
IN THE MATTER OF THE LESLIE KAREN
ROSS TRUST UNDER THE LAST WILL
AND TESTAMENT OF HARRIET ROSS,
DECEASED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

DOCKET NO. A-000915-23

CIVIL ACTION

ON APPEAL FROM

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION,
BERGEN COUNTY
PROBATE PART

DOCKET NO.: BER-P-242-22

HONORABLE JAMES J. DeLUCA, J.S.C.
RETIRED

HONORABLE EDWARD A. JEREJIAN, P.J.Ch.
PRESIDING

**BRIEF IN SUPPORT OF APPEAL OF
OCTOBER 6, 2022, MARCH 7, 2023, & SEPTEMBER 6, 2023 ORDERS**

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Sole Vested Remainder Beneficiary of Trust

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J. ROSS' CERTIFICATION FOR MOTION FOR RECONSIDERATION, DATED OCTOBER 26, 2022, IN ORDER TO FOCUS ONLY ON APPEAL ISSUES FOR:	

(3T, p. 5, line 13, to p. 7 line 5)

- 1) REVISE OCT. 6, 2022 ORDER, PAR. 1, BASED ON GRANTING J. ROSS' EXCEPTIONS TO TRUST INTERMEDIATE ACCOUNTING BASED ON HIS AUG. 8, 2022 FILING, & REQUIRE MR. ROTH TO REVISE AND FILE UPDATED ACCOUNTING BASED ON THOSE EXCEPTIONS
 - 2) REVISE OCT. 6, 2022 ORDER, PAR. 1C, SO PRIOR TRUST PAYMENTS OF \$31,259.74 FOR ROTH & SPELLMAN ACCOUNTING FEES FOR 2019-2022 ARE NOT APPROVED PENDING MR. ROSS' REVIEW FOR ANY ACCOUNTING EXCEPTIONS FOR MR. ROTH'S RESOLUTION, OR COURT APPROVAL OR DENIAL, AFTER SUBMITTAL OF HIS REQUESTED R&S INVOICES, AS REQUIRED BY NJ R.3B:31-67
 - 3) REVISE OCT. 6, 2022 ORDER, PAR. 1D, BASED ON J. ROSS' EXCEPTIONS IN ORDER TO DENY FERRO LABELLA'S FEES OF \$15,022.72 (\$4,120.48 & \$10,902.24), AS PER ACCOUNTING, FOR WORK FROM JUNE 6, 2021 TO JAN. 31, 2022, AND REQUIRE PAYBACK OF THOSE FEES TO THE TRUST
 - 4) MR. ROTH SHALL PROVIDE TRUST INFO & DOCS REQUESTED BY J. ROSS, AS QUALIFIED BENEFICIARY, AS REQ'D BY NJ R.3B:31-67, FOR REVIEW FOR ANY EXCEPTIONS (FOR COURT APPROVAL OR DENIAL) TO FIGURES IN THE INTERMEDIATE & FUTURE FINAL ACCOUNTINGS
 - 5) REQUIRE PAYBACK TO TRUST OF \$74,248.18, AS PER ACCOUNTING, BASED ON MR. ROSS' EXCEPTIONS FOR CULLEN & DYKMAN'S FEES FOR 2019-2021 WORK ON BEHALF OF MS. ROSS FOR ESTATE CASE P-258-16 RATHER THAN ANY TRUST CASE
 - 6) REQUIRE MR. ROTH'S COMPLIANCE WITH PAR. 2 OF ORDER TO ISSUE INFORMAL, FINAL TRUST ACCOUNTING, WHICH HE REFUSED TO ISSUE
1. Item 1 - (29a, last par., to 31a, 1st par.; 32a-34a) (3T, p. 4, line 8, to p. 5, line 6)

2. Items 2,4,&5 - Issues were not ruled upon in Court rulings
3. Item 3 - (31a, last par., to 32a, 1st 2 lines, for Ms. Ross' Exceptions only) (4T, p. 46, line15, to p. 47, line 13 {\$72,000 on line 2 should be \$4,120.48})
4. Item 6 - (4T, p. 47, line 19, to p. 48, line 9)

SECTION B

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J. ROSS' CERTIFICATION REPLY, DATED NOV. 25, 2022, IN ORDER TO FOCUS ONLY ON APPEAL ISSUES BY REFUTING RELEVANT FILED OPPOSITIONS BY P. AMBROSE & S. JACOBSON IN REGARDS TO REVISING OCT. 6, 2022 ORDER, IN REGARDS TO ITEMS 1-5 IN SECTION "A"

1. See Section "A"

SECTION C

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J. ROSS' CERTIFICATION REPLY, DATED NOV. 4, 2022, IN OPPOSITION TO S. JACOBSON'S OCT. 26, 2022, REQUEST FOR TRUST PAYMENTS FOR FEES THAT WERE EVENTUALLY ADDRESSED IN FEB. 17, 2023 HEARING RULINGS, WHICH LED TO MARCH 7, 2023 ORDER, PAR. 1&2, FOR:

- 1) NOT GRANTING TRUST PAYMENT FOR FERRO LABELLA LEGAL FEES FOR \$113,497.04 (FEBRUARY 1 TO OCTOBER 25, 2022)
- 2) ADJUSTMENT TO ROTH & SPELLMAN ACCOUNTING FEES FROM \$17, 649.57 TO \$16,755 FOR INTERMEDIATE ACCOUNTING
- 3) ADJUSTMENT TO MR. ROTH'S TRUSTEE COMMISSIONS (JAN. 1 TO SEPT. 30, 2022) FROM \$2,039.53 TO \$1,946.56

1. Item 1 - (3T, p. 8, line 16, to p. 12, line 20) (4T, p. 48, lines 14-16; p. 49, line 13, to p. 50, line 2)
2. Items 2&3 - (3T, p. 14, line 2, to p. 15, line 8) (4T, p. 48, lines 14-16; p. 49, lines 9-12)

SECTION D

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J. ROSS' CERTIFICATION REPLY, DATED NOV. 9, 2022, IN ORDER TO FOCUS ONLY ON APPEAL ISSUES REGARDING MR. AMBROSE'S OPPOSITION, DATED NOV. 4, 2022, TO S. JACOBSON'S OCT. 26, 2022, REQUEST FOR TRUST PAYMENT FOR LEGAL FEES THAT WERE EVENTUALLY ADDRESSED IN FEBRUARY 17, 2023 HEARING RULINGS, WHICH LED TO MARCH 7, 2023 ORDER, PAR. 1

1. See Section "C" for Item 1

SECTION E

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J. ROSS' CERTIFICATION REPLY, DATED NOV. 28, 2022, IN ORDER TO FOCUS ONLY ON APPEAL ISSUES REGARDING S. JACOBSON'S REPLY, DATED NOV. 16, 2022, TO OPPOSITIONS BY P. AMBROSE & J. ROSS TO HIS OCT. 26, 2022 REQUEST FOR TRUST PAYMENTS FOR FEES THAT WERE EVENTUALLY ADDRESSED IN FEBRUARY 17, 2023 HEARING RULINGS, WHICH LED TO MARCH 7, 2023 ORDER, PAR. 1&2

1. See Section "C" for Items 1-3

SECTION F

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J. ROSS' CERTIFICATION FOR CROSS-MOTION, DATED MAY, 25, 2023, IN ORDER TO FOCUS ON APPEAL ISSUES FOR:

(4T, p. 44, line 13, to p. 46, line 14; p. 51, line 17, to p. 52, line 6)

