee can simply ignore residual beneficiaries' rights to a residual if one were to remain, nor
9 undercut that right by acquiescing to the residual beneficiaries being cut out from the get-go.

10 The Court must also not be persuaded by the assertion that a spendthrift trust is a means
11 by which to premise a supplemental/special needs trust, which is the implication of arguing
12 that Amy Frasier Wilson should not be subject to a spendthrift trust because she is not
13 receiving public benefits. A spendthrift trust and a supplemental/special needs trust are two
14 different estate planning tools. A spendthrift trust is designed to protect trust sums from a
15 spendthrift, which Amy Frasier Wilson's parents deemed her.⁷ A supplemental/special needs
16 trust is designed "to preserve public assistance benefits for the [disabled] trust beneficiary
17 while, simultaneously, providing for the beneficiary's 'special needs' that are not met by public
18 assistance." McGee v. State Dep't of Health Care Servs., 91 Cal. App. 5th 1161, 1164, 309 Cal.
19 Rptr. 3d 93, 94 (2023) (*citing* Sen. Com. on Judiciary, Analysis of Assem. Bill No. 3328
20 (1991-1992 Reg. Sess.) as amended June 10, 1992, pp. 2-3; see Recommendation: Special
21 Needs Trust for Disabled Minor or Incompetent Person (Apr. 1992) 22 Cal. Law Revision
22 Com. Rep. (1992) p. 993.))

24 ⁶ As the parties and counsel are aware, U.S. Bank worked diligently on a global resolution with Amy Frasier
25 Wilson's prior counsel that had gotten so far as to have resulted in a drafted settlement agreement that needed only
26 to be signed.

27 ⁷ As an example, a spendthrift trust is recognized by statute in Nevada at NRS Chapter 166 and is defined at NRS
166.020 as follows:

28 "Spendthrift trust" means a trust in which by the terms thereof a valid restraint on the voluntary
and involuntary transfer of the interest of the beneficiary is imposed. It is an active trust not
governed or executed by any use or rule of law of uses.

1 As explained by the Florida Supreme Court,

2
3 The special needs trust is a spendthrift trust that provides him with supplemental
4 income while maintaining his eligibility for public assistance. *See generally*
5 Sullivan v. County of Suffolk, 174 F.3d 282, 284 (2d Cir. 1999) (explaining that a
6 special needs “trust is a ‘discretionary trust established for the benefit of a person
7 with a severe and chronic or persistent disability’ and is intended to provide for
8 expenses that assistance programs such as Medicaid do not cover” (quoting N.Y.
9 Estates Powers & Trusts Law § 7-1.12(a)(5) (McKinney 1998)). Because the
10 special needs trust is a spendthrift trust, it contains numerous restrictions on the
11 way that the distributed funds can be used. *See generally* Waterbury v. Munn, 159
12 Fla. 754, 32 So.2d 603, 605 (1947) (stating that a spendthrift trust provides funds
13 for the maintenance of the trust beneficiary while securing the trust's corpus from
14 the beneficiary's own improvidence as well as the beneficiary's creditors).

15 Alexander v. Harris, 278 So. 3d 721, 722 (Fla. Dist. Ct. App. 2019).

16 As the foregoing emphasizes, a spendthrift trust as was created for Amy Frasier
17 Wilson, has no relation to whether she would someday receive benefits; but, with that, should
18 that day ever come, the trust provided for her spendthrift trust sums to be placed in a
19 supplemental/special needs trust to permit any benefits she may someday be eligible for to be
20 supplemented. The reference to a possible supplemental/special needs trust, if one became
21 necessary, reflected planning foresight undertaken by Joe and Dinny and should not be
22 misconstrued to undermine the established spendthrift trust.

23 Lastly, Amy Frasier Wilson makes the assertion that what is best for her is to receive
24 her distributions outright to avoid further litigation, a claim any restrained beneficiary would
25 likely make, but an assertion that is couched in a threat to drag litigation out even though the
26 end result of winning a competency battle does not negate the restraint. Supplement, p. 14,
27 lines 9-10. Lest it be overlooked, it is Amy Frasier Wilson’s very request to be treated in a
28 manner beyond the confines of the trust parameters that is causing the current dispute, and it is
Amy Frasier Wilson who would preclude resolution to further attempt to avoid the restraint as
opposed to accepting the restraint and concluding the matter. That is a choice she is stating she
will make and a choice that arguably emphasizes her parents’ designation of her as a
spendthrift.

1 It remains that all that was left at issue was Dinny's competency and even were this
2 matter to continue through an evidentiary hearing on competence and Amy Wilson Frasier
3 were to prevail, if deemed incompetent to have named the Charities to inherit in lieu of her, it
4 would remain that Amy Fraiser Wilson's distributions would be subject to restraint. That was
5 her parents' clear directive; that directive is required to be honored by the Trustee; and it is
6 irrelevant what anyone thinks about that including, but not limited to, counsel for the prior
7 trustee. What does matter is what the law requires and the duty U.S. Bank has to honor the
8 trust provisions and abide by the law despite the unfortunate depletion that threatened
9 continued litigation may create if a ruling on the restraint is not made in favor of Amy Frasier
10 Wilson.⁸

11 4. Personal Property

12 Because nothing new was raised in the Supplement with respect to the personal
13 property, U.S. Bank has nothing to add to its prior briefing in relation thereto as set forth in its
14 Objection.

15 5. U.S. Bank Reserves the Right to Brief Any Further and New Argument on the
16 Restraint.

17 U.S. Bank is entitled to be fairly heard just as any other party in this matter, and the
18 Court is supported by being permitted to make an informed decision. To that end, if there is
19 any further last minute briefing or new argument raised on the restraint issue, U.S. Bank must

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26 ⁸ Amy Frasier Wilson cites to only one case in her Supplement, Matter of Frei Irrevocable Tr. Dated Oct. 29, 1996,
27 133 Nev. 50, 390 P.3d 646 (2017), which stands for the inapplicable proposition that a settlor, i.e. a person who
28 establishes a trust (in this case Joe and Dinny) could consent to modification. This issue was briefed by U.S. Bank in
its Objection and so it will not be revisited; but, suffice it to say that, aside from this being a Nevada case versus a
controlling California case, Joe and Dinny never consented to modify the spendthrift trust established for Amy
Frasier Wilson throughout the various iterations of their trust planning.

1 be permitted to address the same on the merits and in briefing and not be forced to argue or
2 address the same on an expedited basis nor on the fly at the hearing.

3 AFFIRMATION

4 I, the undersigned, pursuant to NRS 239B.030, hereby affirm that the foregoing
5 document submitted for filing does not contain the social security number of any person.

6 Respectfully submitted this 10th day of August 2023.

7 /s/ Patricia Halstead

8 Attorney for U.S. Bank Private Wealth Management, Trustee

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee or otherwise affiliated with Halstead Law Offices and that on the 10th day of August 2023, I caused a true and correct copy of the foregoing document titled RESPONSE TO AMY FRASIER WILSON'S SUPPLEMENT IN SUPPORT OF THE JOINT PETITION TO CONFIRM THE SETTLEMENT AGREEMENT to be served by depositing a copy of the document in the U.S. Mail, first class postage prepaid, to the following:

Stanley Brown, Esq.
c/o Patrick Millsap, Esq.
510 W. Plumb Lane, Ste. A
Reno, NV 89509

Bradley L. Frasier, M.D.
3609 Vista Way
Oceanside, CA 92056

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

Amy Frasier Wilson
c/o Mark Simons, Esq.
690 Sierra Rose Drive
Reno, NV 89511

Chapman University; Temple Beth
Shalom; Irvine Community Alliance
Fund; ASPCA; and St. Jude Children's
Research Hospital
c/o Ryan Earl, Esq.
548 W. Plumb Lane
Reno, NV 89509

/s/ Martina Beatty

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1. Nevada Supreme Court Remand Order

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IN THE SECOND JUDICIAL DISTRICT COURT - 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.: 3 [PR]

**THE ESTATE OF DINNY FRASIER'S RESPONSE TO THE TRUSTEE'S
OBJECTION TO THE JOINT PETITION TO CONFIRM SETTLEMENT
AGREEMENT, APPROVE DISTRIBUTION OF THE SURVIVOR'S TRUST
PURSUANT TO THE SETTLEMENT AGREEMENT, AND PETITION FOR
MODIFICATION OF THE TAX-EXEMPT TRUST TO ENABLE
TERMINATION OF TRUST AND ALL SUB-TRUSTS CREATED
THEREUNDER**

The Estate of Dinny Frasier hereby files this Response to the Trustee's Objection to the Joint Petition to Approve the Settlement Agreement ("Joint Petition"). This Response is based on the following Reply Points & Authorities, any exhibits attached thereto, any oral argument the Court requests to supplement the contents of this Response, and the papers and pleadings on file before the Court of utility in deciding the Joint Petition.

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1 **REPLY POINTS & AUTHORITIES IN RESPONSE TO OBJECTION**

2
3 **INTRODUCTION**

4 For background, the Interested Party Charities, Amy Frasier Wilson, and the
5 Estate of Dinny Frasier (the "Parties") attended a mediation on the date of March 6,
6 2023 to resolve a dispute over the validity of the Third, Fourth, and Fifth
7 Amendments to the Survivor's Trust created under the Jordan Dana Frasier Family
8 Trust. During said mediation, the Parties reached a resolution regarding division of
9 the Survivor's Trust between the Charities and Ms. Wilson. Specifically, the
10 Charities are the sole residual beneficiary of the Survivor's Trust after certain
11 equalization payments are made from the Survivor's Trust under the Fifth
12 Amendment. The Charities collectively agreed to split their 100% remainder interest
13 in the Survivor's Trust with Ms. Wilson in order to resolve the dispute regarding
14 validity of the Third, Fourth, and Fifth Amendments to the Survivor's Trust
15 benefitting the Charities. Therefore, the Estate requests the Court approve and
16 confirm the Settlement Agreement's resolution of the Survivor's Trust and discharge
17 the Estate from any further duties in this matter because the Charities have agreed
18 to a division of their share of the Survivor's Trust with Ms. Wilson to resolve her
19 claims regarding validity of the Third, Fourth, and Fifth Amendments to the
20 Survivor's Trust benefitting the Charities.

21 Separate and apart from the Settlement Agreement's resolution of the
22 Survivor's Trust, the Estate and Ms. Wilson agreed to a modification of the Tax-
23 Exempt Trust in order to enable its distribution and termination, to which the
24 Charities had no objection. Of note, resolution of the Tax-Exempt Trust **does not**
25 **alter or modify Dr. Bradley Frasier's or Nori Frasier's interest in the Tax-**
26 **Exempt Trust.** Rather, it simply allows for a free of trust distribution to Amy
27 Frasier Wilson of her share in the Tax-Exempt Trust so there is nothing left in the
28 Tax-Exempt Trust to administer, enabling its termination for the myriad of reasons

1 stated in the Parties' Joint Petition to Confirm the Settlement Agreement. However,
2 the Trustee has objected to Ms. Wilson receiving her share of the Tax-Exempt Trust
3 free of trust because the Trustee claims the language of the Trust cannot be modified
4 to enable said distribution. The Trustee's premise contradicts Nevada law and the
5 precedent of this case, rendering the Trustee's objection immaterial as discussed
6 below.

7 8 **LAW & ARGUMENT IN RESPONSE TO THE TRUSTEE'S OBJECTION**

9 **I. California Law does not govern modification of the Trust to enable** 10 **distribution of the Trust Res over which this Court has *in rem*** 11 **jurisdiction, and modification of the Trust is appropriate under** 12 **Nevada statutory law.**

13 As anticipated, the Trustee's skilled Counsel artfully recites jurisdictional law
14 governing construction of Trust instruments. While expertly drafted and thoroughly
15 researched, the Objection ignores the Joint Petition is not requesting the Court make
16 certain declarations regarding construction of the Trust Instrument under provision
17 Trust Article IV, Section G referenced in the Objection. The plain language of Trust
18 Article IV, Section G, relied upon by the Trustee relates to determining the validity
19 of the Trust or constructing the meaning of its provisions under California law.
20 However, the Joint Petition does not call upon the Court to determine the validity of
21 the Trust or construct the meaning of its provisions when approving this Settlement
22 Agreement, rendering Trust Article IV, Section G, inapplicable to approving the Joint
23 Petition.

24 Instead, the Court is called upon to approve a settlement agreement disposing
25 of the Trust's tangible assets under the *in rem* jurisdiction of the Court. Because the
26 Court has *in rem* jurisdiction over the Trust Res, it has authority to make and issue
27 orders regarding the Res under NRS 164.015(1), such as modifying the Trust to
28 enable distribution of the Assets. See NRS 164.015(1); see also NRS 153.031(1).

1 The Court's authority to modify the Trust to enable distribution of assets is not
2 novel or theoretical. Instead, the District Court previously modified the provisions of
3 the Survivor's Trust pursuant to the same statute relied upon in the Joint Petition,
4 NRS 153.031(1)(n), to enable distribution of Trust Assets in satisfaction of a
5 settlement agreement. See October 15, 2018 Court Order attached as **Exhibit 1**.
6 Specifically, the District Court's October 15, 2018 Order modified the Survivor's Trust
7 pursuant to NRS 153.031(1)(n) to distribute real properties from the Survivor's Trust
8 to the beneficiaries in accordance with the Parties' January 27, 2017 Settlement
9 Agreement to resolve a dispute over a medical building with Dr. Bradley Frasier. The
10 Trustee had no objection to the October 15, 2018 Order modifying the Trust pursuant
11 to NRS 153.031(1)(n) to permit distribution of Trust Assets in satisfaction of the
12 January 27, 2017 Settlement Agreement agreed to by the Trustee. Therefore, this
13 Court has statutory authority to modify the Tax-Exempt Trust to distribute Ms.
14 Wilson's interest to her in full resolution of this Trust Dispute; analogous to the
15 October 15, 2018 Order where the Court modified the Survivor's Trust to effectuate
16 distribution of Trust Assets pursuant to the January 27, 2017 Settlement Agreement
17 under NRS 164.015(1) and NRS 153.031(1)(n).

18 In addition to the District Court recognizing the authority to modify the Trust
19 in its October 15, 2018 Order, to which the Trustee never objected, the Nevada
20 Supreme Court also recognized the District Court has jurisdictional authority to issue
21 orders in this case pursuant to NRS 164.015. Specifically, the Nevada Supreme Court
22 acknowledged the District Court had lawfully assumed *in rem* jurisdiction over the
23 Trust pursuant to NRS 164.010, thereby enabling the Court to issue orders under
24 NRS 164.015(1). *Matter of Jordan Dana Frasier Fam. Tr.*, 136 Nev. at 493, 471 P.3d
25 at 747. NRS 164.015(1) permits the Court to order the relief codified in NRS 153.031,
26 including modification of the Trust pursuant to NRS 153.031(1)(n). Thus, to conclude
27 the Court lacks authority to modify the Trust under NRS 164.015(1) and NRS
28 153.031(1)(n) defies the law of the case wherein the District Court previously

1 modified the Trust to distribute assets in satisfaction of the January 27, 2017
2 Settlement Agreement, in addition to the Supreme Court confirming the District
3 Court has authority to issue orders under NRS 164.015(1), which encompasses the
4 relief codified in NRS 153.031(1). Consequently, the Trustee's argument to disregard
5 controlling Nevada law is respectfully incorrect and asks the Court to commit
6 reversible legal error.

7
8 **II. The Trustee's arguments regarding the intent of the Settlor are not**
9 **relevant to resolution of a legal dispute subsequent to both Settlers'**
10 **deaths.**

11 The Trustee argues against approval of the Settlement Agreement because the
12 Agreement purportedly violates the intent of the Settlers as stated in the Trust
13 Agreement by giving Ms. Wilson money free of trust. Pragmatically, it is conjecture
14 to argue what the intent of the Settlers would be with respect to resolution of an
15 ongoing legal dispute persisting years after their respective deaths. For this reason,
16 the Trustee owes a fiduciary duty to the Beneficiaries of the Trust following the
17 Settlers' death, *not the Settlers*. See *Hearst v. Ganzi*, 145 Cal. App. 4th 1195, 1208,
18 52 Cal. Rptr. 3d 473, 481 (2006) (holding "[t]rustees owe all beneficiaries...a fiduciary
19 duty. Where a fiduciary relationship exists, there is a duty to act with the utmost
20 good faith for the benefit of the other party."). In other words, the Trustee's duty with
21 respect to the ongoing administration of the Trust after the Settlers' death is owed
22 strictly to the Beneficiaries, *not the deceased Settlers*. Therefore, the undercurrent of
23 the Trustee's objection to the Settlement Agreement is misplaced because the intent
24 of the Settlers is not relevant to the present administration of the Trust *for the benefit*
25 *of its Beneficiaries* following the Settlers' deaths.

26 Along that line, the Objection does not say how the Settlement Agreement is
27 not in the best interest of the Beneficiaries. The Objection does not clearly identify
28 why invalidation of the Agreement, thereby reverting this matter back into a seven-
year litigation cycle, will somehow benefit Ms. Wilson, Dr. Bradley Frasier, the

1 Charities, and/or Nori Frasier. Thus, the relevant inquiry for the Court in
2 considering confirmation of this Agreement is whether the Agreement is in the best
3 interest of the Beneficiaries to whom fiduciary duties are presently owed, not whether
4 it violates the assumed intent of the deceased Settlers with respect to resolution of
5 this lawsuit. Since the Objection fails to state how the Beneficiaries will benefit from
6 invalidation of the settlement and reversion of this matter back into adversarial
7 litigation, the Trustee's Objection should be denied.

8
9 **III. At a minimum, the Court should approve resolution of the Survivor's**
10 **Trust Dispute currently before the Court because the First and**
11 **Second Amendments to the Survivor's Trust are not operable.**

12 As stated above, resolution of the Survivor's Trust is not contingent upon
13 resolution of the Tax-Exempt Trust. Therefore, the Court may approve the resolution
14 agreed upon by the Charities and Ms. Wilson with respect to the Survivor's Trust
15 regardless of the Agreement with respect to the Tax-Exempt Trust.

16 The Survivor's Trust resolution as stated in the Agreement calls for
17 distribution of 45% of the Survivor's Trust to Ms. Wilson free of trust. The Trustee
18 objects to the Survivor's Resolution under the flawed premise the First and Second
19 Amendments to the Survivor's Trust do not permit Ms. Wilson to receive money from
20 the Survivor's Trust free of trust. This argument incorrectly presumes the First and
21 Second Amendments to the Survivor's Trust are operable. On the contrary, the
22 Amendments before the Court are the Third, Fourth and Fifth Amendments to the
23 Survivor's Trust. In the Third, Fourth, and Fifth Amendments to the Survivor's
24 Trust, the Charities are the residual beneficiary. The Charities have agreed to split
25 their 100% residual interest in the Survivor's Trust with Ms. Wilson in order to
26 resolve the dispute regarding validity of the Third, Fourth, and Fifth Amendments to
27 the Survivor's Trust. Therefore, the Survivor's Trust resolution is not being
28 administered pursuant to the First and Second Amendments to the Survivor's Trust
referenced by the Trustee because those Amendments are not operable. If they were,

1 the Charities would receive nothing because they are not beneficiaries of the First
2 and Second Amendments. Instead, the Survivor's Trust resolution is a division of the
3 Charities interest in the Survivor's Trust under the Third and Fifth Amendments in
4 dispute before the Court, rendering the argument to hold Ms. Wilson's money in the
5 Survivor's Trust pursuant to inoperable amendments moot.

