

1 KARA B. HENDRICKS, Bar No. 07743  
hendricksk@gtlaw.com  
2 JASON K. HICKS, Bar No. 13149  
hicksja@glaw.com  
3 KYLE A. EWING, Bar No 014051  
ewingk@gtlaw.com  
4 **GREENBERG TRAUIG, LLP**  
5 10845 Griffith Peak Drive, Suite 600  
Las Vegas, Nevada 89135  
6 Telephone: (702) 792-3773  
Facsimile: (702) 792-9002

7 *Attorneys for Geoff Winkler Receiver*

8  
9 **UNITED STATES DISTRICT COURT**  
10 **DISTRICT OF NEVADA**

11 SECURITIES AND EXCHANGE  
COMMISSION,

12 Plaintiff,

13 vs.

14 MATTHEW WADE BEASLEY *et al.*

15 Defendants;

16 THE JUDD IRREVOCABLE TRUST *et al.*

17 Relief Defendants.

Case No. 2:22-CV-00612-CDS-EJY

**MOTION TO STRIKE PORTIONS OF  
KAMILLE DEAN’S “OPPOSITION” TO  
THE RECEIVER’S MEMORANDUM OF  
FEES AND COSTS [ECF No. 394] AND  
DECLARATION IN SUPPORT OF THE  
SAME [ECF No. 395] OR,  
ALTERNATIVELY, FOR LEAVE TO  
FILE A REPLY**

– AND –

**RESPONSE TO KAMILLE DEAN’S  
OBJECTION TO MAGISTRATE**

18  
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20  
21 Geoff Winkler, the Court-appointed Receiver (the “Receiver”), submits this Motion to  
22 Strike Portions of Kamille Dean’s Opposition to the Receiver’s Memorandum of Fees and Costs  
23 (ECF No. 394) and Declaration in Support of the Same (ECF No. 395) or, Alternatively, for Leave  
24 to File a Reply and the Receiver’s Response to Kamille Dean’s “Objection to Magistrate.”

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1 This Motion is based on the below Points and Authorities, the pleadings and papers on file,  
2 and such other and further information as may be presented to the Court at the time of any hearing.

3 DATED this 21st day of December, 2022.

4 **GREENBERG TRAUIG, LLP**

5 By: /s/ Kara B. Hendricks

6 KARA B. HENDRICKS, Bar No. 07743  
7 JASON K. HICKS, Bar No. 13149  
8 KYLE A. EWING, Bar No. 014051  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, Nevada 89135

9 *Attorneys for Receiver Geoff Winkler*

11 **MEMORANDUM OF POINTS AND AUTHORITIES**

12 On November 17, 2022, the Court granted the Receiver’s Motion to Compel the turnover  
13 of certain Receivership Property that was in the possession of third party Kamille Dean. *See*  
14 ECF No. 368. In doing so, the Court awarded the Receiver fees against Ms. Dean. *See id.* at 19.  
15 The Court ordered the Receiver to file a “memorandum of fees and costs associated with bringing  
16 the Motion to Compel ....” *Id.* at 20. The Court provided Ms. Dean an opportunity to file a  
17 “response,” if any, but specifically provided that “[n]o reply shall be permitted by the Receiver.”  
18 *Id.* On December 1, the Receiver filed his Memorandum of Fees and Costs, ECF No. 378, and on  
19 December 15, Ms. Dean filed what she styled as an “Opposition” to the Receiver’s “Motion for”  
20 Attorney’s Fees and Costs” and a Declaration in Support of the same. ECF Nos. 394 & 395.

21 The Receiver anticipated the Court’s fee award would deter Ms. Dean from continuing to  
22 make lengthy and baseless filings requiring the attention of the Receiver and his counsel and  
23 needlessly wasting Receivership fees and resources, as well as the Court’s resources.<sup>1</sup>  
24 Unfortunately, Ms. Dean appears to have instead grown more belligerent. As explained below,  
25 Ms. Dean’s Opposition and Declaration are procedurally improper on a number of levels and  
26

27 <sup>1</sup> In response to one motion by the Receiver, ECF No. 210, Ms. Dean has made no less than 12  
28 filings on what is, at the end of the day, a single issue caused by Ms. Dean’s own misconduct. *See*  
ECF Nos. 257, 258, 259, 260, 295, 296, 297, 380, 381, 395, 395, and 396.