- 1) REVISE MARCH 7, '23 ORDER, PAR. 1, TO NOT GRANT TRUST PAYMENT OF \$93,277.54 FOR FERRO LABELLA LEGAL FEES (FEB. 1 TO OCT. 25, 2022), & REQUIRE PAYBACK
- 2) REVISE MARCH 7, 2023 ORDER, PAR. 2, TO REDUCE APPROVED TRUST PAYMENT FOR ROTH & SPELLMAN INTERMEDIATE ACCOUNTING FEE (FROM \$17,649.57 TO \$16,575) AND MR. ROTH'S TRUSTEE COMMISSION (FROM \$2,039.53 TO \$1,946.56), & REQUIRE PAYBACK OF OVERPAYMENTS
- 3) MR. ROTH'S COMPLIANCE WITH OCT. 6, 2022 ORDER, PAR. 2, TO ISSUE FINAL INFORMAL TRUST ACCOUNTING THAT HE REFUSED TO ISSUE
- 4) MR. ROTH TO PROVIDE TRUST INFORMATION & DOCUMENTS REQUESTED BY J. ROSS, AS A QUALIFIED BENEFICIARY, AS REQ'D BY NJ R.3B:31-67, TO VERIFY ACCURACY & VALIDITY OF FIGURES IN HIS FINAL TRUST ACCOUNTING
- 5) REVISE OCT. 6, 2022 ORDER, PAR. 1, BASED ON GRANTING J. ROSS' EXCEPTIONS TO TRUST INTERMEDIATE ACCOUNTING BASED ON HIS AUG. 8, 2022 FILING, & REQUIRE MR. ROTH TO REVISE AND FILE UPDATED ACCOUNTING BASED ON THOSE EXCEPTIONS
- 6) REVISE OCT. 6, 2022 ORDER, PAR. 1C, SO PRIOR TRUST PAYMENTS OF \$31,259.74 FOR ROTH & SPELLMAN ACCOUNTING FEES FOR 2019-2022 ARE NOT APPROVED PENDING MR. ROSS' REVIEW FOR ANY ACCOUNTING EXCEPTIONS FOR MR. ROTH'S RESOLUTION, OR COURT APPROVAL OR DENIAL, AFTER SUBMITTAL OF HIS REQUESTED R&S INVOICES, AS REQUIRED BY NJ R.3B:31-67
- 7) CULLEN & DYKMAN SHALL PAY BACK TO THE TRUST \$74,248.18 THAT WAS FOR LEGAL WORK IN 2019-2021 FOR ESTATE CASE P-258-16, UPON BEHALF OF MS. ROSS, AND NOT THE TRUST, NOR FOR TRUST MATTERS RELATED TO THIS CASE.

1. Item 1- (3T, p. 8, line 16, to p. 12, line 20) (4T, p. 48, lines 14-16; p. 49, line 13, to p. 50, line 2)
2. Item 2 - (3T, p. 14, line 2, to p. 15, line 8) (4T, p. 48, lines 14-16; p. 49, lines 9-12)
3. Item 3 - (4T, p. 47, line 19, to p. 48, line 9)
5. Items 4,6,&7- Issues were not ruled upon in Court rulings
6. Item 5 - (29a, last par., to 31a, 1st par.; 32a-34a) (3T, p. 4, line 8, to p. 5, line 6)

SECTION G

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J. ROSS' CERT. REPLY, DATED MAY 30, 2023, TO P. AMBROSE'S MAY 25th CROSS-MOTION TO RECONSIDER OCT. 6, 2022 ORDER, PAR. 1D, TO:

- 1) REJECT COURT AUTHORIZED, TRUST PAYMENT, & REQUIRE PAYBACK OF \$4,120.48 FOR FERRO LABELLA'S FEES FOR WORK IN MID-2021, WHEN MR. AMBROSE WAS SOLE COUNSEL FOR TRUST & ITS TRUSTEES, PRIOR TO ANY DISPUTES BETWEEN MR. ROTH AND MS. ROSS FOR HIS RESIGNATION AS CO-TRUSTEE

(4T, p. 46, line 15, to p. 47, line 13) (31a, last par., 1st 2 sentences for Ms. Ross' Exceptions only)

SECTION H

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APPEALING RULINGS FROM AUGUST 4, 2023 HEARING FOR:

- 1) JUDGE JEREJIAN'S TWO WRONG, & UNREASONABLE RULINGS (*"This case has to end" AND "if there is dissatisfaction with rulings of this Court, it should be appealed"*) AS HIS "STANDARDS" TO REJECT CROSS-MOTIONS BY MR. AMBROSE & ME
- 2) REJECT SEPT. 6, 2023 ORDER, PAR. 3&4 THAT DID NOT GRANT OUR CROSS-MOTIONS TO RECONSIDER ORDER PROVISION DUE TO ITEM 1 & JUDGE JEREJIAN'S OPINIONS ON RECONSIDERATION MOTIONS
- 3) REVISE MARCH 7, '23 ORDER, PAR. 1, TO NOT GRANT TRUST PAYMENT OF \$93,277.54 FOR FERRO LABELLA LEGAL FEES, & REQUIRE PAYBACK
- 4) REVISE MARCH 7, 2023 ORDER, PAR. 2, TO REDUCE APPROVED TRUST PAYMENTS FOR ROTH & SPELLMAN INTERMEDIATE ACCOUNTING FEE (FROM \$17,649.57 TO \$16,575) AND MR. ROTH'S TRUSTEE COMMISSION (FROM \$2,039.53 TO \$1,946.56), & REQUIRE PAYBACK OF OVERPAYMENTS
- 5) REVISE OCT. 6, 2022 ORDER, PAR. 1D, TO REJECT PRIOR TRUST PAYMENT, & REQUIRE \$4,120.48 PAYBACK FOR FERRO LABELLA'S 2021 FEE
- 6) MR. ROTH'S COMPLIANCE WITH OCT. 6, 2022 ORDER, PAR. 2, TO ISSUE FINAL INFORMAL TRUST ACCOUNTING THAT HE REFUSED TO ISSUE

1. Item 1 - (4T, p. 46, line 9-14)

2. Item 2 - (4T, p. 44, line 13, to p. 46, line 14; p. 51, line 17, to p. 52, line 6)
3. Item 3 - (3T, p. 8, line 16, to p. 12, line 20) (4T, p. 48, lines 14-16; p. 49, line 13, to p. 50, line 2)
4. Item 4 - (3T, p. 14, line 2, to p. 15, line 8) (4T, p. 48, lines 14-16; p. 49, lines 9-12)
5. Item 5 - (4T, p. 46, line 15, to p. 47, line 13) (31a, last par., 1st 2 sentences for Ms. Ross' Exceptions only)
6. Item 6 - (4T, p. 47, line 19, to p. 48, line 9)

SECTION I

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COMPLIANCE WITH LEGAL CRITERIA BASED ON NJ R.4:49-2 AND NJ COURT CASE RULINGS IN ORDER TO RECONSIDER AND APPEAL PROVISIONS OF OCT. 6, 2022, MARCH 7, 2023, & SEPT. 6, 2023 ORDERS

(3T, p. 5, line 13, to p. 7, line 5) (4T, p. 44, line 13, to p. 46, line 14)

SECTION J

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SUMMARY OF CONTRADICTIONS & ERRORS IN COURT'S OCT. 6, 2022, MARCH 7, 2023, & SEPT. 6, 2023 ORDERS BASED ON APPEAL ISSUES RAISED IN SECTIONS "A", "C", "F", "G", & "H" IN ORDER TO:

- 1) CORRECT OCT. 6, '22 ORDER, PAR. 1, & MARCH 7, '23 ORDER, PAR. 3, & GRANT J. ROSS' EXCEPTIONS TO INTERMEDIATE ACCOUNTING BASED ON HIS AUG. 8, 2022 FILING, & REQUIRE MR. ROTH TO REVISE AND FILE UPDATED ACCOUNTING BASED ON THOSE EXCEPTIONS
- 2) CORRECT OCT. '22 ORDER, PAR. 1, & MAR. 7, 2023 ORDER, PAR. 3, SO MR. ROTH SHALL PROVIDE TRUST INFO & DOCS REQUESTED BY J. ROSS, AS QUALIFIED BENEFICIARY, AS REQ'D BY 3B:31-67, FOR REVIEW FOR ANY EXCEPTIONS (FOR COURT APPROVAL OR DENIAL) TO FIGURES IN THE INTERMEDIATE & FUTURE FINAL ACCOUNTINGS
- 3) CORRECT OCT. 6, '22 ORDER, PAR. 1C, & MARCH 7, '23 ORDER, PAR. 3, & REQUIRE MR. ROTH'S SUBMITTAL OF DETAILED INVOICES (ITEM 2) FOR ROTH & SPELLMAN'S \$31,259.74 FEES FROM 2019-2022, AS PER ACCOUNTING, FOR REVIEW BY J. ROSS FOR POTENTIAL EXCEPTIONS OF THOSE FEES FOR COURT APPROVAL OR DENIAL
- 4) CORRECT OCT. 6, '22 ORDER, PAR. 1D, & MARCH 7, '23 ORDER, PAR. 3, & DENY PRIOR TRUST PAYMENT OF FERRO LABELLA'S FEES FOR \$15,022.72, AS PER ACCOUNTING, FOR WORK FROM JUNE 6, 2021 THRU JAN. 31, 2022, & REQUIRE PAYBACK
- 5) CORRECT OCT. 6, '22 ORDER, PAR. 1, & MAR. 7, '23 ORDER, PAR. 3, & REQUIRE PAYBACK OF PRIOR TRUST PAYMENT OF \$74,248.18, AS PER ACCOUNTING, FOR CULLEN & DYKMAN'S FEES FOR 2019-2021 WORK ON BEHALF OF MS. ROSS FOR ESTATE CASE P-258-16 RATHER THAN ANY TRUST CASE