6 The District Court recognized this fact in its prior Order identifying issues
7 flowing from ongoing litigation in this case absent resolution. Therein, the District
8 Court questioned whether the First and Second Amendments are operable if the
9 Third, Fourth and Fifth Amendments are invalidated. See November 30, 2020 Order
10 attached as **Exhibit 2**, p. 6 ¶ 4. In response to this question, there was no judicial
11 ruling holding the First and Second Amendments to the Survivor's Trust are
12 operable. Similarly, the Court never held the Third, Fourth, and Fifth Amendments
13 were invalid, thereby bringing into question whether the First and Second
14 Amendments are valid if the Third, Fourth and Fifth Amendments are invalid.
15 Instead, Ms. Wilson agreed to forego her challenge to the Third, Fourth, and Fifth
16 Amendments to the Survivor's Trust in consideration of the Charities conferring 45%
17 of their residual interest in the Survivor's Trust. Consequently, if the Court
18 invalidated the Settlement Agreement with respect to the Survivor's Trust under the
19 auspice Ms. Wilson cannot receive money free of trust from the Survivor's Trust
20 pursuant its First and Second Amendments, the Court will commit plain legal error
21 by holding the terms of the First and Second Amendment to the Survivor's Trust are
22 operable when the Third, Fourth, and Fifth Amendments were never declared
23 invalid. As such, the Court may confidently approve resolution of the Survivor's
24 Trust giving Ms. Wilson 45% of the Charities residual interest in the Survivor's Trust
25 outright and free of trust because the First and Second Amendments to the Survivor's
26 Trust allegedly preventing such an agreement are not operable.

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Dated this 11th day of August 2023

Wallace & Millsap
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Dated this 11th day of August 2023

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INDEX OF EXHIBITS

EXHIBIT NO.	DESCRIPTION
1	October 15, 2018 District Court Order
2	November 30, 2020 District Court Order

Wallace & Millsap
510 W. Plumb Lane, Suite A, Reno, NV 89509
(775) 683-9599

CASE NO. PR16-00128

TRUST: JORDAN DANA FRASIER FAMILY TRUST

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

8/15/23
HON. TAMMY M.
RIGGS
DEPT. NO. 3
L. Sabo
(Clerk)
J. Kernan
(Reporter)

HEARING ON PETITION - SETTLEMENT AGREEMENT

Hearing conducted via Zoom audiovisual conferencing.

The Estate of Dinny Frasier was being represented by counsel, Patrick Millsap, Esq. Stanley Brown, Esq., Special Administrator, was in attendance and being represented by counsel, Patrick Millsap, Esq.

U.S. Bank National Association was being represented by counsel, Patricia Halstead, Esq. Also present for U.S. Bank National Association was Barry Resnick, Esq.

Amy Frasier Wilson was being represented by counsel, Mark Simons, Esq. Interested Parties ASPCA, Chapman University, Irvine Community Alliance Fund, St. Jude's Children's Hospital and Temple Beth Sholom were being represented by counsel, Ryan Earl, Esq.

Interested Parties Bradley Frasier and Nori Frasier were also present.

Additional members of the Frasier family were in attendance and observing these proceedings.

Apart from counsel Halstead, who appeared in person, all parties appeared remotely.

The Court addressed respective counsel regarding the Joint Petition to Confirm Settlement Agreement, Approve Distribution of the Survivor's Trust Pursuant to the Settlement Agreement and Petition for Modification of the Tax-Exempt Trust to Enable Termination of Trust and All Sub-Trusts Created Thereunder, filed on June 26, 2023, and confirmed review of said Petition and all related documents on file herein.

Counsel Halstead addressed the Court regarding the initial question before the Court related to Dinny Frasier's capacity and stated that this issue was no longer in question based on the pending settlement. Counsel Halstead discussed the Trustee's Objection to certain provisions of the proposed settlement agreement that directly conflict with the controlling mandates of the Trust, including any outright distribution to Amy Frasier Wilson.

Counsel Halstead provided the Court with related case law and discussed the same with the Court. Additionally, counsel Halstead addressed the prior settlement of the Survivor's Trust and the authority which allowed for that settlement. Counsel Halstead further responded to the Court's questions and comments.

Counsel Millsap responded and discussed the fact that there were two separate agreements before the Court, addressing the distinction between the two, and argued that NRS 164.010 applies herein. Further, counsel Millsap responded to the

Court's questions related to the application of California law to the original question of capacity of Dinny Frasier and her ability to amend the Trust and discussed the prior proceedings which occurred when this case was assigned to Department 15. The Court addressed counsel Simons regarding his client's participation in the settlement conference and discussed the modifications to the proposed agreement made by Ms. Frasier Wilson in June of 2023, which voids the original intent of the settlement.

In response to the Court, counsel Simons confirmed that Amy Frasier Wilson was present and participated in the settlement conference in March 2023. Counsel Simons discussed the modifications made to the settlement agreement and provided an explanation as to why the agreement was modified, stating his belief that the change was not substantive.

The Court stated that the modifications made by Ms. Frasier Wilson were substantive and made the terms of the settlement confusing as to whether all claims were being resolved. Therefore, the Court was not willing to accept the settlement agreement in its current form.

Additionally, the Court expressed concern with issues raised by the Trustee in its Objection.

Counsel Simons responded to the Court's concerns, including the concern regarding whether this Court has proper jurisdiction; counsel Simons discussed NRS 153.031 and the authority of the Court to direct modifications of the trust.

The Court reviewed the Fifth Amendment to the Trust and read a portion of Provision C(7) of the Children's Trust into the record.

Counsel Simons responded to the Court's statements; further discussion was held between the Court and counsel Simons as to this issue.

Counsel Millsap addressed the Court regarding the Material Term Sheet signed by all parties, which counsel argued was proof of the agreement reached herein with said document being an enforceable and binding executed agreement.

Further, counsel Millsap discussed the Tax-Exempt Trust and argued that said Trust must be kept separate from the Survivor's Trust.

Counsel Halstead discussed the Tax-Exempt Trust which included a spendthrift provision, and stated her belief that the same applies to the Survivor's Trust; counsel Halstead provided an explanation for said belief and discussed the Trustee's position.

Counsel Millsap objected to counsel Halstead's position and provided further explanation to the Court.

Further arguments were presented by counsel Millsap and Halstead on this issue, with both counsel responding to questions posed by the Court.

The Court addressed Bradley Frasier and Nori Frasier and noted that neither were named parties to this litigation; however, the Court acknowledged that they were interested parties to the Trust.

Counsel Millsap stated that he had no objection to the distribution of the personal property as set out in the Settlement Agreement.

In response to the Court, counsel Simons stated that Amy Frasier Wilson, Brad Frasier and Nori Frasier were unable to agree to the distribution of personal property. The Court suggested that if the parties were unable to confer and agree

to the distribution of the personal property items, the parties would need to review the list of personal property items and determine which items, if any, were not in dispute; the remaining items would then go to auction with any residual items to be subject to a lottery.

Counsel Simons agreed with the Court's suggestion as to the distribution of personal property items.

The Court acknowledged the work that counsel Halstead conducted in attempting to distribute the personal property items. Counsel Halstead discussed the procedure which would take place in distributing said property among the three siblings, noting that the Trustee would inventory the personal property and provide a list to the parties. Any items that could not be agreed upon would be sold with the proceeds being distributed.

Regarding the real property in San Juan Capistrano (SJC House), counsel Millsap agreed with counsel Halstead that said real property should be sold immediately. Further, counsel Millsap requested that the Court determine that all parties were properly noticed under Chapter 155.

In response to the Court, neither counsel Simons nor counsel Earl had an objection to the SJC House being sold.

Counsel Simons read NRS 132.185 related to interested parties and noted that neither Bradley Frasier nor Nori Frasier were interested parties to the Tax-Exempt Trust.

Counsel Halstead discussed the Tax-Exempt Trust allocations with the Court.

Counsel Simons confirmed the agreement that the Tax-Exempt Trust be divided among the three siblings.

Counsel Halstead responded to the Court's questions regarding the fiduciary obligations of the Trustee to all residual beneficiaries and expressed concern that the grandchildren have not been heard in this matter.

The Court noted that the grandchildren were given an opportunity to join this action as named parties and did not do so.

Counsel Millsap stated that the grandchildren were not interested parties to the Survivor's Trust but only to the Tax-Exempt Trust and the Estate provided proper notice of this hearing under NRS Chapter 155 on August 7, 2023. Additionally, counsel Millsap noted that the grandchildren were present as attendees at this Zoom hearing.

Counsel Simons agreed that proper notice was given.

Counsel Earl addressed the Court on behalf of the various interested party charities regarding their position as to the residuary of the Trust and had no objection to the sale of the SJC House.

The Court stated that this Court will take the Petition under advisement but will order that the SJC House be placed on the market; **SO ORDERED.**

Counsel Halstead requested that all outstanding trust obligations be fully paid from the proceeds of the sale of the SJC House; all counsel agreed to said request; **SO ORDERED.**

COURT ORDERED: The SJC House shall be sold by the Trustee, with the Trust obligations to be paid out of the proceeds of said sale; the remainder shall be distributed pursuant to Court order should the Court determine that the proposed

settlement is approved.

Counsel Halstead confirmed that no distribution of any remaining funds would be made pending the Court's order.

Counsel Halstead further requested confirmation that the equalization payments can be made pursuant to the proposed settlement agreement; all counsel confirmed said payments could be made; **SO ORDERED.**

Additionally, counsel Halstead requested that the Trustee be allowed to inventory the personal property located in the SJC House; all counsel agreed; **SO ORDERED.**

Counsel Halstead addressed the issue of the sale of the Palm Desert House to Nori Frasier and the possibility of it being turned over as a portion of the distribution to Nori Frasier, so long as doing so wouldn't exceed Nori Frasier's total portion.

Neither counsel Millsap nor counsel Earl had an objection to the Palm Desert House being distributed in that fashion. However, counsel Simons was unable to agree to counsel Halstead's suggestion at this time.

Further discussion was held on this issue.

As to the proposed settlement agreement and the amendments made thereto by Amy Frasier Wilson, the Court directed that Ms. Frasier Wilson must withdraw the amendments in order for the Court to consider approval of the proposed agreement. The Court expects that counsel Simons will submit documentation indicating that Ms. Frasier Wilson agrees with the resolutions contained in the proposed agreement as reached during the settlement conference, with no amendments made.

Counsel Millsap addressed the issue of resolution of the Survivor's Trust, which would discharge the Special Administrator, Stanley Brown from further duty.

Counsel Millsap suggested that he provide the Court with a proposed order encompassing the Court's rulings and directives herein; **SO ORDERED.**

COURT ORDERED: The Joint Petition to Confirm Settlement Agreement is hereby taken under advisement. The Court directed that a proposed order be submitted as to the orders and directives entered by the Court herein, with respective counsel having an opportunity to review the same. Additionally, the Court directed that either a withdrawal of the amendments made by Amy Frasier Wilson be filed or an amended agreement be submitted clarifying that Amy Frasier Wilson agrees with all terms of the settlement reached herein.

Discussion was held regarding the best way to proceed on that issue with the Court determining that counsel proceed with whatever means is the most efficient.

Counsel Millsap requested clarification from the Court regarding the contents of the proposed order; the Court provided said clarification and reviewed the rulings made herein.

With no additional matters to be addressed by the Court at this time, this matter was adjourned.

Clerk note: Upon the Court calling a recess, Nori Frasier requested that the Court allow the grandchildren, who were attendees to the remote hearing, an opportunity to address the Court. During the Court's response, the Clerk mistakenly disconnected the remote proceedings and was unable to reconnect the parties.

4185

SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE
THE HONORABLE TAMMY RIGGS, DISTRICT JUDGE

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TRUST: JORDAN DANA) Case No. PR16-00128
FRASIER FAMILY TRUST)
)
) Dept. No. 3
) TRANSCRIPT OF PROCEEDINGS
_____)

HEARING ON JOINT PETITION
TO CONFIRM SETTLEMENT AGREEMENT
AUGUST 15, 2023, RENO, NEVADA

APPEARANCES:

For the Trustee U.S Bank: HALSTEAD LAW OFFICES
By: Patricia Halstead, Esq.
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Reno, Nevada 89509

For Various Interested Charities: LAW OFFICES OF RYAN J. EARL
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Reported by: JULIE ANN KERNAN, CCR #427, CP, RPR
Job No. 6260094 Computer-Aided Transcription

1 CONTINUATION OF APPEARANCES:
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8 For Amy Frasier SIMONS HALL JOHNSTON, PC
Wilson: Attorneys at Law
(Via Zoom) By: Mark Simons, Esq.
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11
12 Also present: Brad Frasier
(Via Zoom) Nori Frasier
13 Don Frasier
Danielle Frasier Aroeste
14 Eliot Cady
15 Dr. Sara Cady
16
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1 RENO, NEVADA; TUESDAY, AUGUST 15, 2023; 9:00 A.M.

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4 THE COURT: Ms. Clerk, will you please call
5 the case?

6 COURT CLERK: Your Honor, this is PR16-00128,
7 Trust: Jordan Dana Frasier Family Trust.

8 Counsel, please state your appearances for the
9 record.

10 THE COURT: All right. We'll start with you,
11 Ms. Halstead, since you're in the courtroom.

12 MS. HALSTEAD: Thank you, your Honor.
13 Patricia Halstead on behalf of the Trustee U.S. Bank.

14 THE COURT: Thank you. Mr. Simons?

15 MR. SIMONS: Good morning, your Honor. Mark
16 Simons on behalf of Amy Frasier Wilson.

17 THE COURT: Mr. Brown?

18 MR. BROWN: Good morning, your Honor. Stan
19 Brown, Special Administrator of the Estate of Dinny
20 Frasier. I'm represented by Mr. Millsap.

21 THE COURT: And Mr. Millsap?

22 MR. MILLSAP: Patrick Millsap of Wallace and
23 Millsap on behalf of Stan Brown, the Special
24 Administrator of the Estate.

1 THE COURT: And Mr. Brad Frasier?

2 MR. BRAD FRASIER: Yeah, Brad Frasier. I'm
3 the beneficiary of the Jordan Frasier Family Trust. And
4 here to represent Jordan Frasier.

5 THE COURT: All right. And this is Frasier N.
6 who I believe may be Nori Frasier?

7 MS. FRASIER: Yes.

8 THE COURT: All right. Would you please
9 operate your camera or activate your camera, ma'am?

10 MS. FRASIER: Oh.

11 THE COURT: Thank you.

12 MS. FRASIER: Thank you. Nori Frasier on
13 behalf of the trust.

14 THE COURT: All right. Thank you. All right.
15 And so -- I'm sorry, Mr. Brad Frasier, you're
16 representing yourself, correct?

17 MR. BRAD FRASIER: Correct.

18 THE COURT: All right. Thank you. All right.
19 So we're here on the Joint Petition, or the hearing on
20 the Joint Petition to confirm settlement agreement
21 approved distribution of the Survivor's Trust pursuant
22 to settlement agreement and petition for modification of
23 the tax-exempt trust to Enable Termination of Trust and
24 All Trusts Created Thereunder.

1 So I have read all the pleadings in this case.
2 I reviewed the entire filing in the Joint Petition, as
3 well as the objections that were filed by the -- by U.S.
4 Trust and the joinder by Mr. Brad Frasier and Nori
5 Frasier. Again, I've read everything in this case.

6 Does anybody have anything to add in addition
7 to what has already been included in your pleadings?
8 I'll start with you, Ms. Halstead.

9 MS. HALSTEAD: I do. Would you like me to
10 stand instead of being in front of the microphone?

11 THE COURT: You may. Everybody else is
12 getting to appear by zoom. I thought that we would all
13 be appearing in person today except for the persons who
14 are appearing from out of town, but you may remain
15 seated, ma'am. Go ahead.

16 MS. HALSTEAD: Thank you. So it's a, you
17 know, there was a filing by the estate in support of the
18 objection that was filed late on Friday, so with that I
19 do have a small bit of commentary just to respond to
20 that so the Court can have a full picture of what the
21 trust position is with regard to the issues that were
22 raised there.

23 THE COURT: All right. Go ahead.

24 MS. HALSTEAD: So just to start with this, you

1 know there's a lot of information being given to you,
2 the case has been contentious. There's allegations
3 about how the attorneys have treated each other in their
4 -- their -- their sort of relationships. The only
5 question before the Court prior to the settlement was
6 whether Dinny was competent, Ms. Frasier, I'm just going
7 to call her Dinny because there's a lot of Frasier's.

8 THE COURT: Sure. Go ahead.

9 MS. HALSTEAD: That what the sole remaining
10 issue that is no longer the issue due to the settlement.
11 The question is whether that settlement can be confirmed
12 by the Court. And as you know, there was an objection
13 filed by the trustee as to just a particular part of
14 that settlement and that is whether Amy Frasier Wilson's
15 distribution could be distributed outright, and that
16 includes an outright distribution for both the
17 Survivor's Trust and the tax-exempt trust.

18 There is some debate about which law would
19 apply whether that's California or Nevada, but I don't
20 want to belabor that point, I think it's the same--

21 THE COURT: I will just tell you California,
22 it's the Court's position that California law applies in
23 this case.

24 MS. HALSTEAD: Okay.

1 THE COURT: You know, that's -- that has been,
2 as far as I'm concerned, the case going forward, or from
3 the beginning. If anybody else is going to challenge
4 that I haven't seen that challenge so California law is
5 the law that is applicable to this case as far as I'm
6 concerned. So go ahead, Ms. Halstead.

7 MS. HALSTEAD: Thank you, you Honor. With
8 that, there was one case cited in the Estate's filing
9 and that is case the Hearst v. Ganzi, and that's 145
10 Cal.App.4th 1195 2006. And in that matter, the issue
11 was -- and I have a copy for the Court if I may
12 approach?

13 THE COURT: Yes. Thank you.

14 MS. HALSTEAD: Thank you. On the basis for
15 citing that case pursuant to the Estate was the premise
16 that once a Settlor dies, or Settlers in this case die,
17 then the remaining obligation is not to the Settlers or
18 the terms of the trust but is instead to the
19 beneficiaries. And this case was cited for that
20 proposition.