Greenberg Traurig, LLP  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, NV 89135  
(702) 792-3773  
(702) 792-9002 (fax)

1 contain unsupported and unwarranted speculation of a scandalous nature. Further, they appear to  
2 – again – seek reconsideration of the Court’s order awarding fees, despite Ms. Dean having already  
3 made a bid at reconsideration. *See* ECF Nos. 380 and 381. As such, portions of the most recent  
4 filings should be struck and/or disregarded, as specified below. Alternatively, the Receiver  
5 requests an opportunity to file a reply to Ms. Dean’s Opposition.

6 Also on December 15, Ms. Dean filed an “Objection to Magistrate.” *See* ECF No. 396.  
7 Ms. Dean purports to object to Magistrate Judge Youchah considering *any* motions related to  
8 Ms. Dean. *See id.* at 2:1-4. The filing is confounding because, other than Ms. Dean’s own motion  
9 for *the district judge* to reconsider Judge Youchah’s prior order, there are no motions regarding  
10 Ms. Dean pending before the Court. *See* ECF No. 368 pp. 19-20 (disposing of all motions  
11 previously pending regarding Ms. Dean). More importantly, Ms. Dean cites no authority allowing  
12 for such an objection and does not appear to request any actual relief the Court can provide at this  
13 time. That being the case, the Objection, one of an ever-multiplying number of frivolous filings  
14 by Ms. Dean, should be denied.

15 **I. Legal Standard**

16 Courts “have the inherent power to strike a party's submissions other than pleadings.”  
17 *Tagle v. Bean*, No. 2:15-cv-01402-JAD-VCF, 2017 U.S. Dist. LEXIS 75922, at \*8 (D. Nev.  
18 May 18, 2017) (collecting cases) (citations omitted). “Indeed, the alternative basis for striking  
19 improper filings is the district court’s ‘inherent power over the administration of its business.’” *Id.*  
20 (citing *Spurlock v. F.B.I.*, 69 F.3d 1010, 1016 (9th Cir. 1995)). “It has inherent authority to  
21 regulate the conduct of attorneys who appear before it [and] to promulgate and enforce rules for  
22 the management of litigation....” *Id.* (citing *Spurlock*) (brackets in original). “A document not  
23 allowed by Local Rule 7-2, *or otherwise permitted by order of this Court*, is a fugitive document  
24 and must be stricken from the record.” *Id.* (citation omitted) (emphasis added).

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1 **II. The Court Should Strike or Disregard Portions of Ms. Dean’s “Opposition” and**  
 2 **Declaration Regarding the Receiver’s Memorandum of Fees and Costs**

3 As noted, the Court’s order granting the Receiver fees directed the Receiver to file a  
 4 memorandum of fees and costs “detailing the activities, hours spent (in tenths of hours), and the  
 5 rate charged by each attorney and non-attorney who worked on the Motion and related filings.”  
 6 ECF No. 368 at 20. The Court did not ask the Receiver to address any issues other than these  
 7 specific items directed at the reasonableness of the fees requested, and the Receiver did not do so.  
 8 *See generally* ECF No. 378 (detailing the Receiver’s fees and addressing reasonableness of the  
 9 same). Accordingly, Ms. Dean’s response, if she chose to file any, should have been constrained  
 10 to the matters addressed in the memorandum and ordered briefed by the Court – i.e., the fees and  
 11 costs the Receiver claims and their reasonableness.

12 Instead, Ms. Dean filed nearly twenty pages of briefing that, by her own admission,  
 13 addresses at least three topics: (1) whether the Receiver’s “Motion” for fees and costs is “moot”;  
 14 (2) the fees the Receiver seeks; and (3) unsupported allegations of “concealment” by the Receiver.  
 15 Only topic two falls within the purview of the briefing permitted by the Court’s November 17  
 16 Order. Accordingly, briefing on topics (1) and (3) should be struck, including because they  
 17 improperly seek reconsideration of prior orders and make unfounded allegations against the  
 18 Receiver and his counsel based on Ms. Dean’s own speculation and in direct contravention to  
 19 previous orders of this Court.