- 6) CORRECT MARCH 7, '23 ORDER, PAR. 1, & DENY TRUST PAYMENT OF \$93,277.54 FOR FERRO LABELLA FEES FOR LEGAL WORK FROM FEB. 1 TO OCT. 25, 2022, AND REQUIRE PAYBACK
- 7) CORRECT MARCH 7, 2023 ORDER, PAR. 2, & REDUCE TRUST PAYMENT FOR ROTH & SPELLMAN ACCOUNTING FEE FOR INTERMEDIATE ACCOUNTING FROM \$17,649.57 TO \$16,575, & REQUIRE PAYBACK OF OVERPAYMENT
- 8) CORRECT MARCH 7, 2023 ORDER, PAR. 2, & REDUCE TRUST PAYMENT FOR MR. ROTH'S 2022 COMMISSION FROM \$2,039.53 TO \$1,946.56, & REQUIRE PAYBACK OF OVERPAYMENT
- 9) CORRECT SEPT. 6, 2023 ORDER, PAR. 3, & REQUIRE MR. ROTH'S COMPLIANCE W/OCT. 6, 2022 ORDER, PAR. 2, TO ISSUE FINAL INFORMAL TRUST ACCOUNTING THAT HE REFUSED TO ISSUE
- 10) CORRECT SEPT. 6, 2023 ORDER, PAR. 3&4, & REQUIRE REVISIONS TO OCT. 6, '22 ORDER & MARCH 7, 2023 ORDER BASED ON ITEMS 1-9

1. Item 1 - (29a, last par., to 31a, 1st par.; 32a-34a) (3T, p. 4, line 8, to p. 5, line 6)
2. Items 2,3, & 5 - Issues were not ruled upon in Court rulings
3. Item 4 - (31a, last par., to 32a, 1st 2 lines, for Ms. Ross' Exceptions only) (4T, p. 46, line15, to p. 47, line 13 {\$72,000 on line 2 should be \$4,120.48})
4. Item 6 - (3T, p. 8, line 16, to p. 12, line 20) (4T, p. 48, lines 14-16; p. 49, line 9, to p. 50, line 2)
7. Item 7&8 - (3T, p. 14, line 2, to p. 15, line 8) (4T, p. 48, lines 14-16; p. 49, lines 9-12)
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9. Item 10 - See Items 1-9

CONCLUSIONS

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<u>EXHIBITS OF LOWER COURT'S ORDERS</u>		
2.	Exhibit "A" is Judge DeLuca's March 25, 2022 Order (P-069-22). It addressed Mr. Ambrose's Verified Complaint, dated Feb. 11, 2022, and parties Opposition. It allowed Mr. Roth to file a Verified Complaint with formal Trust Intermediate Accounting (P-242-22).	12a
3.	Exhibit "B" is Judge DeLuca's Oct. 6, '22 Order/Rider (P-242-22). It addressed Mr. Roth's Verified Complaint, dated May 5, 2022, and parties' Oppositions, incl. Exceptions to Trust Intermediate Accounting, as of March 31, 2022, filed with Verified Complaint.	15a
4.	Exhibit "C" is Judge Jerejian's March 7, 2023 Order (P-242-22). It addressed Mr. Ross' Reconsideration Motion (Oct. 26, '22) of Oct. 6, '22 Order, & Mr. Jacobson's Request (Oct. 26, '22) for Legal, Commission, & Accounting Fees, and Trust Reserve.	35a
5.	Exhibit "D" is Judge Jerejian's March 13, 2023 Order (P-242-22). It made corrections to March 7, 2023 Order.	38a

<p>6. Exhibit “E” is Judge Jerejian’s Sept. 6, 2023 Order (P-242-22). It consolidated, incl. corrections due to missing and conflicting provisions, four proposed Orders by the parties that had been marked up by Judge Deluca and dated Aug. 7, 2023. The Sept. 6th Order reflected the Judge’s August 4, 2023 Hearing Rulings.</p>	<p><u>PAGES</u> 40a</p>
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<p>8. Exhibit “G” is Mr. Jacobson’s Verified Complaint that was filed by Surrogate Court on May 11, 2022.</p>	<p>50a</p>
<p>9. Exhibit “H” is Mr. Roth’s Trust Intermediate Accounting for January 4, 2019 to March 31, 2022 – Summary, p. 1-3, Accounting Details, p. 1,2,16-20,26,47,50,82-85,87-90,93-96 It was filed May 11, 2022 with the Verified Complaint.</p>	<p>57a</p>
<p>10. Exhibit “I” is Mr. Jacobson’s Aug. 4, 2022 Letter to Surrogate in response to July 25, 2022 Audit Questions from Surrogate.</p>	<p>83a</p>
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c. Appendix Exhibit “D”– Mar. 25, ’22 Transcript, p. 15, Lines 12 to 19, to allow application for Court approval of parties’ legal fees after Court review/approval of Roth’s Accounting	105a
13. Exhibit “L” is Mr. Ross’ Certification, dated August 8, 2022. It had Oppositions to Verified Complaint and Mr. Ambrose’s & Mr. Jacobson’s Aug. 4 th letters, & Exceptions to Trust Accounting.	108a
14. Exhibit “M” is Mr. Ross’ Objections to Mr. Ambrose’s Exceptions to Trust Intermediate Accounting, dated August 12, 2022.	137a
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b. Appendix Exhibit “B” – See App. Exh. “D” for Exhibit “W”.	---

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28.	Exhibit “AA” is Mr. Ross’ May 25, 2023 Cert. for Cross-Motion to reconsider Mar. 7, ’23 Order & Oct. 26, ’22 Order, par. 1d; & for Mr. Roth to issue Final Accounting, as per Oct. 2022 Order, par. 2, & w/Opposition to Jacobson’s March 23 rd filing.	410a
	a. Appendix Exhibit “B” - J. Ross’ Email Train w/Jacobson – “Leslie Trust” - Oct. 21, 2022	448a
	b. Appendix Exhibit “C” - J. Ross’ Letter to Judge Jerejian – “Court Mediation for Mr. Roth and Mr. Jacobson to Comply with Oct. 6, 2022 Order for Filing Final Trust Accounting” - March 1, 2023	451a
	a. Appendix Exh. “A” – J. Ross’ Emails to S. Jacobson: “Roth’s Compliance with Oct. 6, 2022 Order to Prepare and File Final Trust Accounting – Feb. 21-27, 2023	457a
	c. App. Exhibit “D” - J. Ross’ Letter to Judge Jerejian – “Court Conference for Mr. Roth & Mr. Jacobson to Comply w/Oct. ’22 Order to Issue Roth’s Final Trust Accounting”- 3/20/23	460a

	<u>PAGES</u>
d. Appendix Exhibit “R” – S. Jacobson’s Nov. 30, 2022 Letter to Judge Jerejian. It has objections (p. 2) to Ms. Ross’ secret & unauthorized transfer of, or denial to Mr. Roth of online access to, Trust accounts in violation of Oct. ’22 Order.	465a
29. Exhibit “AB” is Mr. Ambrose’s May 25, 2023 Certification for Cross-Motion to Reconsider Oct. ’22 Order, par. 1d, for Dec. 14 ’21, Trust Payment of Ferro Labella’s \$4,120.48 fee - p. 1,5,&6	469a
a. App. Exhibit “A” – P. Ambrose’s Nov. 4, 2022 Certification, p. 1&2, in Opposition to Jacobson’s request for legal fees	473a
b. App. Exhibit “H” – Sept. 22, 2022 Hearing Transcript, p.6	476a
30. Exhibit “AC” is Mr. Ross’ May 30, 2023 Certification in response to Mr. Ambrose’s May 25 th Cross-Motion.	478a
31. Exhibit “AD” is Mr. Ross’ May 30, 2023, Proposed Order for his Cross-Motion of May 25, 2023.	492a
32. Exhibit “AE” is Mr. Ross’ Email to Eva Shum and Mr. Ambrose – “Irrelevant and False Claims in Mr. Ambrose’s Case Information Statement for A-000915-23” - Jan. 26, 2024	498a
33. Exhibit “AF” is Mr. Ross’ Proposed Order for Appellate approval for sign-off by Superior Court based on Mr. Ross’ Appeal of Oct. 6, 2022, March 7, 2023, & September 6, 2023 Orders	501a

PRELIMINARY STATEMENT

Jeffrey Ross (“Appellant”, “Interested Party”), as sole Vested Remainder Beneficiary of Leslie Karen Ross Trust (“Trust”) under Will of Harriet Ross, decedent (“Will”)(Exh. “F”)(44a-49a) & pro se litigant, is appealing Oct. 6 ‘22 Order, par. 1,1c&1d (Exh.“B”)(16a-17a); Mar. 7, ‘23 Order (Exh. “C”)(36a-37a); & Sept. 6, ‘23 Order, par. 3&4 (Exh. “E”)(41a-42a) for BER-P-242-22.