21 So I wanted to address that case, I've
22 initialed the premise -- or underlying the premise of
23 the case and I'll just go over it briefly. If you go to
24 Page 6, there's underlying language. It says "The

1 gravamen the plaintiff's proposed petition for breach of
2 fiduciary duty is that the trustee failed to act
3 impartially towards the income beneficiaries, plaintiffs
4 assert the trustee should have generated and should be
5 required in the future to generate more income for the
6 current income beneficiaries".

7 The point of that debate is that a trustee
8 owes a duty to all beneficiaries. And so the point
9 being, and that's why some of you see the residual
10 beneficiaries are on zoom today as participants but not
11 actively speaking is because U.S. Trust, or U.S. Bank as
12 the trustee has to look out for all named beneficiaries
13 including the residual ones. The residual beneficiaries
14 weren't a part of that settlement. The point was that,
15 you know, we should be like at one set of beneficiaries
16 and not the whole picture of the trust and all the
17 beneficiaries. So if you turn to Page 7, and there's a
18 star further underlying, it says "The relief which
19 plaintiff seeks, namely a change in the corporation's
20 dividend policy would defeat WRH's intent by (no gate}
21 the trust discretion as already set forth, the paramount
22 role in the construction of wills to which all other
23 rules must yield is that a will is to be construed
24 according to the intent of the testator as expressed

1 therein. And that's unless the law with regard to
2 trusts. And in that case, it's the trustee's obligation
3 to honor the intent of the Settlers as stated in the
4 trust instrument. So the case cited by the estate
5 actually supports US Bank's position. And if you go and
6 look through Nevada law, and I've just taken the liberty
7 of just citing to one, two, three, four, five, six cases
8 in Nevada, and I know we've determined that Nevada, that
9 California law controls, but it's the same in California
10 and Nevada. That trusts are construed to give effect to
11 the grantors apparent intent. I can give a plethora of
12 case cites for that, but I don't think that's necessary,
13 but if the Court would request them I would be happy to
14 provide them.

15 So with that, there was a prior settlement of
16 the matter, and that was when Dinny was still alive.
17 And so there's being an argument made that the trust was
18 already modified, and so this Court can modify the trust
19 again. This Court can modify the trust but it has to do
20 so within the confines of the law. And that settlement
21 agreement happened to be within those confines and I'll
22 tell you why. One, Dinny was still alive and she
23 consented to it, and a modification made was with regard
24 to Survivor's Trust under which --

1 THE COURT: Survivor's Trust, is that what you
2 said?

3 MS. HALSTEAD: Correct.

4 THE COURT: Thank you.

5 MS. HALSTEAD: Over which she still had
6 authority to address. In the initial trust it gave Amy
7 a house outright. It was supposed to be the Settlor's
8 primary residence, that's one of the issues that was
9 briefed in the Petition for Instructions. And so
10 through that settlement Amy was granted a house from the
11 Survivor's Trust, which was within Amy's discretion, and
12 the gift of the house was -- to Amy was always outright.
13 So giving her that trust in that settlement agreement
14 was not a breach of any material provisions of any
15 spendthrift trusts.

16 With that I would just -- I think that's the
17 points that were raised in the last filing, so I don't
18 know that I need to address that further.

19 With regard to the fact that the distribution
20 can't be made outright, I think that's fully briefed.
21 The only issues left with that are the personal property
22 issue and that it still remains that the San Juan
23 Capistrano house needs to be sold for the trust to meet
24 its obligations.

1 THE COURT: All right. And so Ms. Halstead,
2 question for you regarding the Survivor's Trust. So the
3 -- the house is still in the Survivor's Trust, correct,
4 the house that has been gifted to Amy Frasier.

5 MS. HALSTEAD: No. Well, that was part of the
6 -- the petition for instruction. Amy Frasier was given
7 a house in the January 27th settlement, I think it was
8 2017.

9 THE COURT: All right.

10 MS. HALSTEAD: Each children was given a
11 property.

12 THE COURT: Right.

13 MS. HALSTEAD: So the question in the Amended
14 Petition for Instructions, well, through all Petition
15 for Instructions was she was already given a house, you
16 know, the trust has since been amended, you know, what
17 are we required to do with this house.

18 THE COURT: Okay. And so but my -- I thought
19 that the impetus of the trust argument is that whatever
20 Amy Frasier Wilson receives may not be outright, it
21 needs to remain in trust under the spendthrift -- the
22 spendthrift provision of the Fifth Amendment to the
23 trust. Correct?

24 MS. HALSTEAD: Correct.

1 THE COURT: All right. And so how does the
2 house play into that, according to what your argument is
3 today?

4 MS. HALSTEAD: So the initial house, the house
5 was supposed to be given, the house in particular, no
6 other assets, what happened was the house is set aside
7 to Amy.

8 THE COURT: Right.

9 MS. HALSTEAD: Said the Settlor's primary
10 residence. Meantime, she got it debate what that would
11 be, she got a house earlier back in 2017 outright as was
12 allowed under the trust.

13 THE COURT: So that is no -- that's already
14 been distributed.

15 MS. HALSTEAD: That's been distributed.

16 THE COURT: No longer in the trust.

17 MS. HALSTEAD: Correct.

18 THE COURT: In the -- excuse me. In the
19 Survivor's Trust.

20 MS. HALSTEAD: Well, it is the sense that the
21 compensation for that house still needs to be shifted
22 between the trusts.

23 THE COURT: All right. Okay. But --

24 MS. HALSTEAD: As to Brad and Nori's, but as

1 to Amy, I believe --

2 THE COURT: Right.

3 MS. HALSTEAD: So separate and part from that
4 house, anything else given to Amy under both sub-trusts
5 was supposed to be in spendthrift trust for her.

6 THE COURT: Right.

7 MS. HALSTEAD: And so the SJC house meantime,
8 the trust is getting depleted and now with all the
9 attorney's fees it's worse than before, and the trust
10 can't meet its obligations without selling the SJC
11 house. Mr. Millsap has not been paid. I have not been
12 paid. There's submitted -- I think there's about
13 \$52,000 left just to maintain assets.

14 THE COURT: Why?

15 MS. HALSTEAD: Because the trust, and there's
16 also outstanding bills from prior professionals who are
17 involved in the case.

18 THE COURT: All right. Thank you. All right.
19 So regarding the topic matter that Ms. Halstead just
20 covered, does anybody want to be heard? I'm not seeing
21 that -- oh, let's see, Mr. Millsap wants to be heard.

22 Go ahead, Mr. Millsap.

23 MR. MILLSAP: Yes, your Honor. First of all,
24 thank you for the opportunity to appear before you today

1 and I wanted to, one, draw a distinction that there are
2 two separate agreements before the Court today. And so
3 as Ms. Halstead was making her comments she made them in
4 a general sense as though it is applicable to both the
5 Survivor's Trust and the tax-exempt trust which is a
6 fallacy. So drawing the distinction between the
7 agreements and I would ask the Court treat separately,
8 there's an agreement with respect to the tax-exempt
9 trust. There is also an agreement with respect to the
10 Survivor's Trust. So the discussion in terms of whether
11 Nevada law applies and whether -- I should say whether
12 Nevada law applies, I think, is primarily centered
13 around the agreement with the tax-exempt trust. And in
14 that regard, the agreement with respect to the
15 tax-exempt trust requests that Ms. Frasier's share, I
16 should say Ms. Wilson's share be distributed to her
17 outright and free of trust and, of course, the trustee
18 objects and says that can't be done under California law
19 because it would violate the intent and purpose of the
20 trust and the Settlers.

21 So I want to first say that court made a
22 statement that California law applies, and the Court
23 made that statement generally. In response I would
24 refer the Court to the matter of Jamie Frasier wherein

1 the Nevada Supreme Court specifically held that 164.010
2 applies.

3 THE COURT: And I'm sorry, hang on a second,
4 Mr. Millsap. So 164, can you do that citation again?

5 MR. MILLSAP: I can, yes. 1, NRS 164.010
6 applies.

7 THE COURT: All right. To which matter? To
8 which matter? Are you talking about the tax-exempt
9 trust for the entire matter?

10 MR. MILLSAP: The entire matter. And I'll be
11 even more specific, your Honor, so there's no ambiguity
12 in this regard on the record. The Nevada Supreme Court
13 held that there were questions regarding the
14 jurisdiction of the Court, Judge Hardy specifically, and
15 the Nevada Supreme Court resolved those questions over
16 jurisdiction by expressly holding the District Court had
17 properly assumed in rem jurisdiction over the trust res,
18 in other words, the trust assets, pursuant to 164.010.

19 The Nevada Supreme Court in this case then
20 went on to hold that having properly assumed in rem
21 jurisdiction over the res, the Court had authority to
22 issue orders with respect to the internal affairs of the
23 Trust pursuant to 164.015.

24 Of course, 164.015, Subsection 1, allows the

1 Court to afford the parties in the trust the relief
2 codified in 153.031. And so the only time the Nevada
3 Supreme Court ever held that California law applied was
4 with respect to the validity of the trust.

5 THE COURT: All right. And so -- and just Mr.
6 Millsap, when you're talking about the validity of the
7 trust in general, are we talking about Dinny Frasier's
8 capacity? So which law applies with regard to the
9 original question of capacity?

10 MR. MILLSAP: Correct. And so --

11 THE COURT: I'm sorry. It was a question. So
12 is it California law that applies to the original
13 question of capacity?

14 MR. MILLSAP: Yes.

15 THE COURT: All right. Thank you.

16 MR. MILLSAP: So California law would apply to
17 determining whether Dinny Frasier had capacity to amend
18 the Survivor's Trust, specifically the third, fourth and
19 Fifth amendments. California law does not apply to
20 supersede the Court's ability to modify the trust under
21 Chapter 164. And in the response I filed last week,
22 your Honor, I made clear this is not theoretical, this
23 is not an argument, this is actually the precedent of
24 the case.

1 THE COURT: Right.

2 MR. MILLSAP: Judge Hardy previously modified
3 this -- the Survivor's Trust to make distributions and
4 then Ms. Halstead indicated that that was done pursuant
5 to Dinny's consent that is an absolutely fallacy. If
6 you read that order, your Honor, Judge Hardy
7 specifically notes because there are questions regarding
8 Dinny Frasier's capacity, and her ability to amend the
9 trust, to effectuate the distributions required by the
10 settlement, rather than deal with the stinky wicked of
11 this capacity and unknown questions around that. He
12 modified the trust absent her consent to effectuate the
13 terms of the settlement agreement that were already
14 deemed valid. So that modification wasn't done pursuant
15 to Dinny's consent, it was the opposite. It was done
16 because there were questions about whether she even
17 could consent.

18 THE COURT: All right. And so Mr. Millsap,
19 didn't the Nevada Supreme Court return the case to the
20 District Court with the requirement that the District
21 Court determine Ms. Frasier's capacity?

22 MR. MILLSAP: Only with respect to approving
23 the Fifth Amendment, and that's something that we have
24 to be clear about, Judge. The modification of the trust

1 was never appealed, that was never objected to, that was
2 consented by all the parties. In fact, the prior
3 trustee unequivocally supported that.

4 THE COURT: But you're talking about the
5 Fifth, you're talking about the Fifth Amendment to the
6 Trust, correct? And I'm sorry, I'll be more specific.

7 MR. MILLSAP: No.

8 THE COURT: You're not.

9 MR. MILLSAP: No.

10 THE COURT: Which amendment are you talking
11 about?

12 MR. MILLSAP: None. The modification of the
13 trust was not pursuant to any trust amendment.

14 THE COURT: Are you talking about the
15 modification by Judge Hardy or a different modification?

16 MR. MILLSAP: The modification by Judge Hardy.

17 THE COURT: All right. Thank you.

18 MR. MILLSAP: Yeah. And so all I'm getting
19 at, Judge, is that the Court has the authority to modify
20 the tax-except trust. The Court has already modified
21 the Survivor's Trust previously. That was never
22 disputed. That was never objected to. That was never
23 overruled by the Supreme Court. In fact, it was upheld
24 by the parties. The only thing of dispute on remand was

1 the validity of the Third, Fourth and Fifth Amendments,
2 which brings me to my next point. And therein, the
3 trustee objects to distribution of the Survivor's Trust
4 which is a separate agreement.

5 And I want to take a step back, too, your
6 Honor.

7 THE COURT: All right. And so before you get
8 -- and I want to hear what you have to say on that, Mr.
9 Millsap, but before we get too far into this, I have a
10 question for Mr. Simons on the -- on this part of the
11 trust, all right?

12 So regarding the settlement agreement, so I
13 received the settlement agreement and this was actually
14 pursuant to the settlement conference that was had in
15 front of Judge Sattler in March of 2023. This is
16 correct, Mr. Simons?

17 MR. SIMONS: Correct.

18 THE COURT: All right. And so was Ms. Amy
19 Frasier Wilson present during that conference?

20 MR. SIMONS: Yes.

21 THE COURT: All right. So here's my question.
22 What the Court received is something -- it is a document
23 that I believe voids the original intention of the
24 settlement agreement in that Ms. Frasier modified the

1 agreement, according to herself, on June 5th, 2023, in
2 that she re -- and I'm referring to the top of the page
3 on all pages, settlement agreement on mutual release of,
4 she scribbles out all claims in the matter of the Jordan
5 Dana Frasier Family Trust. Throughout in Mr. Millsap's
6 submission he said that's the original -- that's the
7 whole intent of this settlement agreement is to avoid
8 future litigation, and your client appears to disagree
9 with that.

10 MR. SIMONS: Your Honor, can you direct me to
11 what you're referring?

12 THE COURT: Certainly. Okay. And so Mr.
13 Millsap's submission or the submission, the Joint
14 Petition, is -- goes through Page 16, and then I'm
15 looking at Exhibit 1, and this is the settlement
16 agreement. Now, we've got different documents
17 apparently representing the different understandings of
18 the settlement agreement between the parties, so I am
19 looking at Page 1 of Exhibit 1.

20 So settlement agreement and mutual release of
21 all claims, Amy Frasier Wilson scribbles out all, and
22 then in the heading of each and every page on this
23 settlement agreement she scribbles out all. And so this
24 to me indicates that there was no meeting of the minds

1 regarding this settlement agreement and the settlement
2 of all claims.

3 So Mr. Simons, what are your thoughts on this?

4 MR. SIMONS: Well, first off, I don't read it
5 that way. That was a modification with regards to the
6 all claims because there was concern that there would be
7 -- if the Court denied the petition in total, there
8 would have to be remedies and rights that she retained,
9 and it was not that she would just be submitting to all
10 and any future conduct that was directed toward her.

11 That was not in dispute. This is a Joint Petition where
12 the -- that there is a meeting of the minds between all
13 parties with regards to this. So that is a heading and
14 might be even -- I'm not sure if we put in a heading on
15 it but the heading has nothing to do with the substance
16 of the --

17 THE COURT: Well, it sure does because she --
18 because she includes it in the title, too. This
19 indicates to me a clear intention by your client to not
20 agree to the settlement that this settlement releases
21 all claims, again, which the parties indicate is the
22 whole purpose for this to avoid the very expensive
23 litigation going forward.

24 MR. SIMONS: Yeah. What would you like me to

1 clarify to make sure that the Court is aware that the
2 document itself contains this express relief? There's a
3 Paragraph 10 --

4 THE COURT: And again, Mr. Simons, I think
5 that this document, if accepted by the Court would only
6 add to confusion going forward, only provide confusion
7 to the, you know, confusion on the issue of whether all
8 claims are resolved which, again, the petition indicates
9 is the main reason for this document, is the main reason
10 for the settlement. And so I don't know why your client
11 would -- you know, it sounds like you weren't -- it
12 sounds like, Mr. Simons, that you did not advise her to
13 do this, this was something that she did, you know, sui
14 sponte, so I don't -- go ahead, Mr. Simons, I don't mean
15 to interrupt.

16 MR. SIMONS: Yeah, So. Here's what was
17 happening. We were trying to get this on this document
18 completed quickly to get attached to the submission.
19 Quite frankly, I don't think I caught that. If I did I
20 don't remember it we clarified that.

21 THE COURT: Right.

22 MR. SIMONS: To me that was not a substantive
23 change --

24 THE COURT: To me it is. It is to me, Mr.

1 Simons.

2 MR. SIMONS: I hear you. I hear you. But
3 just let me put this in context if the material terms of
4 the settlement agreement were incorporated into a
5 written document, that was signed off at the time with
6 Judge Elliott Sattler, so we have an agreement that says
7 exactly what the waiver and releases are.

8 THE COURT: And then your client amended it,
9 amended her portion before she signed the final
10 document.

11 MR. SIMONS: No, this was a draft that was
12 going back and forth that Mr. Millsap and I had been
13 working on quite strenuously to get to it. And so I --
14 he gave me a version, I got the version back to him, the
15 -- neither of us -- I didn't, and this is easily
16 correctable in my opinion.

17 THE COURT: Right. Well, all right. Thank
18 you. That is something that I would not -- I would not
19 be willing to accept this agreement in its current form
20 because I believe that it expresses an intent by your
21 client, Amy Frasier Wilson, to not resolve all claims
22 because she specifically scribbles those portions out --

23 MR. SIMONS: Okay.

24 THE COURT: -- in that document. So the

1 other issue, Mr. Simons, is that, you know, I am
2 concerned based on the issues raised by US Trust that
3 the original intent, while the Settlers is not honored
4 in that, is very clear that the Settlers intended that
5 any gift as setting aside the house to that was granted
6 to her to, Amy Frasier Wilson, be subject to a
7 Spendthrift Trust.

8 Now, you know, again, I don't see the reason
9 or the compelling reason, that compelling reason has
10 been raised by, you know, your client why she should be
11 released from that original provision. So that is my --
12 that is my concern as well is that this -- the
13 settlement agreement provides for, it looks like in both
14 the -- the Survivor's Trust as well as the tax-except
15 trust for her to take free and clear without the
16 provisions of a Spendthrift provision. So what is your
17 position on that, sir?

18 MR. SIMONS: Okay. I'm going to step back a
19 little bit to put you in context with what Mr. Millsap
20 said and he was exactly correct. That this Court has
21 jurisdiction, California law does not apply to what
22 we're seeing.

23 THE COURT: And again, I apologize for
24 interrupting. I'm aware that I have jurisdiction, but

1 under both California and Nevada law, as well as trust
2 law across the United States and in general, that's the
3 whole reason why you execute a trust is so that the
4 provisions of the settlor can carry through even when
5 they are no longer around, in other words, you know, the
6 original provisions control unless a compelling reason
7 is given why that should not occur. So that's, that's
8 what I'm looking for. What is the compelling reason
9 that I should not honor the original intention of the
10 trust was -- which is to retain the restriction on Amy
11 Frasier Wilson's gift?

