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6

7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF NEVADA**

9  
10 **SECURITIES AND EXCHANGE COMMISSION,**

11 **Plaintiff,**

12 v.

13 **MATTHEW WADE BEASLEY et. al.**

14 **Defendants,**

15 **THE JUDD IRREVOCABLE TRUST et. al,**

16 **Relief Defendants.**  
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Case No. 2:22-cv-0612-CDS-EJY

**DECLARATION OF KAMILLE DEAN IN  
OPPOSITION TO RECEIVER'S  
MEMORANDUM OF FEES AND COSTS  
(DKT. 378)**

TIME: TBD  
DATE: TBD  
PLACE: Courtroom 6B

**DECLARATION OF KAMILLE DEAN**

I, Kamille Dean, declare and say:

1. I am an attorney at law admitted to practice before all the Courts of the States of Arizona, California, Colorado, Minnesota, and Utah.

2. On November 18, 2022, I sent to the Receiver all of the funds in my Trust Account in the amount of \$201,060.00. (See Exhibit "H" Bank Wire Instruction). The Magistrate's Order which states I have \$210,060 in my account is wrong. I did not have that amount in my Trust Account.

3. I now have no money in my possession which the Receiver could claim and no money in my Trust Account which would be subject to the Magistrate's November 17, 2022, ruling (Dkt. 368). I have purged any claim of Contempt or Turn Over Order against me, and this matter is moot.

4. When the Receiver filed his Motion for fees on December 1, 2022 (Dkt. 378), the Receiver failed to inform the Court I had purged any Contempt or further necessity to bring any actions against me regarding the \$201,060. The Receiver's failure to inform the Court of the Receiver's receipt of funds on November 19, 2022, constituted a serious failure to disclose to the Court pertinent information regarding this Motion. This factor is a major key factor under *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 70 (9th Cir.1975), in motions for attorney's fees because it demonstrates the lack of necessity, my compliance with the Receiver's demands, and the excessive nature of the fees which the Receiver has sought in this case.

5. When the Magistrate granted the Receiver's Motion to Compel or Alternative Motion to Show Cause Why Kamille Dean Should Not Be Held in Contempt, the Court did not differentiate between the Contempt of Court and the request for a Turn Over Order. (11-17-22 Order Dkt. 368, p. 19, lines 23-25). As a result, the Magistrate awarded attorney's fees based on both holdings, not solely on the Motion to Compel a Turn Over Order. However, before the Receiver's Attorney's Fees Motion was filed, I sent the Receiver the \$201,060 on November 18, 2022, which purged any potential Contempt. Nevertheless, the Receiver failed to inform the Court on December 1, 2022, of these material facts.

6. When I objected to the Magistrate's Order on December 1, 2022 (Dkt. 380), that meant there is no Final Order making the Receiver a prevailing party in this proceeding. A Motion to Compel or for Turn Over Order by itself cannot support an award of Attorney's fees in the absence of a Contempt of Court. This is a critical factor which affects the Receiver's fee request because while a Contempt of Court finding in a final order can support an award of attorney's fees, a Motion for a Turn Over Order cannot.

7. The Receiver has not sought a Motion to Compel Discovery, and all of the Receiver's claims that Discovery Motions permit fee awards are without merit because this is not a Discovery proceeding. There is no Order against me directing my turn over of property, and the Order of April 21, 2022 (Dkt. 56) and

1 June 3, 2022 (Dkt. 88), did not mention me and were not directed to me. While I disagree with the  
2 Magistrate's Order of November 17, 2022 (Dkt. 368), and I have Objected and sought *de novo* review of  
3 that Order with the District Court on December 1, 2022 (Dkt. 80), I have turned over all funds in my Trust  
4 Account to which the Receiver has made claim (Exhibit "A" Dean 12-1-22 Dec. Dkt. 380).

5 8. I have sent the Receiver funds involuntarily because, while I believe the Receiver is wrong, I do  
6 not wish to cause further controversy before this Court regarding the Receiver's demands. There is no  
7 Contempt of Court Order against me, and I do not wish to have such an order because of its potential  
8 horrendous effect on me for no reason when I have been faced with conflicting demands from my five (5)  
9 Clients Kennedy Judd, Khloe Judd, Jennifer Judd, Parker Judd, and Preston Judd, and two (2) Attorney's  
10 with Attorney's Liens on the funds, Phil Escolar and Maureen Jaroscak, all of whom demand that I not turn  
11 over the funds to the Receiver. I have been placed in an intolerable position and a legal vise that no attorney  
12 should have to face where the rules of the State Bar of Arizona mandate I not release the funds from my  
13 Trust Account, but yet the Receiver has made a conflicting demand where I cannot satisfy both the Receiver  
14 and my clients and Contract Attorneys.