Oct. ‘22 Order par. 1 needs revision since May 11, ‘22 Verified Complaint (P-242-22) (Exh. “G”) (51a-56a) by Carl Roth (“Respondent”, “Petitioner”), for Co-Trustee discharge should NOT have been granted to proceed summarily.

Its Accounting, Jan. 4 ‘19 to Mar. 31 ‘22 (Exh. “H”)(58a-82a), should NOT be approved due to key mistakes, as per my Exceptions (Exh. “L”)(114a-128a). Oct ‘22 Rider wrongly rejected my Exceptions since “*contingent* remaindermen under testamentary Trust (such as Jeffrey) who are unaffected by allowances out of income or corpus commission cannot file exceptions to such items in an accounting” & Will, par. 10.6 “does not suggest approval is required from both Leslie & Jeffrey” (Exh. “B”, p. 15&16)(32a-33a). Mar. 13, ‘23 Order corrected my status as *Vested* Remainder Beneficiary (Exh. “D”) (39a). My Exceptions addressed *Trust corpus amounts* that affected me as Remainder Beneficiary, w/NO exceptions to commissions. Will, par. 10.6 (Exh. “F”) (48a), states “professional Co-Trustee may require an approval of its account...by such

beneficiaries as it deems appropriate”. Verified Complaint, par. 4 (**Exh. “G”**) (**52a**), listed me to review, which allowed Exceptions to, Accounting. Mr. Roth was wrongly concerned that, w/o Court approving his formal accounting, my potential exceptions to his accounting could cause him legal/financial liabilities.

Cullen & Dykman should pay back \$74,248 (**66a**) to Trust for billed work on behalf of Ms. Ross, & not Trust, related to Harriet Ross’ Estate Case P-258-16. Oct. ‘22 Order, par. 1b, should not have approved Roth & Spellman’s prior paid \$31,259.74 accounting fees (not for Intermediate Account) (**67a&69a**) since Roth did not allow me to verify accuracy/validity of excessive fees for 4 years of tax returns & potentially unwarranted Trust admin. It required my request, as Qualified Beneficiary, as per 3B:31-67, for billings w/itemized work descriptions & their issued documents for my review/exceptions prior to any Court approval.

Ferro Labella’s prior paid, \$15,022 legal fees (**66a**), w/Mr. Jacobson as Roth’s counsel, should **NOT** be approved (**Oct. 2022 Order, par. 1c**) due to Exceptions by me & Mr. Ambrose (Cullen & Dykman), counsel for Ms. Ross, Co-Trustee (“Respondent”, “Interested Party”), for \$4,120 for unwarranted 2021 legal work (June 17 to July 9) since C&D was counsel for Trustees before these contested matters, & also wrongly checked Trust requirements based on Harold Ross’ (our father) Will, which was not relevant. Our Exceptions to remaining \$10,902 for unwarranted legal work (Nov. 11, ’21-Jan. 31, ’22) were due to Roth

& Jacobson rejecting a guaranteed settlement w/no Trust liabilities for Roth, that led to Ambrose's unnecessary Feb '22 filing(P-069-22) for Roth Co-Trustee discharge as part of accepting informal accounting. My Exceptions to \$93,277 (Mar. 7, '23 Order, par. 1) included P-242-22/P-069-22 filings. All that legal work should NEVER have occurred if they had agreed to 3-Way Settlement w/Leslie, Roth, & me for his discharge w/informal Accounting, per R.4:87-3, for our review, but w/no exceptions, rather than his requested formal accounting, per R.4:87-3, w/allowed exceptions for Court approval or denial. Minor adjustments were needed to awarded fees of \$17,649 for Accounting & \$2,039 for Commissions based on my Exceptions (Mar. 7, '23 Order, par. 2).

Court needs to vacate Mar. 7, '23 Order, par. 3, in order to grant my Motion for Reconsideration for Oct. 2022 Order, par. 1 & 1c&d, & vacate Sept. 6, 2023 Order, par. 3&4, to grant my May 25&30, 2023 Cross-Motion based on refuting relevant Feb. 17, '23 Hearing rulings for March 7th Order, par. 3, and rejecting Ferro Labella's legal fees and revising Roth & Spellman's accounting & Roth's Commission fees in March 7th Order, par. 1&2. Court needs to order Mr. Roth to issue Final Accounting in compliance w/Oct. '22 Order, par. 2, incl. 3B:14-7.

Key Order provisions, which were overlooked by Court in my Motion for Reconsideration & Cross-Motion, also needed to be added to Oct. '22 & Sept. '23 Orders. *Updated proposed Order will combine all relevant Appeal issues.*

PROCEDURAL HISTORY

Mr. Ambrose filed Jan. 19, '22 Motion for Mr. Roth's resignation, incl. filing informal final accounting for the record w/Leslie & me. It was filed under BER-P-258-16, which was Estate related Case. Surrogate indicated it should be filed as Verified Complaint under new docket for the Trust **(111a, par. 12&13)**. *It was when I became aware of these matters (123a, last par.)*.

Based on Mr. Jacobson's Opposition to Mr. Ambrose's Verified Complaint for Mr. Roth's Trustee resignation, Court issued Mar. 25, '22 Order (P-069-22) **(Exh. "A") (13a-14a)** based on same day Hearing rulings for Mr. Roth to file a formal accounting based on R.4:87 for review & any exceptions from Surrogate Audit & Interested Parties based on his filing new Verified Complaint to resign.

Verified Complaint w/Intermediate Account (Jan. 4, '19 to Mar. 31, '22) **(Exh. "G")(51a-56a) (Exh. "H")(58a-82a)** was filed May 11th for review, incl. Trust beneficiaries, *& his resignation only after Court approving Account & a possible Trust Reserve (55a, par. 12) for possible costs to complete Roth's Trust administration & Final Trust Accounting, as a discharged Co-Trustee.*

Ambrose's **("J", 91a-92a for C&D fees)** & Jacobson's **("I",84a-89a)** Aug 4, '22 letters responded to July 25th Surrogate Audit questions for basis for various fees. Surrogate never responded nor issued Accounting approval based on their responses to Audit questions. It allowed the Court to make final decisions.

Mr. Ambrose filed Aug. 8, 2022 Exceptions to Intermediate Accounting **(Exh. “K”)(94a-107a)** that was in addition to his Answer to Verified Complaint

My Aug 8, ‘22 Cert. had Opposition to Verified Complaint, Account Exceptions, & Aug. 4th letters **(Exh. “L”)(109a-136a)**. It required Roth not to be discharged as Trustee pending Court approval of corrected Accounting & possible Reserve for his possible Trust admin costs after discharge **(Exh. “L) (110a, par. 5&7)**.

Mr. Roth’s Aug. 12, 2022 Certifications opposed Exceptions to Accounting by Mr. Ambrose **(Exh. “N”)(151a-154a)** and me **(Exh. “O”)(156a-160a)**.

There was a Sept. 22, 2022 Hearing for the parties’ final arguments **(1T)**.

Court Order with Rider was issued Oct. 6, 2022 **(Exh. “B”)(16a-34a)**.

It wrongly approved Verified Complaint & Intermediate Account **(par. 1)**, past Trust \$31,259.74 payments for ‘19-‘22 accounting fees**(par. 1c)**, past Trust payments of \$15,022.72 for legal fees **(par. 1d)**, & Roth’s discharge as Co-Trustee **(par. 2)(prior to Court approval of any Trust Reserve, in contradiction to Verified Complaint, par. 12)**. Par. 3 requested Mr. Roth to confirm if there was a need for a Trust Reserve amount for his Trust administration, *incl. Final Accounting, as per cited R.3B:14-7 in par. 2*, after his discharge.

I issued Oct. 26, 2022 Reconsideration Motion with Certification **(Exh. “P”)(162a-226a)**. It addressed all wrongly approved Order provisions, & Court disregarding requested Trust info/documents, as req’d by 3B:31-67, to verify

accuracy & validity of Intermediate Accounting figures, & payback of \$74,248 Trust payments to Cullen & Dykman, along with Proposed Order (194a-199a).

My Nov. 25th Cert. (Exh. "Q")(228a-246a) w/updated Proposed Order ("R") (248a-252a) replied to Jacobson & Ambrose Nov. 14th opposition Letter Briefs.