12 MR. SIMONS: All right. So just, again, to
13 recapture it's been admitted that this Court has
14 jurisdiction to modify and terminate under NRS 153.031
15 as Judge Hardy previously found. To effectuate a
16 resolution of a case, and Judge Hardy stated that he had
17 the authority and was empowered to direct modifications
18 of a trust under that statute. And in doing so, he
19 distributed three up trusts, out of trust, a different
20 home, not this SJC home, San Juan Capistrano home, a
21 different home. He overrode the --

22 THE COURT: And again, who -- remind me. Who
23 got the distribution of that, Mr. -- who was recipient
24 of that distribution?

1 MR. SIMONS: Amy did, she got that outright
2 free and clear of trust.

3 THE COURT: Right.

4 MR. SIMONS: This was Judge Hardy, October
5 15th, 2018, order. So when Mr. Millsap said that's the
6 law of the case, that is the law of the case. That was
7 not contested and, in fact, the trustee had petitioned
8 court to exercise that authority because there was a
9 question as to Dinny's capacity. So he --

10 THE COURT: There's -- I'm sorry, there is a
11 question as to what, Mr. -- I missed that, Mr. Simons.

12 MR. SIMONS: Dinny's capacity.

13 THE COURT: Right.

14 MR. SIMONS: She could not function legally
15 because there was a challenge to her --

16 THE COURT: Well, that was the allegation.

17 MR. SIMONS: Correct. That's went to the
18 Supreme Court, came back down. So what Judge Hardy said
19 is look. Her capacity's in question, there are
20 provisions that are Trust B and Trust A, but not Trust A
21 at the time, that he distributed outright. So he
22 overrode the spendthrift trust provision to effectuate
23 the terms of a settlement.

24 THE COURT: This I understand that it's

1 doable, Mr. Simons. The question that I have is why
2 should I do that given the original intention of the
3 Settlers. Now, Judge Hardy made a decision regarding a
4 different matter. Why should I override the intention
5 of the Settlers in this matter and -- and order a
6 distribution free and clear of trust to Amy Frasier
7 Wilson?

8 MR. SIMONS: Well, what I'm saying is it's --
9 I don't see there is a matter because he did the exact
10 same thing. Now, when you look what the intention you
11 actually have to look at what the documents say. The
12 trusts say that Dinny is be preferred over anybody else.
13 Okay? That has been reiterated and restated.

14 THE COURT: And I'm sorry, where are you?
15 So what are you -- which document are you referring to,
16 Mr. Simons?

17 MR. SIMONS: Well, in the Joint Petition that
18 was filed you'll see at -- excuse me -- Page 9, the
19 tax-except trust said the trustees be mindful that a
20 Settlor's desire, that this trust fund be preferred
21 primarily for the benefit of Amy Michael Frasier Wilson,
22 and not for any remainder beneficiaries. She i's to be
23 preferred --

24 THE COURT: And I'm sorry, I'm not at the same

1 place as you. So you're talking about the tax-except
2 trust provision at Page 9 of 16?

3 MR. SIMONS: No, I was referring to the
4 language that was cited within the petition itself.

5 THE COURT: All right. And I'm looking at the
6 petition. Where are you in the actual petition?

7 MR. SIMONS: Page 9, you start at line 20.

8 THE COURT: 20?

9 MR. SIMONS: Correct.

10 THE COURT: Okay. Go ahead.

11 MR. SIMONS: Okay. So that shows first off
12 that the concept of the Settlers was just prefer Amy,
13 Amy is to be preferred. Decision are to be made in her
14 favor. Then within that same frame work the tax-except
15 trust was structured as an asset-protection trust, that
16 the Court entire practice -- are you familiar with the
17 asset protection concepts? If not, I'll just give you a
18 brief overview which is in order to ensure clients'
19 rights in personal injury cases, that they have access
20 to public insurance and public benefits, they have to
21 show that they lack income, that they don't have assets
22 to pay for their own medical care and treatment. If
23 they do, they're denied public assistance. That's how
24 this was structured because it said to allow her to

1 participate in public assistance programs.

2 THE COURT: But that's not the only provision
3 in that, Mr. Simons. Now, I am looking at the actual
4 terms of the Fifth -- let's see. It's the Fifth
5 Amendment to the Jordan Dana Frasier Family Trust, and
6 I'm at Page 8, and this is Provision 7 C, this is
7 Children's Trust. And so number 7, this is Page 8.

8 "The Trustee desires that the funds set aside for Amy
9 Michelle Frasier Wilson shall last her lifetime so that
10 the trustee will not rapidly dissipate the corpus of the
11 share by distributing the principal and interest of the
12 trust to her. It is the Settlor's desire that the
13 trustee be mindful of the fact that Amy Frasier Michelle
14 Frasier Wilson has physical limitations that prevent her
15 from obtaining gainful employment, and may have certain
16 spendthrift disabilities, although they do not amount to
17 any legal disability or a sufficient disability at this
18 time to qualify for public programs.

19 In the event she does qualify for public
20 assistance, the trustee shall have the absolute
21 discretion whether or not to distribute income or
22 principal to her at the trustee's unfettered discretion.

23 Now, going down two sentences "The Settlers
24 are mindful of the subjective nature of determination

1 required, and the burden on the trustee and the anguish
2 that the recipient may have in withholding funds. And
3 difficulty of making an absolute correct and perfect
4 decision in making the trust funds last over her
5 lifetime which is not predictable", et cetera.

6 So and then this goes on on Page 9 to cite the
7 language you just cited, Mr. Simons. "The trustee is to
8 be mindful that it is the Settlor's desire that this
9 trust fund be preserved primarily for the benefit of Amy
10 Michelle Frasier Wilson, and not for the remainder
11 beneficiaries".

12 So what that says to me is that the Settlers
13 had an absolute intent to keep Amy Frasier Wilson's
14 distribution in trust, however, their additional intent
15 is that she be the one that be considered, not the
16 remainder beneficiaries, regarding this particular
17 provision, the provision that applies to her portion of
18 the trust fund.

19 So that is -- so Mr. Simons, to me, yes, I
20 agree with you that the Settlers intended that she be --
21 that the Trustee distribute for her benefit or, you
22 know, manage the trust to her benefit if she is required
23 to have public assistance, understood, but that does not
24 negate their intent to keep her funds in trust.

1 MR. SIMONS: Understood. And if that was the
2 gonna be the case, then NRS 153.031 would not have any
3 reason beyond the books and records. It would not --
4 there would be no reason to ever allow for a termination
5 or modification of a trust. And --

6 THE COURT: And so, you know, and so Mr.
7 Simons, that's -- I don't think that is the issue. I
8 understand that California and Nevada law provide for
9 that. But what I'm trying to figure out is -- and what
10 I'm trying to understand is what is the reason that your
11 client is asserting that I should override the original
12 intent of the Settlers in this case and allow, you know,
13 approve this petition for the distribution free and
14 clear of trust?

15 MR. SIMONS: Okay. I'll try to direct my
16 comments directly on that specific issue.

17 THE COURT: Thank you.

18 MR. SIMONS: The structure of the settlement
19 was contemplated to terminate the dispute. That was
20 ongoing because Trust B was -- under original settlement
21 was entitled to receive some funds from the settlement
22 agreement, but that settlement agreement was conditioned
23 on the determination whether it meant if 3 and 5 were
24 applicable. If not, it went back to 2, possibly that

1 was the argument. So in structuring the settlement, he
2 said how can he benefit and pay in total Nori and Brad,
3 under the Trust B, and get the equalization payments
4 out? So the entire structure of the deal was the case
5 with regard to competency of Dinny would be resolved,
6 put to bed, charities get paid, they're not having to
7 fund litigation and their right to receive money is
8 being depleted. Mr. Millsap is not incurring hundreds
9 of thousands of dollars in legal fees, instead, those
10 monies are being distributed to the kids, the family.

11 THE COURT: Sure.

12 MR. SIMONS: There's been millions of dollars
13 in this estate that has gone to professionals. And,
14 unfortunately, as you saw from Mr. Robertson, the
15 depletion of the estate has been the driving factor, not
16 what could be done, the intent of the trusts were to get
17 assets to the children. Let them enjoy the wealth that
18 had been accumulated by the family.

19 THE COURT: True. But why should Amy Frasier
20 Wilson's portion of that wealth be free of trust?

21 MR. SIMONS: Okay, I'm getting there. So
22 because the first step was she'd already been
23 distributing outside of trust by the Court. Court said
24 hey, look, there are reasons to distribute outside the

1 trust, we'll effectuate a settlement. Step 2. Step 2 is
2 Trust B in order to get the monies paid to Brad and
3 Nori, that was -- the settlement agreement couldn't be
4 conditioned upon the termination of Trust B because that
5 requires a court order with regard to Amy. But it was
6 structured that way so that they would get paid in full
7 immediately, rather than have to sit and wait while the
8 case went forward on appeal in legal fees, so that was
9 part of the consideration that was structured.

10 Keep following me. Then what happened is as
11 part of this resolution, the -- going back to the asset
12 protection -- so we satisfied all these other
13 beneficiaries, they get their monies, and including
14 their beneficiary, right, their offspring, same kids,
15 get their money, it goes into that family frontline --

16 THE COURT: Sure.

17 MR. SIMONS: -- they spend it, these people
18 don't have any contact with each other.

19 Next is how could this deal be structured in a
20 way to, one, reduce legal fees, and litigation expenses,
21 not only for the litigation but trustee. The trustee
22 and Mr. Resnick, they have occurred over a million
23 dollars off this estate, how can we limit that? How can
24 we take the money rather than go to -- professionals go

1 to the kids? So that's how it was also structured.

2 In addition, the asset protection component
3 never triggered because it -- Amy has not received
4 public assistance. She doesn't -- she qualifies as
5 Obama care which is an intervening event. At the time
6 trustees were crafted there was no Obama care, so --

7 THE COURT: But that's separate and apart from
8 the spendthrift provision, Mr. Simons, that's what I'm
9 worried about. I completely agree on what you're saying
10 so far with everything that you've said.

11 MR. SIMONS: Okay. Now let me focus on the
12 spendthrift. The spendthrift trust is hey, can Amy
13 manage her own affairs because --

14 THE COURT: Right.

15 MR. SIMONS: -- we the funders intend to last
16 Amy's lifetime, and looking at one concern that Amy is
17 not financially viable and can't handle her affairs. So
18 that would be the purpose of this spendthrift trust.
19 But let's look at that. What has transpired over the
20 last seven years? Extensive litigation where Amy is
21 actual prevailed. She hired attorneys. She compensated
22 her attorneys, she brought this to the Nevada Supreme
23 Court, agreed with the petition, came back down, she's
24 been able to hire me, she's been able to hire her

1 professionals. She has been successful in this
2 litigation. So far so the whole component is she's
3 married. There is no evidence before this Court that
4 she has any issues regarding the depletion of her
5 monies. These monies, as the seller admitted, we're
6 told be hers and last for her lifetime or how she needed
7 them. So what we're saying is because of all these
8 different components that -- there are so many factors
9 contemplated, all these justify the good faith and the
10 basis because the foundational purposes of these trusts
11 have been obviated over time with the expensive
12 litigation. That then she now in her own future,
13 separate and apart from you've seen the comments and
14 communications about with her siblings. And the
15 litigation --

16 THE COURT: Just a question for you while
17 we're here, Mr. Simons, is that, you know, if Ms.
18 Frasier -- I'm talking about Amy Frasier Wilson. If Ms.
19 Wilson is, you know, her intent is to resolve all
20 litigation why is she crossing that provision out of the
21 settlement document? You know, that's -- my concern is,
22 you know, you are arguing one thing and your client is
23 providing evidence of a different intent, all right? So
24 -- and it also I can tell you, you know, I do sympathize

1 a little bit with the argument of you as trust in that
2 -- you know, in that the agreement is hey, I won't
3 continue to sue you as long as you agree to override the
4 provision of this, you know, the spendthrift, the
5 provision of this trust. Now I've over simplified this
6 I know --

7 MR. SIMONS: Yeah.

8 THE COURT: -- Mr. Simons, but that is, you
9 know, that's basically -- you know, that seems to be
10 part of her intention. And then we get to, you know,
11 her exhibit, Exhibit 1, and she's, you know, she's
12 scribbling out hey, you know, I don't really -- I don't
13 really want to be bound to the main, you know, the main
14 intent of our agreement which is this is gonna resolve
15 all future litigation. So that's what -- that is what
16 concerns me. You know, I agree with everything that
17 you've you said so far, Mr. Simons. I am just not sure
18 that your client is on the same page as you.

19 MR. SIMONS: I believe they are. But let me
20 -- that clarification can be fixed. Because as I
21 understand it, the --

22 MR. MILLSAP: Can I be heard on that issue,
23 your Honor?

24 THE COURT: Do you mind, Mr. Simons? I do

1 want to allow you to finish, sir. It sounds that Mr.
2 Millsap while we're there has something to say. Do you
3 mind, Mr. Simons?

4 MR. SIMONS: Not at all.

5 THE COURT: All right. So go ahead, Mr.
6 Millsap.

7 MR. MILLSAP: Your Honor, this issue is easily
8 rectified. There is a material term shift that is
9 executed by every party at the mediation that contains
10 the material terms of settlement. That document in and
11 of itself an even forcible agreement. The Document
12 attached as Exhibit 1 is a more formal detailed written
13 settlement agreement that was unilaterally modified by
14 Ms. Wilson. To the extent there's questions about the
15 validity of that agreement, then we would simply
16 petition the Court to confirm the material terms
17 document which is an enforceable, binding settlement
18 agreement executed by every single party, before Judge
19 Sattler, contemporaneous with the conclusion of the
20 mediation, that has been an enforceable agreement.

21 With respect to -- with respect to the
22 spendthrift provisions, again, your Honor, I apologize
23 to beat a dead horse here and I ask the Court's
24 indulgence but we must delineate between a Survivor's

1 Trust and a tax-exempt trust.

2 THE COURT: I was talking about the Survivor's
3 Trust, Mr. Millsap, is what I was referring to.

4 MR. MILLSAP: Yeah, the tax-exempt trust
5 actually has a standard provision. So what Mr. Simons
6 was reading from? And what the Court was quoting was
7 from the Third Amendment to the original Jordan Dana
8 Frasier Family Trust, where it is discussing the
9 tax-exempt trust.

10 THE COURT: All right. And so Mr. Millsap,
11 thank you. And I apologize, but I just want to ask Ms.
12 Halstead. So -- and that was what I got out of your
13 pleadings is that that tax-exempt trust has the
14 spendthrift provision but somehow that is connected to
15 the -- to the trust A, right? And so can you explain to
16 me what your client's position is, what is the
17 connection and why is -- why do you believe that the
18 Spendthrift provision also applies to the Survivor's
19 Trust?

20 MS. HALSTEAD: So, I'm happy to do that. And
21 if I could just your indulgence, I want to clarify
22 something I moist spoke about earlier and then I'll
23 answer that question if I could.

24 While you were reading from the trust

1 provision Exhibit 6 to the Amended Petition which was
2 the Fifth Amendment to the main trust , I indicated that
3 the house was to be given to Amy outright, but that was
4 a misstatement on my part. It says "The trustee shall
5 allocate the seller's principal residence or the
6 proceeds thereof if it has been sold to the trust for
7 Amy." And so -- but my point doesn't change because
8 Dinny was still alive, and she had the authority to
9 modify her own trust because that -- that was in the
10 Survivor's Trust eventually.

11 And then also there was a statement made that
12 she wasn't competent and wasn't able to enter into the
13 settlement agreement. The settlement agreement is
14 Exhibit 9 to the Amended Petition. She is a party to
15 it, she initialed it, she was represented by counsel,
16 and she had not been found to be incompetent. So she
17 has had the authority to do that.

18 THE COURT: All right. So my question,
19 though, please.

20 MS. HALSTEAD: And so your question. So with
21 regard to -- so the trust -- you have the main trust,
22 and then when both parties die it splits into the A and
23 B.

24 THE COURT: Yes.

1 MS. HALSTEAD: So the B trust, the tax-exempt
2 trust, is controlled by the terms of the main trust and
3 so that Spendthrift provision sort of finds its way down
4 to the tax-exempt trust. Where you find those
5 restrictions with regard to the Survivor's Trust is --
6 and you heard the conversations that after the
7 settlement agreement part of the settlement agreement
8 back in 2017 was Dinny could amend her trust which is
9 what she did. So challenges to the Third, Fourth and
10 Fifth. The Third took out Amy and put the charities,
11 the Fourth and Fifth just qualified the -- I forget the
12 term for it, the distributions between the houses, those
13 monies. So if you go back to the very last one where it
14 went to Amy, it still remained in trust pursuant to that
15 -- the terms of that amendment.

16 So if you go to that amendment, which everyone
17 is referring to that would grant to Amy in lieu of the
18 charities, and I'm just thumbing through the -- sorry, I
19 have it in the exhibits you -- the Amended Petition for
20 Instructions. There was amendment undertaken by Dinny
21 Frasier on -- so she restated it right after -- well,
22 shortly after the settlement agreement.

23 THE COURT: And again, can you refer to what
24 document you are referring, please?

1 MS. HALSTEAD: So that's gonna be Exhibit 7 to
2 the Amended Petition for Instructions.

3 THE COURT: By what is the actual document
4 that is included in Exhibit 7?

5 MS. HALSTEAD: It's the First Amendment and
6 restatement of the Survivor's Trust created under the
7 Jordan Dana Family Frasier Trust dated December 29th,
8 1980.

9 THE COURT: So First Amendment. Okay.

10 MS. HALSTEAD: So the First Amendment to the
11 Survivor's Trust. So now it's already split and already
12 went to the Survivor's Trust. And pursuant to that
13 particular document, and I'll have to turn to the right
14 page so you'll have to give me a minute. But it entails
15 a Spendthrift trust for Amy Wilson Frasier's
16 distribution from the Survivor's Trust. And that's
17 reiterated again in the next -- in the next amendment.
18 Basically every distribution to Amy Frasier Wilson's and
19 you want to give me a minute I'll cite you to the exact
20 language. Every provision of every trust that ever gave
21 anything to Amy Frasier Wilson requires that it be held
22 in a Spendthrift trust.

23 THE COURT: All right. So that's US Bank's
24 position. And it sounds like the position of Mr.

1 Millsap's client and Mr. Simons' client is that that
2 provision may be modified under Nevada law and has been
3 so modified in a similar way by Judge Hardy. So Mr.
4 Millsap's shaking his head. Go ahead, sir.

5 MR. MILLSAP: No. The modification is solely
6 related to the tax-exempt trust.

7 THE COURT: All right.

8 MR. MILLSAP: And that's what I'm trying to
9 get across.

10 THE COURT: Right.

11 MR. MILLSAP: The tax-exempt trust, there is a
12 request for a modification. Ms. Halstead is asking the
13 Court to commit absolute legal error because what she is
14 asking is Amy Frasier Wilson's settlement funds from the
15 Survivor's Trust be held in trust pursuant to an
16 amendment that is inoperable. The First Amendment to
17 the Survivor's Trust, and the Second Amendment to the
18 Survivor's Trust were under a Third, Fourth and Fifth
19 Amendment. In other words, the First and Second
20 Amendments to the Survivor's Trust that Ms. Halstead is
21 referring the Court to are not effective. They are not
22 operable. They were not before the Court. They were
23 completely a noted and revoked.