20 As an initial matter, the Receiver’s memorandum of fees and costs is not a “motion,” as  
 21 Ms. Dean repeatedly describes it.<sup>2</sup> The Court already awarded the fees the Receiver seeks in the  
 22 November 17<sup>th</sup> Order with a mere calculation of the amount and determination of the  
 23 reasonableness remaining to be decided, and there is no additional relief requested in the  
 24 Receiver’s Memorandum. *See* ECF No. 378. Accordingly, any arguments directed at whether the  
 25 Receiver is entitled to the fees in the first place would be properly made in a motion for  
 26 reconsideration. Ms. Dean has in fact already made such a motion (or “appeal”) of the Magistrate  
 27

28 <sup>2</sup> *See, e.g.*, ECF No. 294 at 7:2-4 & 9:1-3.

1 Judge’s ruling, which is pending at ECF No. 380. *See* ECF No. 380 at 8-9. Ms. Dean’s latest  
 2 repetition of her arguments in support of reconsideration should be struck as both outside the scope  
 3 of the response authorized by the Court’s November 17 Order and an improper attempt to seek  
 4 reconsideration under the guise of opposing a memorandum of fees and costs. *Compare, e.g.,*  
 5 Dean’s Appeal of Mag. J. Order, ECF No. 380 at 1-2, 11, and 20-23 (arguing Dean “purged” her  
 6 contempt and 28 U.S.C. § 754, respectively) *with* Opp. to Recvr.’s Memo. of Fees/Costs,  
 7 ECF No. 394 at 7-10 and 23-24 (making the same arguments).

8 Further, Ms. Dean’s filings inappropriately and baselessly accuse the Receiver of  
 9 “concealment,” “gross negligence,” “subterfuge,” and other scandalous things with no support for  
 10 these claims except, at best, her own speculation. *See, e.g.,* ECF No. 394 at 22-24. Each of these  
 11 accusations is without merit, but to provide a detailed response would require significant time and,  
 12 of course, a reply brief, which the Court specifically instructed the Receiver not to file. *See*  
 13 ECF No. 368 at 20. Moreover, because they were not addressed in the Memorandum of Fees and  
 14 Costs, their inclusion in an opposition to the Memorandum is inappropriate as it was not authorized  
 15 by the November 17 Order. *See id.* Accordingly, the Receiver requests these portions of the brief  
 16 be struck or the Court enter an order specifically indicating that the arguments will not be  
 17 considered.

18 Finally, Ms. Dean claims, without any explanation, that the fees claimed on behalf of one  
 19 of the Receiver’s law firms, Allen Matkins, was not included in its Second Quarterly Application  
 20 for Payment of Fees and Expenses. *See* ECF No. 394 at 24-25. The fees were included, however.  
 21 *See generally* ECF No. 360 (seeking authority for Receiver to pay Allen Matkins these fees (among  
 22 others)) and ECF No. 361 (declaration in support of the same).<sup>3</sup> This argument, which again  
 23 attempts to paint the Receiver and his professionals in an unsavory light with no cognizable basis  
 24 for doing so, should be struck.

25  
 26 <sup>3</sup> Specifically, *compare* ECF No. 378-3 at p. 7 (Ex. A to Ex. 2 to Rec.’s Memo. of Fees & Costs,  
 27 setting forth billing entries for Allen Matkins attorney D. Zaro on 7/5, 7/6, 7/7, 7/19, 7/29, and 8/1,  
 28 for which the Receiver seeks payment by Ms. Dean) *with* ECF No. 361 at pp. 28, 29, 29, 31, 32-  
 33, and 33 (respectively setting forth *the same billing entries* in Ex. A to Del Castillo Decl. in  
 Support of Allen Matkins Application for Payment of Second Quarter Fees).