Mr. Jacobson filed Oct. 26, '22 Request for Trust Payments for \$113,497.04 for Ferro Labella legal fees from Feb. 1 to Oct. 25, '22 (Exh. "S") (254a-292a), \$2,039.53 for Roth's 2022, Co-Trustee Commissions (Exh. "T") (294a-296a), & \$17,649.57 for Roth & Spellman's fees for Trust Intermediate Accounting (Exh. "U")(298a-301a), & \$25K Trust Reserve (primarily for future legal fees).

My Nov. 4th Cert. opposed paying any legal fees & some commission & accounting fees, & \$25K Reserve, as Oct. '22 Order allowed reserve for Trust admin costs that should be next to zero, & no legal fees (Exh. "V")(303a-343a)

Mr. Ambrose filed Nov. 4th Certification opposing a portion of the Trust legal fees and any Trust Reserve (Exh. "W")(303a-344a).

Mr. Jacobson filed Nov. 16th Certification Reply (Exh. "Y")(376a-384a).

I filed Nov. 28th Certification Response to his Reply (Exh. "Z")(386a-409a).

There was a Dec. 22, 2022 Hearing for the parties' final arguments (2T).

Judge Jerejian's ruled at Feb. 17th Hearing on Reconsideration Motion, Trust Reserve, & legal, accounting & commission fees (3T). It led to March 7, 2023 Order (Exh. "C")(36a-37a). March 13th Order had corrections (Exh. "D")(39a).

Mr. Jacobson filed March 23, 2023 Motion for Reconsideration for \$25K Trust Reserve primarily for Roth's future legal fees, and a new request for Trust payment of \$33,716 for legal fees from Oct. 26, 2022 through March 7, 2023.

Mr. Ambrose filed May 25, '23 Cross-Motion **(470a-477a)** w/Opposition to Jacobson's filing & reconsidering Oct. '22 Order, par. 1d, for Trust payback of \$4,120 for unwarranted Ferro Labella legal work (June 17 to July 9 in '21).

I filed May 25, 2023 Cross-Motion **(Exh. "AA")(411a-468a)** w/Opposition to Jacobson's filing & reconsideration of Mar. 7, '23 Order, incl. vacating Trust payment for \$93,247 legal fees, approve portions of Oct. '22 Reconsideration Motion, and correct Trust payments for accounting & commission fees; & for Mr. Roth to issue Final Trust Accounting, as req'd by Oct. 2022 Order, par. 2.

My May 30, '23 Cert. **(Exh. "AC", p. 6-7, Items 10-11; p. 9, par. 10; p. 10)(484a-488a)** agreed w/\$4,120 Trust payback in Ambrose's May 25th filing **(Exh. "AB", p. 5-6)(471a-472a)**. It had updated proposed Order **(248a-252a)**.

There was an Aug. 4, 2023 Hearing for the parties' final arguments, and for Judge Jerejian's rulings in which he rejected each of our Court filings **(4T)**.

Aug. 4th Orders marked up proposed Orders by Jacobson, Ambrose, & me. I requested Judge to issue one Order since marked-up Orders did not fully reflect his rulings. Sept. 6, 2023 Order denied each of our filings **(Exh. "E")(41a-42a)**.

Judge DeLuca oversaw Case until Nov. 16, '22. Judge Jerejian took over.

STATEMENTS OF FACTS

Mr. Roth & Leslie, as Co-Trustees, decided around Nov. '21 that they could not serve together, as they had since Trust funding in Jan. 2019. They agreed he would resign, but did not agree on needed Settlement for his resignation. *I was not party to any of this.* (111a, par. 11) (122a, last. par., to 123a). She wanted him to resign due to her disputes in 2021 over Trustee decisions by Mr. Roth, CPA professional, who had final say for Trust actions (187a-189a, par. 68-74).

Matters should have been resolved w/Settlement w/o disputes, since Leslie, Roth, & I agreed on 3 final goals: 1) Roth's discharge as Co-Trustee after 2) issuing Final Accounting for review/acceptance by Leslie & me, & 3)w/o any liabilities for him (122a, last par. to 123a, 1st 2 lines) (405a-406a, par. 4).

Roth & Jacobson would not agree to Settlement w/informal Accounting, per 4:87-3, for our review, w/o exceptions, prior to his discharge, instead of his formal Accounting, per 4:87-3, w/Exceptions for Court approval/denial. It led to needless P-069-22/P-242-22 filings. Ambrose, since Nov. '21, & I, since Jan. '22, had many attempts, w/o success, w/Jacobson & Roth to resolve matters w/3-Way Settlement w/o Surrogate Audit & Court approving Accounting, & adequately addressing Roth's liability concerns. They repeatedly opposed Settlement, due to unfounded false concerns about problems I could cause, as Remainder Beneficiary. (111a, par. 11) (122a, last par., to 123a) (309a, 2nd

par.) (312a, par. 18) (320a, last par.) (326a, 2nd par.) (336a, 1st 3 par.) (392a - 395a, par. 14-17) (405a, par. 4, to 407a, par. 9) (428a-430a, par. 30) (431a, par. 32) (433a-434a, 1st par.) (441a, 2nd & 3rd par.) (2T, p. 26, line 11, to p. 27, line 7; p. 27, line 19, to p. 29, line 3; p. 39, line 7, to p. 41, line 7)

Mr. Jacobson told me in Jan. 2022 he would allow Roth to enter into 3-Way Settlement if Leslie & Mr. Ambrose, who initially opposed my efforts in Jan. & Feb. 2022 for a Settlement, and I could agree on details of a 3-Way Settlement, as we did on April 25, 2022 (312a, par. 18, 2nd par.) (395a, par. 17). He & Roth refused to hold off filing Verified Complaint based on our requests to finalize Settlement instead, even after I resolved their 5 objections, & filed needless Verified Complaint & formal Intermediate Accounting for Surrogate Audit & Court approval.(395a, par. 17)(406a, par. 7&8)(433a, 2nd to last par.)

After filing an unnecessary Verified Complaint & formal Accounting, they opposed my repeated efforts for a 3-Way Settlement prior to any unnecessary Court Hearing & Order. (213a) (218a) (221a, 1st 3 par.; 222a, 4th par., to end)

Ferro Labella's \$124,399 work (\$10,902 for Nov. 11, '21 to Jan. 31, '22, & \$113,497 for Feb. 1 to Oct. 25, '22) would have been **AVOIDED** if Jacobson & Roth agreed to work on a readily/rationally, achievable Settlement w/Leslie & me w/o any Court filings. All legal work was due to repeated oppositions to Settlement, & unnecessary Court filings by parties that led to Oct. '22 Order.

Legal cost would have been less (around \$5K) if they had worked on Settlement based on details that Leslie & I would first agree to **(392a-395a, par. 15-16)**.

Oct '22 Rider didn't allow my Accounting Exceptions due to invalid reasons **(see also p. 1&2)** that I refuted in Reconsideration Motion, incl. rejecting past Trust payments (Ferro Labella's \$15,022, C&D's \$74,248, & R&S' \$31,259 fees) **(162a-169a, par. 4-25) (170a-185a, par. 27-59)**

At Feb. 17, '23 Hearing, Judge Jerejian denied my Motion by reiterating and accepting Judge Deluca's wrong Rider rulings w/o addressing my substantiated evidence refuting those rulings **(3T, p. 4, line 8, to p. 5, line 9; p. 5, line 22, to p. 6, line 2)**. He worsened his invalid denials, & made my filings ripe for Appeal, by stating reconsideration "would be granted if "the decision rests on palpably incorrect or irrational basis, or the court didn't consider or failed to appreciate the significance of probative, competent evidence"." **(3T, p. 6 line 4, to p. 7, line 7)**. It is exactly what my reconsideration addressed **(See prior par.)**

Mr. Jacobson filed Oct. 26, '22 applications for Trust payments of \$113,497 & Roth's accounting/commission fees. I filed oppositions to portions of accounting & commission fees, & all legal fees that were due to work based on 2 Verified Complaints that should **NEVER** have been filed since Jacobson & Roth should have easily allowed Settlement in 2021, or 2022, for quick results to accept informal accounting & Roth's discharge, as Co-Trustee. **(303a-322a,**

386a-409a) (2T, p. 26, line 16, to p. 29, line 12; p. 39, line 7, to p. 41, line 7)

At Feb. 17, 2023 Hearing, Judge Jerejian granted the accounting/commission fees, & a reduced amount of \$93,277.54 for the legal fees **(3T, p. 8, line 16, to p. 12, line 20; p. 14 to p. 15, line 8)**. March 7, 2023 Order confirmed the rulings. March 13th Order corrected March 7th Order, incl. confirming I am Vested Trust Remainder Beneficiary instead of Contingent. **(36a-37a) (39a)**

My May 25th Cross-Motion refuted Feb. 17th rulings in order to reject Ferro Labella's \$93K legal fees & adjust commission/accounting fees **(427a, par. 29, to 434a, 1st par.; 435a, par. 37, to 436a; 441a-443a, par. d)**. It required Roth to issue Final Trust Accounting, as per Oct. '22 Order, par. 2 **(426a, par. 21, to 427a, par. 27; 439a-440a)**. My May 30th Cert. agreed w/Ambrose's May 25th Cross-Motion for payback of Ferro Labella's \$4,120.48 fees from 2021 in Oct. '22 Order, par 1d, **(484a, Item 10, to 485a, Item 11; 487a, par. 10; 488a)**

Solely due to wanting Case closed, Judge's Aug. 4th rulings rejected my Cross-Motion **(4T, p. 45, line 9, to p. 46, line 14)**, & Oct. '22 Order, par. 2, dictate for Roth to issue Final Accounting **(4T, p. 47, line 19, to p. 48, line 9)**.