15 9. The *Kerr* factors regarding an award of Attorney's Fees are not satisfied in this case. The  
16 conflicting demands against me make it impossible for me to have chosen between the conflicting  
17 demands. The Receiver's efforts to take advantage of that conflict have placed me at severe risk of liability  
18 to my Clients and the Contract Attorneys and are improper.

19 10. The Receiver failed to file the mandatory 28 U.S.C. section 754, Notice in Arizona when the  
20 Receiver sought a Contempt of Court Order on August 1, 2022 (Dkt. 210). He concealed that fact in his  
21 Motion. I relied upon the lack of filing in Arizona to establish my duty to my Clients and Contract  
22 Attorneys because when the Receiver failed to make that filing my legal duty was to the individuals who  
23 had legal rights against me, not to the Receiver who had had violated section 754 and had no legal  
24 jurisdiction over me. When the Receiver claimed to have obtained an Amendment to the Receivership on  
25 July 28, 2022 (Dkt. 207), there was no possible means for me to have known about the Amendment or the  
26 Receiver's claim that this Amendment was somehow a Reappointment, which it was not. I was not a party  
27 to the *SEC v. Beasley* proceeding, it was never served on me, and it was never filed in Arizona.

28 11. When the Receiver filed the August 1, 2022, Order to Show Cause against me, he concealed his  
failure to have complied with section 754 (Dkt. 210), and said nothing about the July 28, 2022, Amendment.  
The Amendment was not disclosed to me until August 29, 2022. (Dkt. 275, 276). I continued to rely on the  
Receiver's failure to have jurisdiction which created a legal duty on my part to my Clients and Contract  
Attorney's because the Receiver had no jurisdiction over the funds. I was required by law to honor my

1 Clients' and Contract Attorneys' instructions. When the Receiver filed his Order in Arizona on August, 5,  
2 2022, he failed to give me Notice and failed to file the July 28, 2022, Amendment (Dkt. 207), which meant  
3 that his filing in Arizona after more than ten (10) days following his June 3, 2022, Appointment was void.

4 12. Attached as Exhibit "I" is a copy of the Receiver's Filing in Arizona which contains no proof of  
5 Service on me. I discovered the Receiver's purported and incomplete filing in Arizona on August 8, 2022,  
6 when the Arizona Clerk sent me an email with the filing (Exhibit "J"). I was not served with the July 28  
7 2022, Amendment until August 29, 2022, when the Receiver filed a Reply to the Order to Show Cause and  
8 made the argument that the Amendment, made without my knowledge or opportunity to show the prejudice  
9 I had sustained, somehow constituted a Receivership Reappointment (Dkt. 275, 276).

10 13. All of the billings prior to my notification on August 29, 2022, of the Receiver's so-called  
11 Amendment cannot be attributed to me because the Receiver had no jurisdiction over this matter under 28  
12 U.S.C. section 754. I had conflicting duties to my Clients and Contract Attorneys which by law I had to  
13 observe against a Receiver's claim made in violation of section 754 without jurisdiction over the funds in  
14 my Trust Account. Assuming the Receiver's position, it is only after the Receiver filed on August 5, 2022,  
15 **and then gave me Notice on August 29, 2022, that there was an Amendment which he claimed was a**  
16 **Reappointment** that the Receiver would have possible jurisdiction.

17 14. If the Receiver is correct about the Amendment, which he is not, it is only after August 29,  
18 2022, that I could possibly have recognized a legal basis for the Receiver's claims against the funds. Prior to  
19 that date the Receiver had no legal rights to the funds, and I was obligated not to disburse the funds. The  
20 Receiver's obtaining jurisdiction was a mandatory prerequisite to his claims against the funds, and the Court  
21 should not reward the Receiver for his gross negligence and failure to comply with section 754 by  
22 permitting attorney's fees when the Receiver was guilty of gross negligence and violating section 754.