24 THE COURT: So Mr. Millsap, you're saying that

1 only the Fifth Amendment to the trust is operable at
2 this moment in time.

3 MR. MILLSAP: Correct. When you -- it's
4 fundamental law. It is fundamental trust law when you
5 enter into amendments to a trust it's presumed valid.

6 THE COURT: Did you say presumed valid or
7 presumed --

8 MR. MILLSAP: Presumed, presumed valid. And
9 so if I can, your Honor, I'd like to make a record.

10 THE COURT: Sure.

11 MR. MILLSAP: The Third, Fourth and Fifth
12 Amendments are presumed valid. Ms. Wilson brought a
13 challenge to those amendments in their validity. Those
14 amendments were never invalidated. Instead, the
15 charities are the sole beneficiary, residual beneficiary
16 of the Fifth Amendment. The charities agreed to take
17 their residual interest in the Survivor's Trust and
18 divide that with Ms. Wilson to resolve any dispute about
19 the validity of the Fifth Amendment. So what Ms. --
20 what Ms. Halstead's asking you to do, Judge, is hold
21 funds in trust in the Survivor's Trust, pursuant to
22 amendments that were revoked, and that is plain legal
23 error. There is no ruling by Judge Hardy or this Court
24 that the Fifth Amendment was invalid, that is the

1 operable amendment before the Court. Any question in
2 regard to its validity has been resolved by the
3 charities, conveying 45 percent of their residual
4 interest to Ms. Wilson to resolve any question as to
5 their validity and, therefore, there is no objection to
6 the validity of the Fifth Amendment because it's been
7 resolved. As such, the only operable amendment before
8 this Court is the Fifth Amendment to the Survivor's
9 Trust and that must be followed. And from that Fifth
10 Amendment, the charities have agreed to convey 45
11 percent of the residual interest to Ms. Wilson, and
12 resolution of the dispute.

13 And I want to note, your Honor, to invalidate
14 that agreement would revert the parties back into a
15 seven to eight-year litigation. How that is of benefit
16 to any person in this trust is beyond me. I still can't
17 even believe that we're arguing that this agreement
18 should be invalidated, and we should continue an
19 eight-year litigation that's cost over a million
20 dollars.

21 THE COURT: And are you talking about the
22 agreement between the parties, the petition? Or --

23 MR. MILLSAP: With respect to the Survivor's
24 Trust. And what's interesting, your Honor, is the

1 dispute before the Court is strictly in regard to the
2 Survivor's Trust. And so the estate was tasked with
3 resolving the issue with respect to the Survivor's
4 Trust, and the estate has done so.

5 Mr. Brown has worked diligently. Counsel for
6 Mr. Brown has worked diligently. Mr. Earl on behalf of
7 the charities has worked diligently. Judge Sattler
8 worked diligently to resolve the dispute before the
9 Court regarding the Survivor's Trust. And --

10 THE COURT: All right. So while -- I'm sorry,
11 I do have some questions but, again, you've indicated
12 you want to make your record. I apologize for
13 interrupting. Go ahead, Mr. Millsap.

14 MR. MILLSAP: There is no provision in the
15 Fifth Amendment that would preclude the charities from
16 conveying 45 percent of their residual interest to Ms.
17 Wilson in order to resolve the only objection to the
18 Fifth Amendment's validity are the benefit of the
19 charities. And if the Court were to hold that the First
20 or Second Amendments are now valid on only that the
21 invalidated the interest of the charities because
22 they're not beneficiaries of the First and Second
23 Amendment.

24 THE COURT: All right.

1 MR. MILLSAP: So what Ms. Halstead is asking
2 you to do with respect to the Survivor's Trust is
3 absolute legal error. That -- that agreement should be
4 confirmed with respect to the Survivor's Trust without
5 qualification.

6 The Court asked separate and apart from the
7 Survivor's Trust, why should I resolve the tax-exempt
8 trust? Give me a reason to do that. Why should I
9 modify the tax-exempt trust? And again, stated clearly,
10 the modification issues are limited to the tax-exempt
11 trust. That has nothing to do with the resolution of
12 the Survivor's Trust.

13 Modification of the tax-exempt trust is
14 appropriate, your Honor, basically, to resolve an
15 eight-year litigation that has cost over a million
16 dollars in attorney's fee and professional fees. That's
17 why.

18 Also, it's plain and simple, Judge, it's
19 written throughout the tax-exempt trust that they
20 responded to be held in trust for her in order to
21 qualify for public assistance. She's not receiving
22 public assistance and so there is these arguments about
23 that she's a Spendthrift, that she's this, she's that.

24 Mr. Simons' correct, your Honor, all of that

1 is hearsay. There is no evidence before this Court that
2 -- there is no admissible evidence before this Court to
3 suggest that she's incapable of managing these funds.
4 The only evidence before the Court is the following.
5 One. Ms. Frasier's failed in litigation with her
6 children over this trust. Two, Ms. Frasier's been in
7 litigation with the trustee over the admission of this
8 trust. Three, Ms. Frasier's children have been in
9 litigation with each other over this trust. And four,
10 there is litigation over the validity of the amendments
11 to the Survivor's Trust which we now resolved.

12 And so the plain and simple fact is for
13 whatever reason, Judge, this case is nothing more than a
14 boondoggle ongoing administration between every party
15 that's involved, literally. And so to perpetuate that
16 is not in the best interests of the trust. And to say
17 that runs contrary to this Settlor's intent is also
18 speculation, Judge, because we don't know what -- what
19 Dana Jordan Frasier would have done to resolve these
20 circumstances before the Court, which is exactly why the
21 Court has authority to terminate a trust.

22 If you had to follow the language in a trust
23 rigidly without exception, then you can never terminate
24 a trust, you can never modify a trust, it would have to

1 be carried out pursuant to its terms regardless of the
2 consequences or effect upon every beneficiary. That's
3 simply not the law. The law is the duties owed to the
4 beneficiaries to do what is in their best interests, and
5 under the circumstances before this Court, the trustee
6 has provided me no evidence that is in the best
7 interests of the beneficiaries and the trust to
8 perpetuate litigation with respect to administration.
9 How is it to their benefit to do that? There's no
10 evidence in that regard.

11 THE COURT: Ms. Halstead.

12 MR. MILLSAP: Can time --

13 THE COURT: And I'm sorry, Mr. Millsap. Ms.
14 Halstead, it sounds like based on your client's
15 admission they're seeking to be released from the
16 obligation to continue to be trustee on this.

17 MS. HALSTEAD: Your Honor, if -- while -- you
18 know, my client will -- is continuous trustee, but my
19 client does not want to be trustee for any of the
20 sub-trusts that are held for the benefit of Amy Frasier
21 Wilson because of these very reasons. And because the
22 finger pointing because of the litigation it's
23 distasteful to everyone. Everyone takes Mr. Millsap's
24 point to heart. But that, again, rests at the feet of

1 the litigants, that's the very reason for these
2 Spendthrift, Amy Frasier Wilson is spending down her own
3 proceeds on litigation which emphasizes why her parents
4 deemed her a spendthrift.

5 THE COURT: All right. Thank you. And hang
6 on a second, Ms. -- and I just really wanted that
7 limited answer to my question. Thank you very much, Ms.
8 Halstead. And I will allow you to be heard and make
9 your record as well, but I promised Mr. -- looks like
10 Mr. Millsap has not been done being heard so I promise
11 I'll hear from you next, Mr. Simons.

12 Go ahead. Mr. Millsap.

13 MR. MILLSAP: So the final thing, your Honor,
14 is I want to make clear modification of the tax-exempt
15 trust is in the discretion of the Court. And Nevada
16 estate will defer to the discretion of the -- I'm sorry,
17 your Honor, I apologize.

18 THE COURT: Sorry, we're getting a request
19 from the Court next door. It sounds like we're a little
20 loud, so -- yeah, just come on up and please continue,
21 Mr. Millsap.

22 MR. MILLSAP: And so your Honor, modification
23 of the tax-exempt trust is within the discretion of the
24 Court. The Court's raised concerns about exercising its

1 discretion to modify the tax-exempt trust. I have
2 outlined the reasons why the estate believes it's
3 appropriate to modify the tax-exempt trust. However,
4 the estate will defer to the discretion of the District
5 Court with respect to modification of the tax-exempt
6 trust.

7 Separate and part from that, though, I want to
8 close by saying the dispute actually before the Court is
9 with respect to the Survivor's Trust in the litany of
10 the Fifth Amendment. That dispute has been resolved.
11 The terms of the resolution with respect to the
12 Survivor's Trust are lawful. The First and Second
13 Amendment are not applicable, they are not operable,
14 they're not amended and revoked, and there is nothing
15 that would prevent fulfillment of the terms of the
16 Survivor's Trust resolution, and so the Estate would
17 request that the Court confirm resolution of the
18 Survivor's Trust without qualification, which would
19 resolve the litigation before the Court. In other
20 words, if the Court confirms the Survivor's Trust
21 resolution, there's no further pending legal claims
22 before the Court, and the Estate can be closed, Mr.
23 Brown can be discharged, and at that point there's
24 nothing before the Court to determine.

1 So resolution of the Survivor's Trust for
2 confirmation of the Survivor's Trust resolution
3 completely resolves the litigation presently before the
4 Court, and there is no reason not to do that. So we
5 would request that is done.

6 And to the extent there's any question about
7 Ms. Wilson's Amendment of the formal settlement
8 agreement by interlineation, we're happy to refile this
9 petition with the material term sheet that essentially
10 say the same thing and that is unequivocally a binding
11 agreement.

12 THE COURT: And so Mr. Millsap, one question
13 regarding the Survivor's Trust, the personal property.
14 There's a provision for the distribution of the personal
15 property, is that in, as far as you're concerned, within
16 the Survivor's Trust, sir?

17 MR. MILLSAP: You know, that's an interesting
18 question, your Honor. The trustee actually -- there's
19 never been, I guess, an inventory that delineates what
20 personal property is within the Survivor's Trust or
21 within a tax-exempt trust. It was always the Estate's
22 position that the personal property was primarily held
23 in the San Juan Capistrano house which was a part of the
24 Survivor's Trust, and by virtue of that fact those are

1 Survivor's Trust assets.

2 So to the extent the personal property is
3 within the Survivor's Trust, and it's subject to Dana
4 Frasier's power of appointment, she gave all that
5 personal property, in essence, to the charities, which
6 are the 100 hundred percent residual beneficiary and
7 they have agreed that they will forgo the personal
8 property to Ms. Wilson as part of the settlement
9 agreement, can't believe the charities have no interest
10 in retention of personal property.

11 THE COURT: And so this is where, you know,
12 although not part of the formal litigation, I believe
13 that the -- you know, Mr. Brad Frasier, Ms. Nori Frasier
14 have an interest in that personal property in that it's,
15 from my review of the provision regarding personal
16 property, it was to be distributed in a way that
17 everybody was supposed to know about this regarding
18 Dinny Frasier's wishes, however, that document is not
19 able to be found. So we still have that issue regarding
20 the personal property and so do you believe that either
21 Mr. Brad Frasier or Ms. Nori Frasier has any interest in
22 the personal property given that -- and again, there is
23 a provision in the Fifth Amendment that includes that
24 Ms. Amy Frasier is not to be -- is not to be awarded the

1 personal property, so -- and I know that we're getting
2 down to, you know, to the nitty-gritty here and, again,
3 Mr. Simons, I promise, promise, promise we'll get back
4 to you, but since we're talking about it and the
5 Survivor's Trust, Mr. Millsap, what are your thoughts on
6 that?

7 MR. MILLSAP: Yeah. Dr. Frasier and Nori
8 Frasier have no interest in the personal property to the
9 extent it's in the Survivor's Trust.

10 THE COURT: Right.

11 MR. MILLSAP: Right? The Fifth Amendment to
12 the Survivor's Trust makes provisions to Dr. Frasier and
13 Nori Frasier of castic cash equalization payments. The
14 settlement agreement unequivocally confirms that those
15 payments will be made. So that's another point your
16 Honor, I mean, the settlement agreement specifically
17 contemplates that the equalization payments to Dr.
18 Frasier and Nori Frasier will be made. We did that
19 intentionally, your Honor, so that their interests would
20 not be affected.

21 The reason we don't want their interests to be
22 affected is now they don't have standing to object to
23 the settlement of because their interest is completely
24 unaffected in the Trust. In fact, they benefit from the

1 settlement agreement because they're being distributed
2 every time they're owed.

3 THE COURT: All right. So Mr. Millsap --

4 MR. MILLSAP: Let me finish, Judge. The sole
5 beneficiary, the charities are the residual
6 beneficiaries. The charities did not want to retain
7 personal property, and they conveyed it to Ms. Wilson as
8 part of this agreement which they have the authority to
9 do as the residual beneficiary of those assets.

10 THE COURT: All right. And so, again, just
11 going back to go back to Page 9 of the Fifth Amendment.
12 Says the trustee to be mindful that is the Settlor's
13 desire that this trust fund be preserved primarily for
14 the benefit of Amy Michelle Frasier Wilson and not for
15 any remainder beneficiaries.

16 With that in mind, notwithstanding anything
17 else to the contrary, as part of the share that Amy
18 Michelle Frasier Wilson shall receive, she shall receive
19 the Settlor's primary residence but not the contents of
20 the residence, which are to be divided according to the
21 Settlor's known wishes. That's in the Fifth Amendment.
22 Are you --

23 MR. MILLSAP: That's the tax-exempt trust.

24 THE COURT: Okay. So that's what you're

1 indicating.

2 MR. MILLSAP: That's the Fifth amendment to
3 the original trust, and you're reading from the
4 provisionals, that's the tax-exempt trust. You're not
5 reading from the Fifth Amendment to the Survivor's
6 Trust.

7 THE COURT: All right. Got it. Thank you.
8 All right. Mr. Simons.

9 MR. SIMONS: Thank you. This might be the one
10 and only occasion where I tell you I agree with
11 everything Patrick Millsap just told you. And this is
12 why. Because the Trust A that he identified, the
13 resolution of that case gave the Third, Fourth and Fifth
14 Amendments were subject to challenge were -- had to be
15 over turned on contested. It gave everybody to the
16 charities. The charities as part of the resolution
17 distributed portion of their funds to Amy, it has --
18 Amy's not getting any of her funds from the amendments
19 1, so as he says, nothing -- the Spendthrift trust,
20 there's no applicability on Spendthrift trust on that,
21 he's absolutely correct 100 percent across the board
22 everything in Trust A is distributed to Amy according to
23 the terms.

24 THE COURT: All right. Mr. Simons, one

1 moment. Will Mr. Millsap and Mr. Earl come back on
2 camera, please? We're still in the middle of this
3 hearing. All right. If you can hear me, Mr. Millsap,
4 and Mr. Earl, please resume your appearance at the
5 hearing by activating your cameras.

6 Go ahead, Mr. Simons.

7 MR. SIMONS: Okay. With regard to the
8 personal property, as we discussed, that is separate
9 because that was identified and was paid for by Trust A.
10 So those pieces of personal property are within Trust A,
11 that's why we tried to incorporate and say the charities
12 says well, we don't want this. We don't want used
13 furniture here, we're just we're giving that to Amy. So
14 that's why it was structured that way.

15 Now, moving onto the Trust B component, which
16 was the tax exempt, trust that is where we've been
17 saying Judge Hardy is already modify and distributed
18 assets out of trust. He was not concerned about any
19 Spendthrift limitations. And that's why -- because he
20 determined based upon the situation that the
21 effectuation of the settlement agreement was beneficial
22 to everybody which included giving Amy monies and assets
23 out of trust.

24 Going back to what you referred to and read

1 earlier, you said she shall receive, Amy shall receive
2 the Settlor's primary residence. Well, you've already
3 seen in the petition by the bank that there's a dispute
4 as to whether San Juan Capistrano house which is a
5 primary residence which should go to Amy. So as part of
6 this, whether Amy got that house, and it would not be
7 available for distribution in Trust A so that Brad and
8 Nori could get money, she gave up those rights. She
9 said look, I'll agree that this gets liquidated. This
10 home gets liquidated, all the professionals get paid of
11 Trust A, the equalization payments and the swap payments
12 go in Trust B so it can go to my siblings, and as part
13 of this whole project I would have got the house. But
14 instead, I'm gonna exchange that, my right for the house
15 I'll exchange this distribution of assets free of the
16 trust.

17 THE COURT: Right.

18 MR. SIMONS: Free the limitation of the
19 Spendthrift. So this settlement agreement was -- there
20 was extensive work that went into this to craft the best
21 resolution for everyone. The charities benefit. Brad
22 and Nori get paid every single penny. They've been --
23 as Mr. Millsap points out, they're not interested
24 parties, they have no skin in the game, so to speak.

1 Mr. Brown effectuated this, was agreeable to all of
2 this. Judge Hardy -- Sattler agreed to it. We got
3 David Robertson who has been in this case and who
4 petitioned the Court for the amendment of the trust
5 prior to Judge Hardy granted has weighed in and said
6 absolutely the relief that is being requested is
7 appropriate under Nevada law, and it's appropriate
8 according to his experience involved in this litigation.
9 So we crafted a look but say well, why should I have
10 less concern about this Spendthrift trust is because
11 Judge Hardy -- excuse me, Judge Hardy's already
12 recognized that there's benefits to these children to
13 receive the assets free of trust.

14 You pointed out the trustee doesn't even want
15 to be involved in case any more, they want out, we all
16 want out. Literally everybody wants this to be over.
17 We found a way to do it. And guess who guess what?
18 Here's what the most amazing thing I can tell you.
19 There's not -- there's not gonna be an appeal. The
20 Estate's granting this petition? The Estate's not
21 appealing it, Amy's not appealing it, the charities
22 aren't appealing it, Brad and Nori can't appeal it
23 because they're not interested parties under the law.
24 This is done. We have a -- we have a solution that

1 we're presenting to you that literally ends seven years
2 of intense litigation, gives the funds to the children,
3 they can live their lives. They don't have to
4 communicate with each other. They don't have to
5 litigate in the future with each other. And, honestly,
6 I believe this is the best solution that we can achieve
7 for this Court and for everybody involved.

8 Now, with that all being said you have more
9 questions for me?

10 THE COURT: I don't. I do have a question for
11 Ms. Halstead, however. And so Ms. Nori Frasier and Mr.
12 Brad Frasier, you are not parties to this particular
13 litigation, so I'm not going to call on you at this
14 time. I understand that you are interested parties
15 under the terms of the -- at least the tax-exempt trust
16 as the parties have argued today, but I'm not going to
17 call on you, but I thank you for your attendance.