LEGAL ARGUMENTS

My Certifications, to reconsider Oct. '22 & Mar, 7, 2023 Orders, & this Appeal to reconsider provisions of those Orders, & Aug. 4th rulings & Sept. 6, '23 Order, validate needed resolutions for Appellate consideration and approval.

A. CERTIFICATION: MOTION TO RECONSIDER OCT. 2022 ORDER

My Oct. 26, '22 Cert. substantiated Court should revise Oct. '22 Order due to invalid claims/rulings. Key paragraphs for reference for this Appeal follow.

1) Court Rider to Judgement for October 6, 2022 Order

Verified Complaint Application (Exh. "G") (51a-56a)

See Cert. par. 4-9&11-16 (Exh. "P") (162a-166a).

Jeffrey's Exceptions to Mr. Roth's Trust Intermediate Accounting

See Certification par. 19, 20, & 25 (167a-169a), and key paragraphs below:

21. Court disregarded Exceptions (Exh. "L", p. 11-13, par. 9) (119a-121a) to Ambrose's explanations in Aug. 4, 2022 responses (Exh. "J") (92a-93a) to Audit question for \$74,248 C&D legal fees that proved they were "insufficient, misleading, false, or not relevant for Ms. Ross' Trust", since billed C&D work to Trust was for services contractually made on behalf of Leslie, & NOT the Trust, for the Harriet Ross Estate Case, P-258-16, incl. my past Appeals.

My Exceptions (p. 11-13, par. 9) (119a-121a) rejected Ambrose's insufficient & misleading/false explanations for possible Trust work as not credible nor valid, or were for legal work in 2022 after C&D's billed work thru Dec. 31, '21. Based on Jacobson's Aug. 4, '22 letter (Exh. "I", p. 3-4) (86a-87a), all described C&D billed work thru Dec. 31, '21 was for Estate P-258-16.

22. Court disregarded my Exceptions (p. 13-19, par. 10a&b) (121a-127a) provided detailed objections to Jacobson's explanations in Aug. 4th response

(Exh. "I", p. 1-3) (84a-86a) to Audit questions regarding Ferro's legal fees of \$15,022, and R&S accounting fees of \$31,259, that proved they were "insufficient, misleading, false, or not relevant", and were not justifiable.

23. Court disregarded my Exceptions (p. 19, par. 10c) (127a) pointed out that Jacobson's explanations confirmed that all C&D "billed invoices [for \$74,248.18 were] related to the Estate Case in the Lower Court (P-258-16) and two related Estate Cases with the Appellate Court". It confirmed my objections to Trust payments for C&D legal work for \$74,248.18. See also par. 21 above.

Roth's Reply to Jeffrey's Exceptions to Trust Accounting

See Cert. par. 27-29,32-35,&39-41(170a-176a). See Rider p. 9-10 (26a-27a)

Court's Rulings in the Oct. 2022 Order Rider (Exh. "B")

42. Court's ruling (p. 14, 1st par.) (31a) that it "has reviewed exceptions by Leslie & Jeffrey & is satisfied with Intermediate Account & that "exceptions" raise no genuine disputes" is overwhelmingly contradicted by presented facts & substantive mistaken figures for genuine disputes related to Trust Accounting based on my Aug. 8, '22 Exceptions (114a-128a) that are also addressed in this Certification. Court should not be satisfied with the Accounting, since it has become a fraudulent Accounting due to substantive mistaken figures that I verified as requiring corrections, & which Mr. Roth refused to make based on his claims that I demonstrated are illegitimate. No legitimate & reputable CPA would allow these mistakes to remain, let alone in an audited Accounting. Court

cannot be in denial & disregard my Certification identifies substantive "genuine disputes" regarding my filed Exceptions, & that I offered practical resolutions.

43. Court's ruling (p. 14, 1st par.) that "Intermediate Account accurately details the assets, expenses, and liabilities of the Leslie Trust" disregards substantive inaccuracies and illegitimacies based on my Exceptions (114a-128a) to figures for assets, expenses, deductions, distributions, payments, and liabilities of the Leslie Trust that I also identified in this Certification.

44. Court's ruling (p. 14, 1st par.) that "co-trustees, Roth & Leslie, adequately answered the audit questions posed by Bergen County Surrogate" disregards my detailed Exceptions w/substantiated facts in refuting their invalid & illegitimate answers (Exh. "L", Exceptions, p. 11-19, par. 9&10) (119a-127a).

45. Court's ruling (p. 14, 1st par.) "Roth acknowledged erroneous calculation [erroneous income commission payments of \$543.70 to Leslie as Co-Trustee] and has rectified same" is inaccurate/incomplete. Mr. Roth did acknowledge that he paid back to Trust the \$543.70. However, Accounting still mistakenly reports Trust commission payment of \$543.70 to Leslie, nor was it updated to accurately report return of \$543.70. No legitimate CPA would allow such mistakes to remain in an accounting, let alone in an audited Accounting.

46. Court rulings (p. 14, at end of 1st par.) that followed in regards to "audit questions requested an explanation of the fees paid to Cullen & Dykman, Ferro

Labella, & Roth & Spellman" are in complete denial & disregard of my detailed Exceptions with substantiated facts in refuting Mr. Jacobson's invalid answers and explanations (**Exh. "L", Exceptions, p. 11-19, par. 9&10 (119a-127a)**).

47. Court has **NOT** addressed & **NOT** ruled on my Exceptions, par. 9 (**p. 11-13), (119a-121a)** on 1) legitimacy/accuracy of \$74,248.18 Trust payments for Cullen & Dykman legal services (no billed invoices w/detailed descriptions were provided for review, even after my request to Roth (req'd per 3B:31-67)) on behalf of Leslie for Estate Case P-258-16, & **NOT** on behalf of Trust for P-242-22; 2) \$15,022¹ (**par. 10a, p. 13-16 (121a-124a)**), incl. \$10,902¹ for Ferro Labella legal services that I demonstrated were **NOT** for Trust's benefit, but were for Mr. Roth's personal benefit, and could have been avoided as being unnecessary if there was 3-Way Settlement; 3) \$4,120¹ for 2021 legal work that should **NEVER** have been accepted by Ferro Labella since C&D was Trust counsel. The \$10,902¹ was for Nov. '21 through Jan. '22 services, for which no billed invoices with detailed work descriptions was provided for review¹, even after my request to Roth (req'd, as per R.3B:31-67). Roth & Spellman's \$31,259.74 (2019-2022) accounting fees (Accounting reported \$25,073.07 {**p.20**} deducted from Corpus & \$6,186.67 {**p.47**} from Income {**67a&69a**}) were not supported with billed invoices w/detailed work descriptions for review

¹ Oct. '22 Rider (**31a, last par., to 32a, second line**) denied Leslie's Exceptions to these fees.

by me. I requested Roth to provide them (req'd per R.3B:31-67). Without R&S invoices w/details for billed work, the \$31,259.74 was excessive, unexplainable, & potentially inaccurate and/or unwarranted for Trust accounting that should have cost considerably less than \$10K between 2019 and 2022.

Court Rulings on Jeffrey's Exceptions (Exh. "B")

48. Court's ruling (p. 15) (32a) that "Jeffrey lacks standing to file exceptions to the Intermediate Account" is totally lacking in credibility, logic, facts, reality, NJ statutes, and relevant, legal case precedence. Court's illegitimate ruling can only be explained based on Court's extreme bias against Mr. Ross, as evidenced by its reliance and/or highlighting of illegitimate, misleading, & false claims, w/o recognizing that Mr. Ross refuted them with substantiated facts, by Mr. Roth in responses to Mr. Ross' Exceptions, and denial & disregard of substantiated facts & Exceptions by Mr. Ross. Based on substantiated facts, this Certification refuted all Court misleading & false claims related to Mr. Ross' Exceptions, and has pointed out Mr. Ross' overwhelming filed Exceptions that further supported his positions, and refuted positions by Mr. Roth and the Court.