23 15. I have objected to the Magistrate's November 17, 2022, Order (Dkt. 768) finding the Receiver's  
24 obtained an Amendment on July 28, 2022, which was somehow a Receivership Reappointment that started  
25 the section 754 10-day clock anew. However, I should not be responsible for any of the Receiver's  
26 attorney's fees until he fulfilled his duty under section 754 by giving me Notice. Prior to August 29, 2022, I  
27 had no Notice, and my only legal duty was to my Clients and Contract Attorneys, not to the Receiver who  
28 violated section 754. The Receiver's failure prior to August 29, 2022, to give me Notice of any  
Reappointment renders his claims of jurisdiction over my Trust Account funds void under section 754 and  
should preclude his fee billings prior to that date because of the violation and gross negligence.

16. After August 29, 2022, the Allen Matkins Leck Gamble Mallory & Natis Firm ("Allen  
Makins") incurred fees of \$9,073.28, and the Greenburg Trarurig Firm ("Greenburg") incurred fees



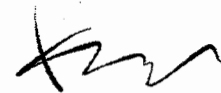
1 of \$1,035.50 after August 29, 2022, for a total of \$10,108.78. Of this total \$6,197.50 was for the fees-on-  
2 fees Motion (Dkt. 378). See Dean 12-14-21 Opposition Motion for Fees, pp. 4, lines 14-16). That leaves  
3 \$3,911.28 in actual logged fees for work other than attorney's fees for which I could be charged prior to the  
4 December 1, 2022, Motion for \$6,197.50 in Attorney's Fees ( $\$10,108.76 - \$6,197.50 = \$3,911.29$ ). The  
5 Courts have repeatedly stated that attorneys should only be awarded three percent (3%) of the actually  
6 logged fees in the case excluding the Motion for Attorney's fees. In this case, three percent (3%) of the  
7 \$3,911.28 amounts to \$117.34. When added to the actual logged fees without the attorney's fees after  
8 August 29, 2022, the total is \$4,029.12 ( $\$3,911.78 + 117.34 = \$4,029.12$ ).

9 17. This number for the attorney's fees is reasonable and proper because the prejudice against me by  
10 the Receiver's course of conduct and section 754 violation is overwhelming. The Court should not make an  
11 attorney's fees award because the Receiver has engaged in concealment and bad faith litigation tactics,  
12 including attempting to charge me with fees before the Receiver ever gave me notice of his jurisdiction on  
13 August 29, 2022 (Dkts. 275, 276). I could not possibly have known the Receiver had jurisdiction over the  
14 funds in my Trust Account until August 29, 2022, and the Receiver's claims against my Trust Account were  
15 without jurisdiction where the laws of Arizona and my contracts with my Clients and Contract Attorney's  
16 required I not give in to claims lacking jurisdiction against funds in my Trust Account.

17 18. I could not have known of any actual liability to the Receiver until the Receiver made his  
18 improper claim of Reappointment in his August 29 2022, filing (Dkt. 275, 276). The Receiver claims fees  
19 in his December 1, 2022, Application (Dkt. 378) incurred before he, by his own convoluted argument, had  
20 complied with section 754. I should not be responsible for fees incurred when the Receiver was grossly  
21 negligent in failing to give proper Notice in Arizona of his Appointment until August 29, 2022.

22 19. The Receiver has sought to take advantage of his own gross negligence and concealment. The  
23 Receiver's failure must have consequences. I request the Receiver's fees be reduced to \$4,029.12, or in  
24 reality for the Court to deny all fees because of the Receiver's bad faith and concealment.

25 I declare under penalty of perjury under the laws of the State of Arizona the foregoing is true and  
26 correct. Executed this 15<sup>th</sup> day of December, 2022, at Phoenix, Arizona.



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27 Kamille Dean

PROOF OF SERVICE

I, Maureen Jaroscak, am an attorney at law. I am over the age of 18 and not a party to the within action. My business address is 1440 Harbor Boulevard, Suite 900, Fullerton, CA 92835.

On December ~~14~~<sup>15</sup>, 2022, I served the following document described as:

(1) MS. DEAN'S OPPOSITION TO RECEIVER'S MEMORANDUM OF FEES AND COSTS (DKT. 378)

(2) DECLARATION OF KAMILLE DEAN

on all interested parties in this action by serving a true copy through electronic service by gmail.com on the email addresses and parties indicated below. The machine indicated the electronic transmission was successfully completed as follows:

SEE ATTACHED SERVICE LIST:

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on December 15, 2022 , at Fullerton, California.

  
Maureen Jaroscak

**SERVICE LIST**

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Notice has been delivered placing a copy of the documents in a sealed envelope, first class and affixed thereto, deposited into the US. Mail, at Los Angeles, California, addressed as follows:

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