18 All right. So Ms. Halstead, other than the
19 Spendthrift provision and the agreed-upon distribution
20 of personal property, does US Trust have any
21 disagreement with the equalization payments from Trust A
22 into Trust B as are indicated in the petition for
23 settlement?

24 MS. HALSTEAD: No.

1 THE COURT: So there's no problem with that.
2 So your clients -- your client's objections are limited
3 to the provision -- or the elimination of the
4 Spendthrift provision and the distribution of the
5 personal property.

6 MS. HALSTEAD: Correct. And we'll defer to
7 the Court as to the distribution of the personal
8 property. We already sought instruction on that, so
9 we'll do whatever the Court directs.

10 THE COURT: All right. Thank you. All right,
11 then, does anybody else wish to be heard?

12 MS. HALSTEAD: I would like to be heard, your
13 Honor.

14 THE COURT: Okay. Go ahead, Ms. Halstead.

15 MS. HALSTEAD: So, you know, I think we all
16 appreciate that we want this litigation to end, but the
17 fact of the matter is we're bound by the law. And Mr.
18 Millsap's point with regard to the settlement agreement
19 is look, this is the charities' money, and the charities
20 are basically paying Amy to go away and not continue to
21 stir the pot, and they should be able to do that.

22 The problem with that argument, and the
23 problem with saying that I'm asking you to commit
24 reversible error is that I'm the authority who has no

1 dog in the fight and I submitted the law to the Court
2 that says you can not just give trust funds away outside
3 of the restriction, you can't agree to that. So that's
4 nice charities that you want to do, that and I'm sure
5 everyone appreciates that, and I'm sure everyone wants
6 to here -- get this litigation to end. But we're all
7 bound by the law. And the law says you have to honor
8 the Spendthrift provisions, that's California law.
9 That's Nevada law. You can't just say you can't just do
10 an end-run and say I'm gonna pay you off, go away.

11 This litigation is being brought forward by
12 Ms. Wilson, that's her decision. So she can live by the
13 sword and she can die by the sword, but the trustee has
14 an obligation, as does this Court, for any trust sums to
15 go to her in trust. And you can't end-run that by an
16 agreement, and that's what the law says throughout the
17 country. It's the law in Nevada. It's the law in
18 California.

19 As to your point earlier to do so would
20 undermine the entire basis of doing the trust.

21 THE COURT: All right. And so what do you
22 say, Ms. Halstead, to Mr. Millsap's argument that the
23 Spendthrift trust provision does not apply to Trust A?

24 MS. HALSTEAD: Well, it applies to any

1 distribution to Amy. So if the -- what he's saying is
2 look, this is -- this is the charities' money, and
3 they're giving it to Amy as part of a settlement, but
4 you -- and as I have said earlier I said that, but his
5 reasoning is exactly contrary to the law that says you
6 can't give outright. All the provisions of the trust
7 say you can't give any outright. In giving that money,
8 whether it comes from the trust whether it comes to the
9 charities, it's trust money, and it's subject to the
10 confines of the Settlers.

11 THE COURT: But Mr. Millsap's argument is that
12 the provision that creates that limitation was in the
13 First Amendment, and that First Amendment has been
14 overridden by the remaining amendments to trust.

15 MS. HALSTEAD: It's in the first amendment.
16 It's also carries through the Second Amendment. And so
17 if you want to argue the amendment should be
18 enforceable, that was never found, that was never
19 litigated. So you can't say that these amendments are
20 enforceable and these amendments aren't because that
21 settlement agreement. That's the whole point of a
22 settlement agreement we don't know what's gonna control.
23 So we don't know if the Third amendment's gonna control,
24 we don't know of the Fifth Amendment's gonna control.

1 But what we do know is that any restraint of that money
2 going to Amy is subject to a Spendthrift trust so you
3 can't end-run and say oh, you know, she's axed the tree
4 ten times, the tree's gonna fall, just give it to her to
5 make it go away. That defeats the intent of the
6 settlor.

7 THE COURT: And so what do you say about the
8 fact that Judge Hardy has already determined that there
9 are distributions can be made to Ms. Frasier's free of
10 the Spendthrift provision.

11 MS. HALSTEAD: Well, because that was when
12 Dinny was still alive, that was pursuant to the
13 settlement agreement which was Exhibit 9 to the Amended
14 Petition, that was a distribution from the Survivor's
15 Trust that was Dinny's trust that she still had
16 authority to amend or do whatever she wanted with. She
17 had not been deemed incompetent, so there is -- there's
18 theories that she was, that's never been adjudicated.
19 So as far as the law and interpretations is concerned
20 she was a party to this, she initialed it, she was
21 represented by counsel, she agreed to that change to her
22 trust, that was at her liberty to do. She's not here
23 now, she's gone. As of her death, that trust is
24 irrevocable and her intent must be maintained. You

1 heard argument you don't know it was her intent --

2 THE COURT: You say that trust. What part of
3 the trust? Which amendments are in effect as of Ms.
4 Dinny Frasier's death?

5 MS. HALSTEAD: Any -- any amendment that would
6 apply to Amy and allow her to have money has a
7 Spendthrift provision. So if Amy's to get any money it
8 doesn't matter -- you could go back to the very first
9 initial trust. It carried all throughout, 24 years
10 she's had that restriction. She had that restriction
11 before that along with her siblings. Her -- no matter
12 -- no matter I could pick anyone.

13 THE COURT: Well, and so -- but the Exhibit 6
14 that I was quoting from, Mr. Millsap indicated this is
15 specific to Trust B, the tax-exempt trust. So where is
16 the Spendthrift provision literally for the Survivor's
17 Trust, through account?

18 MS. HALSTEAD: I had it and I had it when he
19 talked about it earlier and I turned the page, so if you
20 go to Exhibit 10, or -- so let me -- sorry, let me back
21 up. And I'm gonna --

22 MR. MILLSAP: Can I briefly be heard while she
23 looks for that?

24 THE COURT: Well, no. Let's let her finish.

1 She's almost finished, Mr. Millsap, I promise I will let
2 you be heard once she's finished this point. Thank you.

3 MS. HALSTEAD: So you have the settlement
4 agreement, and then you had the First Amendment. And so
5 the First Amendment, if you go to Section 7, I believe
6 it is.

7 THE COURT: First amendment to what?

8 MS. HALSTEAD: To the First Amendment and
9 restatement of the Survivor's Trust, which is Exhibit 7
10 to the Amended Petition.

11 THE COURT: All right.

12 MS. HALSTEAD: If you go to 7-1, that's what
13 provides -- and I briefed this, that's what provided for
14 the quote unquote Century Trust to Amy Frasier Wilson.
15 So the trustee designated role shall act with regard to
16 the trust created for Amy Frasier Wilson, and I'm
17 reading from page 7-2. And it goes on to create the
18 entire income of the family and on Section 2, it's a lot
19 to read but starting at 7.1 through page 7.2 through
20 page 7.37 that created supplemental needs trust from the
21 Survivor's Trust.

22 THE COURT: The supplemental needs, but where
23 is --

24 MS. HALSTEAD: Sorry, spendthrift trust.

1 THE COURT: So where's the language that
2 creates the Spendthrift provision?

3 MS. HALSTEAD: I pointed this out the other
4 day that counsel. I just gotta find it again.

5 THE COURT: All right. Thank you.

6 MS. HALSTEAD: So Amy Frasier Wilson is named
7 as the hundred percent beneficiary.

8 THE COURT: Oh, of Trust A.

9 MS. HALSTEAD: Of the Survivor's Trust
10 pursuant to that amendment. And then it provides if she
11 should die, says my trustee shall hold and distribute
12 the shares such beneficiary as provided under terms of
13 such share --

14 THE COURT: You said -- an I'm sorry, did you
15 say this is the First Amendment?

16 MS. HALSTEAD: This is the First Amendment.

17 THE COURT: And again, I think Mr. Millsap's
18 gonna argue that this is not applicable, or has been
19 overriding by the subsequent amendments to the trust.

20 MS. HALSTEAD: That's what he's arguing.

21 THE COURT: All right.

22 MS. HALSTEAD: Yes.

23 THE COURT: All right. Thank you.

24 MS. HALSTEAD: And so do you want me to find

1 that language?

2 THE COURT: No, that is -- you've indicated
3 that it's in Exhibit 7 to your amended -- or to the
4 original petition. Correct?

5 MS. HALSTEAD: Well, it's in Exhibit 7 on page
6 7.1 through 7.3 and it carries through her -- through
7 her subsequent amendment, and then and then you have the
8 settlement agreement, and then you have where she amends
9 it again.

10 So if you go to the third restatement, which
11 is Exhibit 10, it's the Third Amendment and Restatement
12 of the Survivor's Trust. And I don't want to misspeak
13 so I'm taking my time to go through this because it's
14 important the Court knows where to find these things.

15 THE COURT: All right. So Mr. Millsap is
16 asking to speak so while you find that, then I'm going
17 to allow Mr. Millsap to be heard. Go ahead, Mr.
18 Millsap.

19 MS. HALSTEAD: I'm just --

20 THE COURT: And I'm sorry, Mr. Millsap, it
21 sounds like Ms. Halstead's found her place.

22 MS. HALSTEAD: Now I have already found what
23 pointed to. It's the Third Amendment that gives to the
24 charities. So the first and second of the Spendthrift.

1 THE COURT: So the Third Amendment gives the
2 entire corpus of Trust A to charities?

3 MS. HALSTEAD: I mean the equalization
4 payments.

5 THE COURT: All right. And then so that to me
6 sounds like it would override the intention of the First
7 Amendment, right? If -- okay. So it completely negates
8 Ms. -- you know, any sort of gift to Ms. Amy Frasier
9 Wilson it sounds like there's override there. Would you
10 agree?

11 MS. HALSTEAD: Well, then you would have to
12 accept the premise that the charities can end-run that
13 and give her trust money outside of trust despite what
14 the intent of the trustor was.

15 THE COURT: That's a settlement issue and
16 that's kind of what Judge Hardy determined, correct,
17 that we can make modifications in that regard?

18 MS. HALSTEAD: Well, Judge Hardy just
19 confirmed what Dinny wanted with regard to her own
20 trust.

21 THE COURT: All right. Go ahead, Mr. Millsap.

22 MR. MILLSAP: Your Honor, the trustee's
23 argument defeats itself and that's where the trustee's
24 getting lost here is if you listen carefully --

1 THE COURT: And -- all right. Mr. Millsap, I
2 would just ask you know what? I think Ms. Halstead was
3 correct in that, you know, there's been a lot of
4 disagreement between the parties and, you know, because
5 of the extent, the nature, the time, the amount of money
6 that's gone into this litigation there may be somewhat
7 some animosity between the parties. Everybody is
8 arguing to the extent that they are legally capable of
9 on behalf of their clients, and that's my expectation,
10 so I would prefer that we not denigrate our opponents
11 here which is sort of what you just did, Mr. Millsap. I
12 don't think that was your intention, but we're getting
13 to the -- it's -- we're getting to what seems to be the
14 end of this litigation and I just prefer going forward
15 that we all treat each other respectfully.

16 Go ahead, Mr. Millsap.

17 MR. MILLSAP: Yeah, that certainly was not my
18 intent, Judge. I know Ms. Halstead personally, she's a
19 wonderful, wonderful human being. I'm solely talking
20 about the validity of the argument.

21 THE COURT: All right, thank you. Go ahead.

22 MR. MILLSAP: With respect to the argument,
23 the trustee's counsel noted we don't know which
24 amendment is applicable, hence the point of the

1 settlement agreement, then simultaneously says follow
2 the provisions of the First Amendment to the Survivor's
3 Trust. Those two statements are completely incongruous
4 with each other. The law is the Fifth Amendment is
5 presumed valid until deemed otherwise. There is no
6 ruling invalidating the Fifth Amendment, the charities
7 resolve the lone objection to the validity of the Fifth
8 Amendment and, therefore, that is controlling, the
9 charities convey part of their residual interest to Ms.
10 Wilson's to resolve the sole objection to the Fifth
11 Amendment benefiting them.

12 The final thing I want to say is with respect
13 to the intent of Dinny Frasier. The argument is Ms.
14 Frasier didn't intend to convey assets to Ms. Wilson
15 free of trust, yet, as Ms. Halstead correctly notes, as
16 part of a resolution to the medical building case, Dinny
17 Frasier specifically agreed to convey assets to Ms.
18 Wilson free of trust. So the only intent before the
19 Court with respect to resolution of a lawsuit evidence
20 is Ms. Dinny Frasier expressly agreed to convey Ms.
21 Wilson's assets free of trust.

22 So the argument about intent and how it
23 applies to resolution of a lawsuit is completely false
24 because the only evidence before the Court is when there

1 was a case, that Dinny Frasier what involved in, she
2 expressly tried to convey assets free of trusts to Ms.
3 Wilson. That's the evidence before the Court about how
4 Ms. Dinny Frasier would have resolved cases.

5 THE COURT: And now you're talking about the
6 Survivor's Trust, correct?

7 MR. MILLSAP: Survivor's Trust, yeah.

8 THE COURT: All right. So now, I hate to open
9 up a new can of worms, but that's what we're here for
10 regarding the tax-exempt trust. What is -- is there a
11 position regarding whether that should be conveyed free
12 and clear, I think that that's Mr. Simons' client's
13 position, but what is it -- do you have any arguing in
14 that regard, Mr. Millsap? Given the language that we
15 discussed that is from the Fifth amendment to the
16 tax-exempt trust that appears to me to indicate the
17 intent to impose a Spendthrift provision.

18 MR. MILLSAP: Yeah. You make a great point,
19 your Honor. I want to distinguish between the
20 Survivor's Trust and the tax-exempt trust.

21 THE COURT: Right. And now I'm talking about
22 the tax-exempt trust specifically.

23 MR. MILLSAP: The Survivor's Trust didn't have
24 a power of the bending over and a power of appointing.

1 She was free to do with Survivor's Trust whatever she
2 wanted assuming she had the capacity. The tax-exempt
3 trust became irrevocable upon the death of Jordan
4 Frasier, which is to say Dinny Frasier nor the estate
5 has the authority to unilaterally amend the tax-exempt
6 trust. That's why rather than entering into an
7 agreement to change the tax-exempt trust, instead, the
8 parties agreed to petition the Court for modification.

9 The parties don't have authority to do that
10 unlike the Survivor's Trust, the tax-exempt trust only
11 the Court has the ability to modify pursuant to 153.031.
12 The argument for modification, as I have said earlier,
13 your Honor, and I don't want to repeat myself or waste
14 the Court's time, it's simply to end this litigation, to
15 end this case. To effectuate a full and complete
16 distribution, it's pretty clear when you read the
17 tax-exempt trust that those monies were being held to
18 enable her to qualify for public assistance. There's no
19 evidence that she's ever utilized public assistance
20 programs that distribution of the funds would preclude
21 her receipt of public assistance, nothing like that is
22 before the Court. What is before the Court is seven to
23 eight years worth of litigation over the administration
24 of this trust, and that's bound to continue if it's not

1 terminated in totality.

2 The case law across the country is legion,
3 your Honor, that courts have authority to terminate a
4 trust when its purpose is frustrated. I think this is
5 the case where after eight years of litigation, almost a
6 million dollars in professional fees, there is a total
7 frustration of purpose in this trust, it's a boondoggle
8 of litigation. And the best part is, Judge, the way we
9 structured the settlement, it doesn't affect the
10 interest of Dr. Frasier or Nori Frasier. They will be
11 paid in full. The other children of these two
12 individuals will not be affected by this agreement
13 negatively. And so at this juncture, your Honor, the
14 Estate has no reason to object to a distribution of Ms.
15 Wilson's share to her freedom trust.

16 THE COURT: All right. Thank you. Mr.
17 Simons.

18 MR. SIMONS: Thank you, your Honor. Just a
19 couple points. The reference to the First Amendment
20 that was shown and discussed by Ms. Halstead? I see
21 that it was identified as Premier Trust was the trustee.
22 David Robertson's declaration, he represents both Dinny
23 and Premier Trust as the co-trustees of the trust. He
24 also affirms that as part of the efforts early on in

1 this case global settlement was attempted. Couldn't be
2 accomplished that time which encompassed the termination
3 of Trust B and the restrictions on Trust B to Amy.

4 So what we can decipher from that, in addition
5 to the fact that there was distributions, outright free
6 of trust to Amy, is that there was an intent and a
7 desire to conclude the ongoing litigation with
8 termination of all the trusts. So we had that
9 paperwork. We can't just make a decision in a vacuum
10 and say well, the language says it there's a prohibition
11 on distribution Amy so that stands in a vacuum. That's
12 not what the law allows. The law gives you discretion
13 to review the totality of the circumstances, just like
14 Judge Hardy did, and at the time, Dinny was not -- there
15 was a dispute as to her competency. He overrode that,
16 took that out of dispute and said I'm exercising my
17 authority as a judge under Nevada Statute, and I'm
18 modifying amending trusts.

19 So that is a very big powerful thing. And
20 lastly what we've noticed is there is not any
21 presentation of evidence to you in these proceedings
22 that this -- that there is a need or a necessity to
23 prevent the distribution to Amy as requested. Amy gave
24 up significant value with regards to whether she had a

1 right to the totality of the Estates, including the San
2 Juan Capistrano house, in order to effectuate payment to
3 the siblings. So given the totality of the
4 circumstances we believe that the petition should be
5 granted in total.

6 THE COURT: All right. So Mr. Simons, I do
7 have one more question. And Mr. Millsap, when I was
8 questioning him regarding the personal property, his
9 position was that that was the -- under the terms of the
10 trust, that belonged to the charities, as part of this
11 settlement they have -- they have reverted that personal
12 property back to your client. What do you think about
13 the equity issue involved here in that that is personal
14 property that is now the charity is saying we don't want
15 it, you know, the terms of at least the tax-exempt trust
16 indicate that, you know, Ms. Frasier isn't entitled to
17 that. Understood, you know, I understand how far we've
18 gone down the road on argument on that, but I'm asking
19 about equity. What is the equitable reason why this
20 personal property should not be divided amongst all
21 three of the siblings?

22 MR. SIMONS: I'm going to give you the
23 framework. When we were trying to resolve the case in
24 totality, we believed that the assets were held in Trust

1 A, that was the assumption and premise that we were
2 working on because we were trying to wrap that, put a
3 bow on that, present that to you, in total we're done.
4 If you say look, there is an issue as to whether the
5 personal property under the equity should be divided in
6 some fashion, I'm totally comfortable and I think Mr.
7 Millsap would be comfortable the court retains
8 jurisdiction over that issue and makes a determination.
9 Draw lots, identify, you know, the top five things,
10 there's different methodologies to effectuate the
11 distribution of the assets, those personal properties.

12 We tried to use a methodology that concluded
13 the disputed in total rather than continuing to embrace
14 ongoing contentions and disputes. But the Court has the
15 authority on that because it -- again, there was not a
16 determination but it appeared that at all times it was
17 in Trust A.