49. Court tries to support its biased & illegitimate ruling by stating (p. 15) that "New Jersey case law suggests that contingent remaindermen under a testamentary trust (such as Jeffrey) who are unaffected by allowances out of income or from payment of corpus commissions cannot file exceptions to such

items in an accounting." Court raises this red herring, bogus argument, even though my Exceptions to Trust Accounting had **PRACTICALLY NOTHING** to do with income allowances, & **ABSOLUTELY NOTHING** w/Commissions. My filed Exceptions, as supported by this Certification, were focused on the Accounting reporting mistakes &/or problems, that would adversely affect me, regarding Trust Corpus, Trust Assets, Trust paid expenses that were deducted against Trust Corpus, Trust paid expenses improperly allocated between Trust Corpus & Income, & unsubstantiated Trust paid expenses, deducted against Corpus, w/o back-up docs for review that were requested by me, as qualified Remainder Beneficiary, that Mr. Roth, as Co-Trustee, was obligated to provide, as required by NJ R.3B:31-67 (Exh, "L", p. 20, par. 11) (128a).

50. Court doubles down on illegitimate rulings by raising a red herring, bogus argument (p. 15-16) (32a-33a), "Jeffrey, a contingent remainder beneficiary of the Leslie Trust, has no current entitlement to the Leslie Trust income. As such, it cannot be said with certainty that Jeffrey would be adversely affected by the payments of the income or corpus commissions outlined in the Intermediate Account." Court was in denial that my Accounting Exceptions were **NOT** focused on Commissions nor Income, but on Trust Corpus, and Trust paid expenses deducted against Corpus, all of which affected me as a beneficiary (see also par. 49 above, last sentence, for what my Exceptions focused on).

51. Court then compounds the error of its ways and ruling by focusing **(p. 16) (33a)** on the completely wrong substance of the Will in regards to "provid[ing] the "respective child Co-Trustee [Leslie)] with the explicit authority to approve the accounting prior to payment by the Leslie Trust". It is a flawed argument since Mr. Roth's Trust Accounting was **NOT** filed **PRIOR** to payments by the Leslie Trust for her approval, but was filed **AFTER** payments were made by the Leslie Trust. Court then has the audacity to cite **(p. 16)** the Will, par. 10.6, in support of its invalid argument based on its misstatement of circumstances that would be detrimental to me. Court overlooked that the cited paragraph that it thought would prevent me from addressing Exceptions, had a provision that allowed me to address Exceptions based on Mr. Roth's Verified Complaint, which listed me as Interested Party to review Trust Accounting, since it states:

"Prior to transferring any or all of the assets of each trust to a Successor professional Co-Trustee or to making complete distribution of trust principal, *the professional Co-Trustee may require an approval of its account either by a court or competent jurisdiction or by such of the beneficiaries as it deems appropriate. (48a)*

52. Court **CANNOT DENY** that Mr. Roth, as professional Co-Trustee transferring assets of the Leslie Trust to a Successor, submitted his Trust Accounting for the approval of all remainder Trust beneficiaries, incl. me, as well as his Co-Trustee, Ms. Ross. That should be the final slam dunk argument invalidating the Court's ruling that I had no standing to file exceptions. But

unfortunately, it is not. The biased Court continued to go out of its way to inflict and concoct even more adversity for trying to prevent me from being allowed to file Exceptions to the Trust Accounting (**See par. 53-55 below**).

53. Court stretches its lack of credibility further by falsely claiming (**p. 16**), “even assuming en arguendo that Jeffrey has standing to file exceptions to the Intermediate Account, his exceptions are flawed and fail pursuant to R. 4:87-8 of Court Rules, which states, “[t]he exceptions shall state particularly the item or omission excepted to, the modification sought in the account and the reasons for the modification.” The only problem with that Court denial is that each of my Exceptions did state particularly the items or omissions for exceptions, the modifications sought in the accounting, and the reasons for the modifications.

54. To make the Court's biased attempts to take away my legal rights in this Case even more egregious, it cited a portion of R.4:87-8 (**See par. 53**), while ignoring the part of R.4:87-8 that supports my legal rights, as a designated “interested party” to submit Exceptions to Mr. Roth, CPA, based on:

In all actions for the settlement of accounts, other than plenary actions, *any interested person may*, at least 5 days before the return of the order to show cause or within such time as the court allows, serve the accountant written exceptions, to any item in or omission from the account

55. Court doubled down on its lack of credibility for its ruling (**p. 16**) (**33a**) by citing “an exception may be stricken because of its insufficiency in law”, and then falsely ruling that “Jeffrey's exceptions are insufficient as a matter of law

because they relate to style rather than substance, concern matters of fiduciary discretion, or do not relate to the accounting", all of which were falsely claimed by Mr. Roth, but refuted by me, since none of his claims are supported by facts challenging *my Exceptions, all of which relate to substance of Trust assets, substance of Trust expense deductions against assets, and substance of required reporting details for figures in the Trust Accounting.*

Oct. 2022 Order Rider's Conclusions (Exh. "B")

56. Court Rider's stated Conclusions (p. 17) (34a) are invalid due to:
- Flawed, mistaken, incomplete, and now fraudulent Intermediate Accounting, since it has known mistakes that Mr. Roth refused to correct, **CANNOT** be approved by the Court, & must be revised for further review and acceptance based on my allowed Exceptions regarding Accounting mistakes of substance, and needed revisions of substance to Trust Corpus.

Requested Back-Up Info/Documents for Trust Intermediate Accounting

Court Rider disregarded my requests. See Cert. par. 57-59 (183a-185a).

2) Problems with Court Hearing of September 22, 2022 (1T)

60. Judge DeLuca's hearing process violated my rights as a pro se litigant since he did not afford me time to adequately address key arguments, along w/new arguments based on new info in Roth's 2 Certifications, of Aug. 12th, (Exh. "N"&"O") (151a-160a), new info by Ambrose at the Hearing,

accusations against me by Ambrose & Jacobson at the Hearing, & my requests for additional rulings based on that new info by Mr. Ambrose & Mr. Roth in order to justify and support my case for proper and fair decisions by this Court.

61. Rather than take needed time for the Court to hear my new arguments & new requests for rulings based on new info in Roth's 2 Aug 12th Certifications, for which the Court was previously notified that I needed to address based on my Sept. 12, 2022 email request for a Sur Reply (**App. Exh. "F"**) (**201a-202a**), which the Judge rejected, & new info presented by Mr. Ambrose at the Hearing, the Judge imposed an inexcusable time limit (8 minutes) on presentations by each party (**1T, p. 10, Lines 14-16**). As explained to Judge, it was impossible for me to present key arguments, incl. new info/arguments & new requests for rulings, & further persuade the Court for my case in a limited 8-minutes, when I would need even more time to address new info presented by Mr. Ambrose at the Hearing and Mr. Roth's Aug. 12th Certifications. (**1T, p. 17, Lines 4-22**).

62. Disregarding that I indicated that I would need more time, as per par. 61, the Judge limited me to 8 minutes (**1T, p. 20, Line 10**). He unfairly cut me off, & then allowed Mr. Cevasco to make his presentation (**1T, p. 21, Lines 17-21**).

63. Judge refused to allow me to refute new misleading claims against me by Mr. Ambrose and Mr. Jacobson at the Hearing (**1T, p. 25, Lines 9-12**).

64. Mr. Ambrose disclosed for first time he had approved Trust withdrawals

for Leslie's personal distributions that Roth did not authorize, & that violated Court's June '22 directive that he would need to make pleading for the Court to consider allowing Trust distributions to Leslie since Mr. Roth was not allowing distributions until Court ruled on his Verified Complaint & Accounting. Judge did not request, & Ambrose did not volunteer, any other details about amounts, dates, & purposes of withdrawals. (1T, p. 14, lines 1-24). See Cert., p. 28, par. 76&77 (189a) for details based on my follow-ups with Mr. Jacobson.

65. Court's Rider and rulings disregarded my arguments based on new info that I addressed at the Court Hearing (1T, p. 16-21) that further supported my positions, & that negated positions by Mr. Jacobson, Mr. Roth, & Mr. Ambrose.