1 In short, it appears Ms. Dean’s 19-page brief only addresses the reasonableness of specific  
 2 fees and costs claimed by the Receiver for approximately 12 pages. *See* ECF No. 394 at 10:18-  
 3 22:25.<sup>4</sup> Ms. Dean also filed a purported declaration in support of her Opposition. *See*  
 4 ECF No. 395. Astoundingly, very little of Ms. Dean’s declaration contains facts of which she has  
 5 personal knowledge. *See id.* Instead, Dean again attacks the Court’s the award of fees itself,  
 6 claims she “purged” any contempt, cites case law, and draws legal conclusion after legal  
 7 conclusion – many of which the Court already rejected. *See id.* Even when she does argue for a  
 8 reduction of the fees the Receiver actually claims at paragraphs 10 through 18, she does not attack  
 9 the reasonableness of the fees, instead making a strained argument for reduction that relies entirely  
 10 on a legal argument the Court already rejected in granting the Receiver’s previous motion to  
 11 compel –that the Receiver failed to satisfy the requirements of 28 U.S.C. § 754. *See* ECF No. 395  
 12 ¶¶ 10-18.

13 Accordingly, the Receiver requests that the entirety of Ms. Dean’s Declaration  
 14 (ECF No. 395) be struck and/or disregarded and that portions of her Opposition to the Receiver’s  
 15 Memorandum (ECF No. 394) be struck and/or disregarded. With regard to the Opposition, the  
 16 Receiver asks that the Court strike and/or disregard the following pages and lines: 7:4-8; 7:10-  
 17 10:17; and 22:26-25:20.<sup>5</sup>

### 18 **III. Alternatively, the Court should Allow the Receiver to File a Reply**

19 If the Court is inclined to consider the additional arguments forwarded by Ms. Dean, the  
 20 Receiver requests an opportunity to file a reply. The Receiver has not drafted or attached a  
 21 proposed reply at this time because he believes drafting it would be a poor use of Receivership  
 22

23 <sup>4</sup> The Receiver and his counsel submitted only fees and costs they believed were reasonable for  
 24 this Court’s consideration. That being the case, the Receiver of course disagrees with Ms. Dean’s  
 25 arguments regarding the reasonableness of the fees wholeheartedly. Ms. Dean relies primarily on  
 26 misapplication of case law, conjecture, and frivolous allegations of vagueness. However, because  
 the Court did not permit a reply, the Receiver will not say more than this without an order from  
 the Court permitting further briefing. *See* ECF No. 368 at 20.

27 <sup>5</sup> For the avoidance of confusion, the page numbers used here and throughout this brief refer to  
 28 the ECF page number in the Court’s time stamp at the top of the page and *not* to the page  
 numbering provided by Ms. Dean in the bottom margin, as they differ. The line numbers of course  
 refer to Ms. Dean’s line numbers.

1 funds given the Court’s current order precluding a reply. *See* ECF No. 368 at 20. Further,  
2 continuing to respond to Ms. Dean’s sensational and baseless arguments has become a drain on  
3 the Receivership’s resources. As noted above, Ms. Dean has made no less than 12 filings on what  
4 is, at the end of the day, a single issue caused by Ms. Dean’s own conduct (her failure to turn over  
5 Receivership Property). *See* ECF Nos. 257, 258, 259, 260, 295, 296, 297, 380, 381, 395, 395,  
6 and 396. Without the Court’s intervention, the Receiver fears he and his counsel will continue to  
7 waste an inordinate amount of time and Receivership funds responding to the barrage of needless  
8 and, at times, frivolous filings.<sup>6</sup> Accordingly, striking her filings in part to avoid the Receiver  
9 again briefing frivolous and/or recycled arguments is appropriate.

10 If the Court does not strike or disregard the procedurally improper portions of Ms. Dean’s  
11 pleadings, the Receiver must be allowed an opportunity to reply. Ms. Dean’s intervening actions  
12 in submitting an Opposition that goes beyond the scope of the Receiver’s Memorandum of Fees  
13 and Costs and the Court’s November 17 Order authorizing the same warrants reconsideration of  
14 this ruling. So, if the Court is inclined to consider Ms. Dean’s pleadings, the Receiver requests  
15 the Court reconsider its position and enter an order allowing him to file a reply in light of  
16 Ms. Dean’s Opposition drastically expanding the scope of the Receiver’s Memorandum of Fees  
17 and Costs.