18 THE COURT: All right. So Mr. Millsap,
19 anything on that, sir?

20 MR. MILLSAP: No, I agree, your Honor, there
21 was never an initial determination of whether the
22 personal property was in Trust A or Trust B. It was
23 contained primarily San Juan Capistrano house which is
24 an asset of the Trust A so it was assumed to be an asset

1 of Trust A within the San Juan Capistrano house. To the
2 extent the Court wants to make an equitable distribution
3 of the personal property of all of the Settlor's
4 children's the Estate has no objection.

5 THE COURT: All right. And so this is the one
6 time that I -- and so I'll ask you first, Mr. Simons,
7 and then I am going to ask Mr. Brad Frasier and Ms. Nori
8 Frasier to speak.

9 Mr. Simons, do you think that there is any
10 possibility that the three -- the three, you know, the
11 two residual beneficiaries, as well as your client,
12 could confer personally regarding the personal property,
13 or do you think that that -- and I guess I'm just asking
14 for your client's perspective on that. Is this
15 something that is possible?

16 MR. SIMONS: From -- and you're asking if Amy
17 would be able to converse with Brad and Nori?

18 THE COURT: Yes.

19 MR. SIMONS: No. I think --

20 THE COURT: All right.

21 MR. SIMONS: -- the tensions are so high that
22 there will be no good outcome that results from that.

23 THE COURT: Regarding -- even just regarding
24 the personal property and no other issue?

1 MR. SIMONS: Correct. It -- Judge, this has
2 been going on and the parties are so polarized, there's
3 -- I just can't see that functioning in any rational
4 way, it will just deteriorate, so I can't find a
5 different methodology to approach the Court with.

6 Ms. Halstead tried to find a way to say
7 everybody submit some information to us, see if there
8 can be some commonality that. I know everybody's very
9 entrenched with what they believe their parents intended
10 them to receive. And so the short answer is no, I don't
11 think that there is a way to do that informally.

12 THE COURT: Well, and so long as the parties
13 are unable to confer, you know, and Ms. Halstead has, I
14 do notice that she's done some work as far as -- as far
15 as asking the separate parties what their preferences
16 are, I think that the -- initially, and I'm not saying
17 that this is going to be any final determination, but if
18 I -- if I did decide that an equitable distribution was
19 appropriate, the way that I would likely proceed is to
20 go through Ms. Halstead's list to distribute the
21 property that is not in dispute and then to send the
22 rest to auction, you know, to sell the rest of it, to
23 distribute the cash proceeds among the siblings, and for
24 anything that was not able to be sold, you know, proceed

1 in some sort of lottery fashion. But that's --

2 MR. SIMONS: Your Honor.

3 THE COURT: Go ahead, Mr. Simons.

4 MR. SIMONS: Actually, that's -- that's
5 actually a really good idea because then the parties
6 would have the ability to participate at the auction and
7 generate the most value they really believe that things
8 had value rather than -- than they could bet on them and
9 acquire them.

10 THE COURT: Thank you. Mr. Simons, that's not
11 -- again, that's not my final determination but that was
12 my thought and, you know, I would also thank Ms.
13 Halstead for her work to try to achieve an equitable
14 division among those three parties.

15 MS. HALSTEAD: And your Honor, If I may add a
16 piece of information?

17 THE COURT: Certainly.

18 MS. HALSTEAD: I was informed that there were
19 -- there is property that was set aside that was deemed
20 to belong to the family that was not inventoried or part
21 of the inventory so there is a room of items that are
22 believed to be family items that should go to the family
23 in some manner that were not inventoried.

24 THE COURT: Do you mind if I ask where that

1 information came from?

2 MS. HALSTEAD: From U.S. Bank.

3 THE COURT: All right.

4 MS. HALSTEAD: The trustee.

5 THE COURT: So, again, Ms. Halstead, are you
6 able to generate a list of that and to inquire -- if I
7 did so, if I did order so, what would be your ability to
8 confer with the beneficiaries under this trust to
9 determine their request for that individual property?

10 MS. HALSTEAD: So U.S. Bank could inventory
11 that particular property. I don't know that U.S. Bank
12 would be able to lend good descriptions, and then it
13 would still come down to the parties debating it amongst
14 themselves what they deserve from that property, taking
15 the other out equation, one of the suggestions was that
16 the parties all come to the house, that there be
17 security provided, and that they all just take turns
18 picking. I don't know that that's the best idea.

19 THE COURT: No. And so -- and I did read your
20 -- one of your original suggestions was. And so no, you
21 know, this litigation has gone on for several years. If
22 the parties can't communicate with each other I'm not
23 gonna force them to come into one room. If you can not
24 -- if the three -- if the three siblings can not agree

1 to the distribution of property, then whatever is
2 disputed will be sold, and we'll have the proceeds
3 divided among them.

4 Now, it seems to me that there are some items
5 in there that have great personal value that would be,
6 should be kept within the family but, you know, if --
7 you know, if you can't agree that, you know, it's better
8 to, you know, have a stranger be, you know, to be
9 involved in having this property then to just, you know,
10 to allow one of the siblings to have it, that's the way
11 it's gonna be.

12 So thank you, Ms. Halstead. If I do execute
13 an order in that manner, what I would be doing would be
14 asking you as trust to proceed in the manner that you
15 have discussed, but I would also be putting a time frame
16 on this. We're not going to be arguing over personal
17 property for the next 12 months.

18 MS. HALSTEAD: With regard to the -- since the
19 parties cannot be together with regard to the family
20 items, I don't see any other option but then to have it
21 at least listed and described.

22 THE COURT: Certainly. And that's -- thank
23 you also for bringing that to the attention of the Court
24 and the parties or the parties to the trust so that they

1 understand that there's more property out there and
2 also, you know, I'm hoping that Mr. Brad Frasier, Ms.
3 Nori Frasier and Ms. Amy Frasier Wilson will understand
4 that if they can't come to an agreement on this, you
5 know, very valuable personal property that has deep
6 sentimental value a stranger's gonna own it, so.

7 All right. So any other issues that need to
8 be brought to the attention of the Court? Mr. Millsap.

9 MR. MILLSAP: Briefly, your Honor, we would
10 echo the trustee's request that the Court order the San
11 Juan Capistrano house can be sold immediately.

12 And finally, we would request that as part of
13 the Court's ruling today, whatever that may be, that
14 proper notice was provided to all interested persons in
15 the petition. Pursuant to NRS Chapter 155, obviously,
16 Dr. Frasier is here and Nori Frasier is here, several of
17 the grandchildren are on the call as well so we would
18 just request that the Court order that proper notice
19 was effectuated and the sale of the San Juan Capistrano
20 house also be permitted immediately.

21 THE COURT: All right. Any objection to that,
22 Mr. Simons?

23 MR. SIMONS: No, your Honor. But I do have
24 one comment when you're ready for me.

1 THE COURT: All right. And then I want to ask
2 Mr. Earl any objection on behalf of the charities for
3 the immediate sale of the San Juan Capistrano house?

4 MR. EARL: No objection, your Honor. Thank
5 you.

6 THE COURT: All right. Go ahead, Mr. Simons?

7 MR. SIMONS: Note that what I need to do to
8 protect the record, your Honor, that you identify that
9 Brad and Nori were potentially interested parties under
10 NRS 132.185. Interested party's only someone whose
11 right or interest under a trust may be materially
12 affected by a decision of a court. And the Court shall
13 determine if the interested party exists in light of the
14 particular purposes of the matter.

15 My objection is that both Brad and Nori are
16 not interested parties subject to a right to contest or
17 participate because they're being paid out 100 percent
18 in total, therefore --

19 THE COURT: Except for the personal property,
20 right, Mr. Simons?

21 MR. SIMONS: Yes, but the personal property
22 relates to Trust A.

23 THE COURT: All right.

24 MR. SIMONS: And to the extent that -- if I'm

1 hearing you correctly, to the extent you're saying your
2 interested party with regards to the personal property?
3 I don't -- I won't pose an objection to that, but to the
4 extent --

5 THE COURT: That was my intention. That was
6 my intention to -- I was speaking about the personal
7 property.

8 MR. SIMONS: Okay. My correction. Thank you,
9 for that, your Honor.

10 THE COURT: All right, now, and so Ms.
11 Halstead, I did not go through the distribution or did
12 not compare the distribution that is suggested in the
13 petition for settlement against your original petition
14 for instructions. Do you happen to know if those are
15 consistent or are there -- are there differences in the
16 request for distribution, as far as you know, other than
17 the --

18 MS. HALSTEAD: Yes.

19 THE COURT: -- issues that you've already
20 brought?

21 MS. HALSTEAD: So what is consistent is the
22 sale of the SJC house, and the payment of all
23 outstanding obligations, and how the personal property
24 should be allocated which seems to be resolved. And

1 there is the issue of the other Palm Desert house that
2 has value that's in the B Trust, but that needs -- you
3 know, I guess my concern is it's not easy to work this
4 stuff out between the parties. Nori has requested that
5 house in her distribution and its contents. So we have
6 requested that it just be permitted to be sold.

7 THE COURT: All right, again, yes. And I
8 think Mr. Simons is now -- Mr. Simons, now we're talking
9 about Trust B, so the tax-exempt trust which contains as
10 one of the items the Palm Desert house. Is that true?

11 MS. HALSTEAD: Right. So I guess my question
12 is whether the trustee can have the authority to either
13 sell the house, or if there's no objection to the value
14 to account for its value and its contents in Ms. Nori
15 Frasier's distribution.

16 THE COURT: All right.

17 MS. HALSTEAD: There is if there's no
18 objection.

19 THE COURT: And so Mr. Simons, again, the --
20 your client's position as to the allocation of the
21 assets in Trust B is -- can you just review it for the
22 record, sir?

23 MR. SIMONS: I'm sorry, I didn't follow the
24 question, your Honor.

1 THE COURT: All right. So Trust B we're
2 talking about now the --

3 MR. SIMONS: Yes.

4 THE COURT: -- tax-exempt trust. So my --
5 and correct me if I'm wrong, my understanding of the
6 agreement is to divide that. After -- after all
7 expenses have been paid, then the remainder should be
8 divided among the -- Mr. Brad Frasier, Ms. Nori Frasier,
9 and your client; is that correct? Am I recalling that--

10 MR. SIMONS: Yes.

11 THE COURT: -- provision correctly?

12 MR. SIMONS: That's correct, it will be
13 divided in thirds, correct.

14 THE COURT: All right. Thank you. All right.
15 Does anybody have anything else that's wanted to include
16 on the record here?

17 MS. HALSTEAD: If I may, your Honor?

18 THE COURT: Yes.

19 MS. HALSTEAD: I just was -- I want to clarify
20 for the record that U.S. Bank will see this through.
21 It's only in sub-trusts that are held for the benefit of
22 Amy Frasier Wilson with which U.S. Bank does not want to
23 participate. U.S. Bank is a new trustee so that there
24 has been allegations about all fees paid to the trustee.

1 U.S. Bank is new relatively in comparison to the length
2 of the litigation.

3 And then I also want to point out there is an
4 issue that hasn't been addressed. U.S. Bank has
5 residual obligations to all the beneficiaries, including
6 residual beneficiaries. The residual beneficiaries have
7 a share, vested share in any residual of any sub-trust
8 that are held for the benefit of Ms. Wilson. That's why
9 they are here today, although they have never been
10 noticed, they weren't part of the settlement agreement,
11 they haven't been heard from, their rights would be
12 directly impacted if -- if the -- either trust,
13 depending on how the Court fell on them.

14 THE COURT: All right. But again, under the
15 terms of the Fifth Amendment, and this is regarding the
16 -- again, according to Mr. Millsap and, you know, I've
17 been convinced that this is the case. The terms of the
18 Fifth Amendment indicate that Ms. Amy Frasier Wilson's,
19 her interest is paramount in the intention of the
20 Settlers were to manage this part of the trust to her
21 benefit, not for the residual beneficiaries.

22 MS. HALSTEAD: That's accurate. And you were
23 accurate what you stated before. So if the funds were
24 held in a sub-trust for her, her needs would be taken to

1 account, but also takes into account her income from
2 other sources, necessity, that sort of thing. Obviously
3 she's been living without these funds for years now so
4 who's to say that how much she would actually need.

5 And as you also read, it's the trustee's
6 obligation to maintain these funds in a way that they
7 last for a lifetime, so although she is supposed to be a
8 primary, and she would be treated as a primary, any
9 residual, if there was any, the grandchildren have a
10 right to that, and if they haven't been heard on this
11 matter and if this were to be litigated in favor of Ms.
12 Wilson and she was to be given it outright, that would
13 be contrary to their rights under the trust as written.
14 And then just one further point?

15 THE COURT: Well, before you to go the further
16 point. Are you saying that if I approve the Joint
17 Petition for settlement, then that's in derogation of
18 the law in regard to consideration of the residual
19 beneficiaries' interest? Or are we just saying that the
20 point would be moot because simply there's no
21 subcontract to manage anymore, then the issue would be
22 concluded.

23 MS. HALSTEAD: I would say that it would be
24 contrary to their rights and they haven't been heard on

1 the matter.

2 THE COURT: All right.

3 MS. HALSTEAD: And I would say that you're
4 leaving a door open for them to challenge it. I don't
5 know that they would or not, but -- but their rights are
6 being impacted and they haven't participated, they
7 haven't--

8 THE COURT: But haven't they had an
9 opportunity to join the litigation during the past six
10 years? I mean, they declined to join, correct?

11 MS. HALSTEAD: Well, I wouldn't necessarily
12 say that because the charities you could say declined to
13 join but they didn't know about their rights, so they --

14 THE COURT: Well, they -- okay. But they --
15 let's put it this way. So long as they knew about the
16 litigation and their -- that they were residual
17 beneficiaries they have the opportunity to join as
18 parties necessary to the case. Correct?

19 MS. HALSTEAD: No one joined them. I imagine
20 that they could have stock to be joined.

21 THE COURT: Right.

22 MS. HALSTEAD: But I don't want to speak as to
23 their --

24 THE COURT: I'm assuming they are adults at

1 this point.

2 MS. HALSTEAD: Right. I want to make the
3 point for the record because the trust has a fiduciary
4 obligation to everybody.

5 THE COURT: All right. Thank you.

6 Mr. Millsap, want to be heard? Go ahead.

7 MS. HALSTEAD: I if may?

8 THE COURT: Sorry, it sounds like Ms.
9 Halstead's not finished.

10 MS. HALSTEAD: Right. So there was a point
11 made by Mr. Simons about how this can't be -- this
12 decisions can't be made in a vacuum and that there has
13 been no evidence that Amy is in need of a Spendthrift
14 trust. That is not the -- that's not the standard. The
15 parole evidence rule applies she's been deemed a
16 Spendthrift. This Court looks at the trust, it is, for
17 lack of a better term, to be determined in a vacuum
18 because it's controlled by the trust document.

19 THE COURT: All right. Thank you. Mr.
20 Millsap wants to be heard. Mr. Millsap.

21 MR. MILLSAP: Yeah, your Honor. I just want
22 to correct something for the record. The trustee
23 indicated that notice was not provided to the residual
24 beneficiaries of the tax-exempt trust. And before I get

1 to that I do want to make clear for the record the
2 grandchildren, I'll refer to them generally as the
3 grandchildren, they're not interested persons in the
4 Survivor's Trust at all.

5 To be clear, they are interested person in
6 Amy's share of the tax-exempt trust. So Dr. Frasier's
7 children and Nori Frasier's children are interested
8 persons in Amy Frasier Wilson's one-third share of the
9 tax-exempt trust. For that reason, the Estate provided
10 a notice appearing dated August 7th, 2023, to those
11 grandchildren. The Notice of hearing is in compliance
12 with NRS Chapter 155. Several of the grandchildren are
13 fully a part of this, they just weren't admitted as
14 participants, but my understanding on the zoom call is
15 that they're -- they're not participants but they're
16 observing these proceedings. So they had notice of
17 these proceedings, they had notice of the petition,
18 notice of the hearing, several of them have appeared
19 today, so that's why you asked earlier that the Court
20 confirm that notice to the interested persons in the
21 petition was effectuated under Rule 155, and that these
22 people did, in fact, appear today. But I just want the
23 record to be clear they're not interested persons in the
24 Survivor's Trust. They are interested persons in Amy's

1 one-third share of the tax-exempt trust, and they were
2 properly noticed in the note, in the Amended Notice of
3 Hearing filed August 7, 2023.

4 THE COURT: All right. And does --

5 MS. HALSTEAD: We'll just start by I think
6 they would be interested persons unless the Court agrees
7 with Mr. Millsap's position that --

8 THE COURT: Right that they -- do you have any
9 dispute that they were notified?

10 MS. HALSTEAD: I don't have Mr. Millsap's
11 notice in front of me. I would note that they are on
12 the hearing and they have not been -- we haven't heard
13 from them.

14 THE COURT: Right. And I'm not going to admit
15 anybody at this point unless anybody, any of the actual
16 litigants have a dispute that, and that the parties have
17 not been, these residual beneficiaries have not been
18 notified pursuant to NRS 155. Does anybody -- and Mr.
19 Simons wishes to be heard. Go ahead, sir.

20 MR. SIMONS: Yeah, I'll stipulate that what
21 Mr. Millsap says is absolutely correct, proper notice
22 was initiated. Everybody was properly noticed so --

23 THE COURT: All right. So --

24 MR. SIMONS: -- from our position we agree.

1 THE COURT: And I'm sorry. Mr. Earl, you have
2 your hand up, and I did not notice it earlier, sir, so
3 go ahead, sir.

4 MR. EARL: That's okay, your Honor. Thank
5 you. I just wanted to just reiterate on behalf of the
6 charities that their position, which is that the Third,
7 Fourth Amendment are valid that it directed the residual
8 to the charities. It was our interest to try and
9 resolve the matter and reduce litigation. A little --
10 to the extent that any funds from the Survivor's Trust
11 were to go into a trust briefly, but that might create
12 complications and further litigation which we are trying
13 to avoid, and just are seeking to minimize the costs
14 associated with -- with this matter, along with just
15 reiterating that charities did not have any interest in
16 the personal property. That's all that I'm going to
17 say.

18 THE COURT: And Mr. Earl, do you stipulate
19 that proper notice was provided to the residual
20 beneficiaries pursuant to NRS 155?

21 MR. EARL: Yes.

22 THE COURT: All right. Does anybody else wish
23 to place anything on the record? All right. Does any
24 party object to me ordering at this point that the San

1 Juan Capistrano house be sold and distributed according
2 to the applicable and operable trust documents in this
3 case? Mr. Millsap?

4 MR. MILLSAP: I have no objection to the sale
5 of the San Juan Capistrano house pursuant to the
6 settlement agreement.