18 **IV. The Court Should Deny Ms. Dean’s “Objection to Magistrate”**

19 Ms. Dean also filed an “Objection to Magistrate.” *See* ECF No. 396. Ms. Dean purports  
20 to object to Magistrate Judge Youchah considering any motions related to Ms. Dean. *See*  
21 *id.* at 2:1- 4. Ms. Dean cites no authority allowing for such an objection. Accordingly, to the  
22 extent the Objection seeks relief from the Court, the Objection violates both F.R.C.P. 7(b)(1)(B)  
23 and Local Rule 7-2(d). For these reasons, the Objection should be denied.

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26 <sup>6</sup> Even if the Court continues to exercise its discretion to award the Receiver fees each time  
27 Ms. Dean makes unnecessary and unsupported filings, the Court cannot replace the time, energy,  
28 and attention of the Receiver, his employees, and his professionals. As the Court is aware, the Receiver and his team have much important work to do in this case, and each time his resources are diverted to Ms. Dean, those resources cannot be dedicated to other important tasks.

1 **V. Conclusion**

2 Because Ms. Dean’s filings are procedurally improper, fail to meet the requirements of the  
3 relief she requests, and include baseless and scandalous claims regarding the Receiver and his  
4 counsel, the Court should:

5 1. Strike pages 7:4-8; 7:10-10:17; and 22:26-25:20<sup>7</sup> of Kamille Dean’s Opposition to  
6 the Receiver’s Memorandum of Fees and Costs (ECF No. 394);

7 2. Strike Kamille Dean’s Declaration in Support of her Opposition to the Receivers’  
8 Memorandum of Fees and Costs (ECF No. 395) in its entirety; and

9 3. Deny Ms. Dean’s “Objection to Magistrate” (ECF No. 396).

10 If the Court does not strike Ms. Dean’s inappropriate arguments, the Court should instead  
11 enter an order amending its November 17, 2022, Order (ECF No. 368) to allow the Receiver to  
12 file a reply to Ms. Dean’s Opposition to the Receiver’s Memorandum of Fees and Costs. The  
13 Receiver is prepared to submit such a response within five (5) court days of entry of any such  
14 order.

15 DATED this 21st day of December 2022.

**GREENBERG TRAUIG, LLP**

16  
17 By: /s/ Kara B. Hendricks  
18 KARA B. HENDRICKS, Bar No. 07743  
19 JASON K. HICKS, Bar No. 13149  
20 KYLE A. EWING, Bar No. 014051  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, Nevada 89135

*Attorneys for Receiver Geoff Winkler*

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27 <sup>7</sup> For the avoidance of confusion, the page numbers used here and throughout this brief refer to  
28 the ECF page number in the Court’s time stamp at the top of the page and *not* to the page  
numbering provided by Ms. Dean, as they are inconsistent. The line numbers of course refer to  
Ms. Dean’s line numbers.

Greenberg Traurig, LLP  
10845 Griffith Peak Drive, Suite 600  
Las Vegas, NV 89135  
(702) 792-3773  
(702) 792-9002 (fax)



**CERTIFICATE OF SERVICE**

1 I hereby certify that, on the 21st day of December 2022, a true and correct copy of the  
2 foregoing **MOTION TO STRIKE PORTIONS OF KAMILLE DEAN’S “OPPOSITION” TO**  
3 **THE RECEIVER’S MEMORANDUM OF FEES AND COSTS [ECF No. 394] AND**  
4 **DECLARATION IN SUPPORT OF THE SAME [ECF No. 395] OR, ALTERNATIVELY,**  
5 **FOR LEAVE TO FILE A REPLY – AND – RESPONSE TO KAMILLE DEAN’S**  
6 **OBJECTION TO MAGISTRATE** was filed electronically via the Court’s CM/ECF system.  
7 Notice of filing will be served on all parties by operation of the Court’s CM/ECF system, and  
8 parties may access this filing through the Court’s CM./ECF system.  
9

10 */s/ Evelyn Escobar-Gaddi*  
11 \_\_\_\_\_  
12 An employee of GREENBERG TRAUIG, LLP

13 Greenberg Traurig, LLP  
14 10845 Griffith Peak Drive, Suite 600  
15 Las Vegas, NV 89135  
16 (702) 792-3773  
17 (702) 792-9002 (fax)