7 THE COURT: All right. And the reason I'm
8 wanting to do this now is because of the -- you know, we
9 have been -- I have been holding off the trustee for
10 quit a long time in anticipation of resolution in this
11 case and I think that if nobody objects to the sale of
12 the San Juan Capistrano house, and that is part of the
13 request of the trustee, that we go ahead and get that
14 process going, as well as distribution according to the
15 terms of the trust.

16 Any objection, Mr. Simons?

17 MR. SIMONS: It might be a semantic because we
18 have submitted under Joint Petition to go ahead and sell
19 that and distributing funds according to the settlement
20 agreement. And you're saying trust, I'm not sure
21 because we have some.

22 THE COURT: Well, okay. So I'm not -- today
23 I'm not going to rule. I need to take this under
24 submission to ensure that I get all of the parties'

1 arguments into an appropriate order, at least I
2 appropriately consider all of those arguments that were
3 made today.

4 So I'm sorry, Mr. Simons, it appears that
5 nobody has objected to the immediate sale of the San
6 Juan Capistrano house. Are you objecting to the
7 distribution of funds at this point or what is that you
8 object to?

9 MR. SIMONS: No, you used a different
10 verbiage. We submitted the sale pursuant to the terms
11 of the petition and with your clarification that look, I
12 need to take some time to render a decision, I don't
13 have a problem with that because we've all agreed to
14 sell the San Juan Capistrano home.

15 THE COURT: All right. So if we get that
16 process going, does your client have any issue or
17 problem with that, Ms. Halstead?

18 MS. HALSTEAD: No, your Honor. My client's
19 been wanting to do that for months. I would just ask to
20 clarify, I mean, outstanding debts are being held up
21 pending that sale. I just want to make clear that the
22 house will be sold and all outstanding obligations will
23 be honored.

24 THE COURT: Well, and to --

1 MS. HALSTEAD: Not distributions, but trust
2 obligations.

3 THE COURT: All right. So yes. Thank you.
4 So thank you for the clarification. Anybody have an
5 objection to the proceeds being distributed to trust
6 obligations pending my determination whether I'm going
7 to honor the intended settlement? Mr. Simons.

8 MR. SIMONS: No, your Honor.

9 THE COURT: Mr. Millsap.

10 MR. MILLSAP: No, we would support that.

11 THE COURT: All right. Thank you. Mr. Earl.

12 MR. EARL: No objection, your Honor. That was
13 contemplated in the settlement agreement.

14 THE COURT: All right. So that will be
15 included in the order after this hearing I'm entering
16 that oral order now but it also will be memorialized in
17 a written order San Juan Capistrano home is to be sold
18 by US Trust, the trust obligations are to be paid out of
19 the proceeds, and the proceeds distributed according to
20 my ultimate order in this case if I honor the petition
21 or if I honor the settlement agreement. If I don't,
22 then we will have a different discussion. Any problem
23 with -- I don't want to say in clarity but with the
24 pending -- my deciding to hold the proceeds that U.S.

1 Trust has after honoring of the obligations holding that
2 until my decision is entered?

3 MS. HALSTEAD: U.S. Bank has no intention of
4 doing any distributions absent a court order.

5 THE COURT: All right.

6 MS. HALSTEAD: But with that said, and you're
7 probably getting there, but U.S. Bank would also ask to
8 be able to make the equalization payments and transfer
9 the funds that were contemplated as compensation for the
10 property exchanges between the two trusts which were
11 also agreed upon in the settlement agreement.

12 THE COURT: Does anybody have any objection to
13 Ms. Halstead's suggestion, Mr. Simons?

14 MR. SIMONS: No, your Honor. That's all
15 contemplated under the terms of the settlement agreement
16 and I think it's -- this is not gonna be a quick sales
17 is what the concern may be so there is likely to be time
18 to flush this stuff out, but this is -- everything that
19 was just requested is all part of the terms of the
20 global settlement agreement.

21 THE COURT: Right. So Mr. Millsap, any
22 objection to U.S. Trust also -- excuse me, U.S. Bank
23 also going ahead and making those equalization payments
24 as contemplated by the settlement agreement but which

1 was also requested prior in U.S. Bank's request for
2 instruction?

3 MR. MILLSAP: No, your Honor.

4 THE COURT: All right. Any objection, Mr.
5 Earl?

6 MR. EARL: No, your Honor. Thank you.

7 TH COURT: All right. Thank you. So that
8 will be also part of the order, my written order after
9 this hearing. And then we'll -- after full review of
10 all of the arguments made today, then I'll make my
11 determination on whether the Joint Petition should be
12 approved.

13 Any other questions or anything else that
14 needs to be considered or placed on the record at this
15 time?

16 MS. HALSTEAD: I would ask that U.S. Bank also
17 be able to go in and inventory the personal family
18 property assets.

19 THE COURT: Where is it?

20 MS. HALSTEAD: It's in the -- my understanding
21 is it's in the dining room of the San Juan Capistrano
22 house.

23 THE COURT: All right. Well, and U.S. Bank is
24 in charge of liquidating that property anyway, so any

1 objection to that request? Mr. Millsap.

2 MR. MILLSAP: No, your Honor.

3 THE COURT: Mr. Simons.

4 MR. SIMONS: No.

5 THE COURT: Mr. Earl.

6 MR. EARL: No, your Honor. Thank you.

7 THE COURT: That request would also be
8 granted. Anything else, Ms. Halstead?

9 MS. HALSTEAD: I'm not sure where we landed on
10 the Palm Desert home.

11 THE COURT: Oh, we're not, we haven't landed
12 on it--

13 MS. HALSTEAD: Okay.

14 THE COURT: -- so I'll make my determination.

15 MS. HALSTEAD: Well, I guess I'm not clear any
16 other parties -- if any other parties were concerned if
17 they want that or not if they were okay with it being
18 distributed within Ms. Nori Frasier's.

19 THE COURT: Well, I think it depends on
20 whether there is more in the tax-exempt trust than the
21 one third that would be -- well, let me back up.

22 Is the value of the Palm Desert house less
23 than what is contemplated as Ms. Frasier's one-third
24 share?

1 MS. HALSTEAD: I believe it would be but it
2 wouldn't be, then that wouldn't be an option, it would
3 just be sold.

4 THE COURT: All right. So does either -- if
5 the calculation works out and, you know, I'm not sure
6 I'm gonna have access to that sort of calculation, but
7 let me just ask. Does any party object if Ms. Nori
8 Frasier's distribution can be made with that Palm Desert
9 house being within her one-third share, does any party
10 object? Mr. Simons. And we're talking about the trust
11 again.

12 MR. SIMONS: Yeah, that's an issue that I
13 don't know -- it wasn't part of the settlement
14 agreement, and part of the petition, I think we can
15 provide information to -- depending on how the Court
16 rules, I don't -- unfortunately I'm at a loss, I don't
17 think that should be a problem.

18 THE COURT: All right.

19 MR. SIMONS: I'm not authorized to engage in
20 that, and I don't want to waive a client's contention
21 given the current statute, I'm just being cognizant of
22 the situation.

23 THE COURT: All right. Have you been made
24 aware that your client is interested in the Palm Desert

1 house?

2 MR. SIMONS: Well, it depends on what the
3 assets would because if that goes in the tax-exempt
4 trust --

5 THE COURT: It's my understanding is it is in
6 the tax-exempt trust.

7 MS. HALSTEAD: It is.

8 MR. SIMONS: Correct. But how the Court would
9 distribute the assets if it is a part of her one-third,
10 I don't think that would be a necessary --

11 THE COURT: Right.

12 MR. SIMONS: -- objection because the trustee
13 would say everybody gets one third and here's your
14 allocation.

15 THE COURT: All right. So this contemplates,
16 again, I've not made any final decision about a
17 one-third, one-third, one-third distribution.

18 MR. SIMONS: Yeah. To be honest, I think if
19 that occurs and the trustee allocates the value of that
20 home and the contents to Nori Frasier's one third, then
21 there -- there can not be an objection to it because
22 everybody's getting their one-third value, so.

23 THE COURT: Well, and I want to -- again, Mr.
24 Simons, your client has already, you know, indicated

1 that she may not be completely on board with the
2 settlement, so we'll get to that in a moment --

3 MR. SIMONS: Okay.

4 THE COURT: -- but Mr. Millsap, any objection
5 to the Palm Desert's resolution suggested by Ms.
6 Halstead?

7 MR. MILLSAP: No, your Honor.

8 THE COURT: All right. Thank you. Mr. Earl,
9 any objection?

10 MR. EARL: No, your Honor.

11 THE COURT: All right. Thank you. All right.
12 So finally, as a condition for me honoring or approving
13 this settlement, Mr. Simons, I would need Ms. Amy
14 Frasier Wilson to withdraw her amendments to that
15 petition because I think it just -- you know, I agree
16 with Mr. Millsap that the terms, the term sheet would be
17 controlling so long as I ordered that that's the
18 controlling document, however, I think that her
19 amendments only provide confusion as in regard to future
20 litigation, so I would be -- my expectation is that you
21 would submit a new -- or you would submit a document
22 that indicates that your client agrees to the resolution
23 as reached before Judge Sattler.

24 MR. SIMONS: Agreed, your Honor. And I work

1 with Mr. Millsap and we'll get that supplement on file.
2 And your comments are well taken.

3 THE COURT: All right. Thank you. All right.
4 Anybody have -- oh, go ahead, Mr. Millsap.

5 MR. MILLSAP: Yes, one housekeeping matter.
6 Assuming the Court approves resolution of the Survivor's
7 Trust, that would conclude the only litigation before
8 the Court that the Estate is involved in so I would just
9 request that if the Court's inclined to approve
10 resolution of the Survivor's Trust that that order also
11 discharge Mr. Brown as the special administrator from
12 any further duty and from any further liability in that
13 the estate can be concluded in totality.

14 THE COURT: All right. Thank you. And so I'm
15 indicated --

16 MR. SIMONS: Your Honor, since we filed a
17 Joint Petition, would you like to allow us to present
18 you with a proposed order that would address things like
19 the--

20 THE COURT: Please, yes, absolutely. And who
21 would like to be in charge of drafting the proposed
22 order?

23 MR. SIMONS: Mr. Millsap is the best scrivener
24 on this zoom call so I'm --

1 THE COURT: Mr. Millsap, you've been
2 volunteered.

3 MR. MILLSAP: I would suggest Ms. Halstead's
4 probably the best scrivener but if I'm forced to write
5 the order I will.

6 THE COURT: Ms. Halstead has been quite an
7 excellent scrivener and, again, I thank Ms. Halstead for
8 her pleadings to date which have been extraordinary
9 informative to the Court in understanding issues in this
10 case so thank you.

11 MS. HALSTEAD: Thank you, your Honor.

12 THE COURT: Again, the Court has not made a
13 determination but to the extent that the parties, the
14 settling parties contemplate resolution if you could
15 please include in order the final, what your final terms
16 are intended to be. And Mr. Simons, if you could submit
17 with the assistance of Mr. Millsap your client's either
18 withdrawal or amended agreement regarding her intent to
19 enter the settlement as contemplated by the parties at
20 settlement conference before Judge Sattler. Anything --

21 MR. EARL: Your Honor?

22 THE COURT: Yes.

23 MR. EARL: I'm sorry, if I could just comment
24 on that? It seems like an alternative where Amy Frasier

1 would be simply to sign, under amended settlement
2 agreement as part of her noted withdrawal of her
3 objections that she just sign what was prepared and
4 circulated as opposed to the possession of -- of -- of
5 withdrawing -- of agreeing to the settlement agreement
6 as signed at the settlement conference.

7 THE COURT: Well, you know, whatever --
8 whatever Mr. -- I'm going to leave this up to Mr.
9 Simons, however you can accomplish this, the less
10 additional paper, the better. Of course, we already
11 have missing documents related to this case. And I just
12 wanted to be clear on the record that Ms. Frasier is
13 entering this settlement agreement as contemplated by
14 the parties as agreed upon by the settling parties
15 before Judge Sattler.

16 MR. MILLSAP: Your Honor, just one final thing
17 in regard to the proposed order requested by the Court.
18 Just to be clear, my understanding is the proposed order
19 prepared by the Estate will be circulated to all counsel
20 will contemplate what I'll call the administrative
21 rulings of the Court, i.e., the San Juan Capistrano
22 house can be sold, the Court's order with respect to
23 division of the personal property, et cetera, but the
24 proposal order would not include or encompass the

1 Court's ruling on the resolution of Survivor's Trust and
2 the tax-exempt trust.

3 THE COURT: Correct.

4 MR. MILLSAP: We're continuing that we write a
5 proposal in that regard to.

6 THE COURT: That was -- okay. So, again, I
7 not have made the determination yet. What will likely
8 happen if I make the determination resolving or
9 approving the resolution or the settlement, I will
10 probably request Mr. Millsap to ensure completeness that
11 you write that order. So I probably do some sort of
12 interim administrative order and then ask you to write
13 the complete order that contemplates all of the terms by
14 the parties to ensure that those are all captured.

15 So -- but the original administrative order
16 that you will be writing, yes, thank you for that. So
17 that will include that -- the sale of the San Juan
18 Capistrano house, the payment of the trust obligations
19 out of those proceeds, that also that proper notice has
20 is been provided to all parties of the settlement
21 pursuant to NRS 155, that -- that U.S. Bank be permitted
22 to enter the property, the San Juan Capistrano property
23 to inventory the remaining personal property, that the
24 Survivor's Trust -- well, I'm sorry, this part should

1 probably not be included until -- it should not be
2 included until any final determination. I was going to
3 include your request that Mr. Brown be released but
4 we're not there yet. So --

5 MR. MILLSAP: Didn't the Court also order that
6 the equalization payments will be made?

7 THE COURT: Yes, please. Thank you for the
8 reminder.

9 MR. MILLSAP: And Ms. Halstead, any other
10 issues that need to --

11 MS. HALSTEAD: I'm sorry, I don't know if you
12 said the exchange sums. So what I have is immediate
13 sale of the San Juan Capistrano house and distributions
14 for trust obligations only, not distribution to the
15 parties.

16 THE COURT: But equalization payments made
17 also, that's Mr. Millsap.

18 MS. HALSTEAD: The equalization payments being
19 made, the exchange sums being exchanged between the
20 trusts for the property --

21 THE COURT: And just hold there, there's no
22 objection to the exchange sums being made, correct?

23 MS. HALSTEAD: Correct.

24 THE COURT: Mr. Millsap?

1 MR. MILLSAP: So I'm not sure what she means
2 by the exchange. I believe that's the equalization
3 payments.

4 THE COURT: Right.

5 MS. HALSTEAD: Well, there's the equalization
6 payments where the parties get paid out for their
7 distributions of the real properties that they have
8 received, but there was -- the properties were exchanged
9 between -- the properties were transferred to the trust
10 without the trust that received those properties
11 compensating other trusts for that value as was
12 contemplated in the settlement agreement. So one trust
13 has -- had benefit of the properties and their value
14 versus -- versus the value -- the value of the
15 property's exchange being exchanged.

16 THE COURT: So that needs to be done no matter
17 what.

18 MS. HALSTEAD: That's in the settlement
19 agreement.

20 THE COURT: Right. Okay. So yes, please.
21 So--

22 MR. MILLSAP: Sorry, your Honor, I apologize.
23 Ms. Halstead's absolutely correct. We'll do that.

24 THE COURT: Thank you. I'm sorry. Any other

1 issues?

2 MS. HALSTEAD: And you already mentioned
3 inventory to family property. I think the only -- if I
4 understand right, the only outstanding issues are -- and
5 I'm going to add them separately, whether Amy gets the A
6 Trust distributions outright and separately whether she
7 gets the B trust --

8 THE COURT: That's not -- that's not part of
9 the final term, that's left out --

10 MS. HALSTEAD: Right, so --

11 THE COURT: -- of the settlement agreement,
12 so that's everyone.

13 MS. HALSTEAD: That's only thing left out.

14 THE COURT: Right.

15 MS. HALSTEAD: And the rest has been resolved.

16 THE COURT: All right. Thank you. So that,
17 Mr. Millsap, is not to be included in the original
18 administrative order.

19 MR. MILLSAP: The only thing that wasn't
20 definitive ruling on by the Court, aside from the
21 resolution of the Survivor's Trust and tax-exempt trust
22 is the procedure the Court wanted to follow with respect
23 to liquidation in personal property, your Honor had said
24 you wanted to reserve a ruling on that.

1 THE COURT: I do. I want to reserve that
2 because arguments of the parties I haven't determined
3 whether -- how those should be -- whether they should be
4 distributed outside of the transfer to a -- contemplated
5 in the agreement to Amy Frasier, or whether those should
6 be equitably divided, I still need to think about that.

7 MR. MILLSAP: I'll omit that from the
8 administrative order then at this time, your Honor.

9 THE COURT: All right. Thank you. Mr.
10 Simons, any comment on anything else that should be
11 included in the administrative order?

12 MR. SIMONS: No, your Honor.

13 THE COURT: All right. Thank you, Mr. Earl?

14 MR. EARL: Nothing further. Thank you for
15 your effort.

16 THE COURT: All right. Thank you. All right.
17 Well, thank you, parties, for excellent arguments and
18 your enlightenment on this issue.

19 Thank you, Ms. Halstead, for being here
20 personally, I do appreciate that you are here. And I
21 will -- I'm not going to put a time line on my
22 determination, I don't anticipate it's going to take
23 very much longer but I do look forward to getting that
24 initial administrative order, Mr. Millsap, just please

1 circulate that among not only Mr. Simons and Mr. Earl
2 but also if you can circulate that to Ms. Halstead so
3 that we can ensure that it's consistent with what I have
4 asked the parties for today.

5 MR. MILLSAP: Certainly, your Honor. I'm
6 happy to do.

7 THE COURT: All right. Thank you.

8 MS. HALSTEAD: Thank you. Your Honor.

9 THE COURT: All right. Thank you all. And we
10 are in recess.

11 (Proceedings concluded.)

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1 STATE OF NEVADA)
2 COUNTY OF WASHOE)

3 I, JULIE ANN KERNAN, official reporter of
4 the Second Judicial District Court of the State of
5 Nevada, in and for the County of Washoe, do hereby
6 certify:

7 That as such reporter I was present in
8 Department No. 3 of the above court on Tuesday, August
9 15, 2023, at the hour of 9:00 a.m. of said day, and I
10 then and there took verbatim stenotype notes of the
11 proceedings had and testimony given therein upon the
12 Hearing on Joint Petition of the case of Trust: Jordan
13 Dana Frasier Family Trust Case No. PR16-00128.

14 That the foregoing transcript, consisting of
15 pages numbered 1 through 111, both inclusive, is a full,
16 true and correct transcript of my said stenotype notes,
17 so taken as aforesaid, and is a full, true and correct
18 statement of the proceedings of the above-entitled
19 action to the best of my knowledge, skill and ability.

20

21 DATED: At Reno, Nevada, this 5th day of April, 2024.

22

/s/ Julie Ann Kernan

23

JULIE ANN KERNAN, CCR #427

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