3) Follow-Up After Mr. Roth's August 12, 2022 Filings

66. Roth filed 2 Certifications (Exh. "N" & "O") (151a-154a) (156a-160a) in response to Aug 8, '22 Exceptions by Ambrose & me to his Trust Accounting

67. His responses to my Exceptions had extensive unsubstantiated false claims, & which required my refuting them to Mr. Roth, & eventually to the Court (see p. 13, Roth's Reply to Jeffrey's Exceptions, & par. 71-74 below.)

70. Roth's Aug. 12, '22 Cert. (Exh. "N") in response to Ambrose's Aug. 8, '22 Exceptions unleashed previously undisclosed, unethical bombshells, which should have been disclosed during P-069-22 filings in Feb. & March 2022:

- a. Roth's rejection (Nov '21) of Leslie's attempt to use Trust as her personal

piggy bank to allocate Trust Corpus to pay for her personal investments based on Mr. Kurzman's unethical investment recommendations. **(par. 5) (152a)**

b. Contentious disputes between Mr. Roth and Leslie since 2019 over whether the Trust would pay any portion of her personal legal fees in regards to Estate matters related to P-258-16. **(par. 4) (151a-152a)**

c. Roth's rejection of Leslie's attempt to use Trust as her personal piggy bank to pay off her home equity line of credit balance. **(par. 4)**

71. I issued Aug. 19, '22 letter to Mr. Jacobson & Mr. Roth that addressed issues in par. 66-70, along w/requests to resolve matters, & work w/Ambrose, Leslie, & me towards a 3-Way Settlement. I highlighted some of the problems with Mr. Roth's false claims regarding my Exceptions. I addressed in greater detail the problems with previously undisclosed unethical bombshells (see **par. 70 above**). They ignored my letter **(App. Exh. "J") (208a-213a)**.

72. I issued August 30th letter **(App. Exh. "K") (215a-218a)**. It went into greater details to refute Mr. Roth's false claims about my Exceptions. It emphasized my requests to resolve matters, & work towards a 3-Way Settlement. Their only response was to decline a 3-Way Settlement.

73. My Sept. 6th letter **(App. Exh. "L") (220a-226a)** re-emphasized the seriousness of problems that Roth's Certifications would cause due to falsified explanations for incorrect Accounting figures/descriptions from my Exceptions,

& opening up Pandora's Box of previously unknown, unethical, unprofessional, and fraudulent Co-Trustee/CPA actions for improper management of Trust payments, and dereliction of duties as Co-Trustees since 2019, as per his responses to Mr. Ambrose's Exceptions. It re-emphasized my requests to resolve matters, & work towards a 3-Way Settlement. They ignored my letter.

74. Since Roth & Jacobson were ignoring & refusing my requests to resolve those matters, I emailed Mr. Hummel on Sept. 12, 2022 (**App. Exh. "F"**) (**201a-202a**) w/request for Judge DeLuca to allow filing of Sur Reply to Roth's Aug. 12th Certifications in order to address Roth's new bombshells about prior undisclosed problematic issues & events (**see par. 70-73 above**), as well as refute Roth's extensive false claims/arguments in trying to delegitimize my Exceptions to his Intermediate Accounting that would then become a fraudulent Accounting due to substantive mistakes that Mr. Roth was refusing to correct.

75. Judge DeLuca denied my Sur Reply request, and then did not allow me adequate time to address these matters at the Hearing.

CONCLUSIONS - The Court should:

1. Approve my Aug. 8, '22 Exceptions to Intermediate Accounting (**114a-119a par. 8**) for revisions & resubmittal by Mr. Roth for my final acceptance.
2. Approve my requests (**128a**) for Roth to submit requested back-up info & documents to me, as Qualified Beneficiary, for my review/verification of Final

& Intermediate Accountings figures, based on his Co-Trustee obligations under NJ Uniform Trust Code, R.3B:31-67.

3. Require payback for prior Trust payments of \$15,022.72, as shown in Accounting, for Ferro Labella's legal fees (122a-124a, 1st par.). Court rejected Ms. Ross' Exceptions that required payback (31a, last par., to 32a, 1st 2 lines)

4. Not approve prior Trust payments of \$31,259.74 for Roth & Spellman's 2019-2022 accounting fees, as per Accounting, pending my review & resolution w/Mr. Roth of any Exceptions after submittal of requested R&S docs by me, as Qualified Beneficiary, as req'd by R.3B:31-67. (124a, par. "b"-127a, 1st par.)

5. Require Cullen & Dykman's payback of \$74,248 Trust payments, as per Account, for 2019-2021, legal fees for Estate P-258-16 (119a, par. 9, to 121a).

6. Explicitly state in updated Order that Mr. Roth shall issue a Final Trust Accounting. It was required by R.3B:14-7 in Oct. 6, '22 Order, par. 2 (17a).

By disallowing my standing to have Accounting Exceptions considered, the Court then did not rule on my Exceptions for Items 2-5 above. While not ruling on Item 6, its Oct. 22 'Order, par. 2, which cited 3B:14-7, implicitly required it.

B. CERT. REPLY TO OPPOSITIONS TO RECONSIDER OCT. '22 ORDER

Mr. Jacobson's November 14, Letter Brief

My Nov. 25, 2022 Cert. (Exh. "Q", par. 9-25) (229a-231a) verified Court must reject Jacobson's baseless Letter Brief, which did NOT have supporting

facts, NJ rules, or NJ Case rulings to legitimately justify his positions.

Mr. Ambrose's November 14, Letter Brief

My Nov. 25th Certification proved my Reconsideration Motion should have been allowed, as I refuted (Exh. "Q", par. 26-48) (231a-235a) Ambrose's Letter Brief due to substantiated facts & Exceptions.

Mr. Roth's Aug. 12, '22 Cert. in Opposition to my Aug. 8th Exceptions

My Nov. 25, '22 Cert. (Exh. "Q" par. 55-69) (236a-243a) verified Court must reject Roth's baseless Cert. (156a-160a) due to substantiated Exceptions.

Conclusions: See Nov. 25, 2022 Cert. Conclusions (Exh. "Q") (243a-244a), & updated Proposed Order (Exh. "R") (248a-252a).

This Section further justifies Section "A" for my Appeal in order to dismiss any further repetitions by Respondents of their prior false claims & accusations.

C. CERT: OPPOSITION TO LEGAL, COMMISSION, & ACCOUNTING FEES

Roth's Certification: Trust Payment of Income/Corpus Commissions (Exh. "T")

Court disregarded substantiated facts and arguments in my Nov. 4, '22 Certification (Exh. "V", p. 2-3, par. 6-8) (304a-305a) proving that Roth's Commissions should be \$1,946.56, & NOT \$2,039.53 in March 7, '23 Order. My Certification responded to Roth's Item Nos. 4-6 in his Certification (295a).

Roth's Certification for Trust Payment of Accounting Fees (Exh. "U")

Court disregarded substantiated facts/arguments in Nov. 4, '22 Cert. (Exh. "V",

p. 3-4, par. 9-12) (305a-307a) that accounting fees should be \$16,575, & NOT \$17,649.57 in Mar. 7, '23 Order. I rejected Ms. Dunne's \$560.5 hourly charges in July since Accounting was issued in May, & rejected unwarranted \$514.07 admin fee, which was 3% of hourly charges, as authorized by Roth, but NOT Leslie. It responded to Roth's Item Nos. 2-4 in his Cert. (298a-299a).

As further evidence for disallowing the 3% admin fee, the Court disregarded that my Nov. 28, 2022 Certification in response to Jacobson's Nov. 16th Reply to Oppositions by Mr. Ambrose's and me to the requested fees stated:

"Mr. Jacobson has the gall to present Mr. Roth's self-serving, retainer agreement, which he issued to himself for his approval signature, and which was NEVER shared w/Interested Parties [incl. Leslie & Ambrose] to this Case, for his Trust Intermediate Accounting *in order to try & greedily justify a 3% administrative fee [in that retainer] on top of his \$395/hr and Ms. Dunne's \$295/hr rate* for the accounting fees of Roth & Spellman, a firm that Mr. Roth owns. Besides being grossly unfair in these circumstances, a 3% administrative fee (\$514.07), which was his creation in retainer agreement that he issued for his [secret] approval, on top of ~\$17K for Roth & Spellman invoice, is unwarranted for Trust payment". (Exh. "Z", p. 17, par. 27, to p. 18) (402a-403a)

Mr. Jacobson's Affidavit of Ferro Labella's Legal Services (Exh. "S")

Court disregarded I confirmed multiple times that NONE of Ferro Labella's billed work, that was based on unnecessary filings w/fabricated, mistaken, & false claims & repeated rejections of a readily achievable 3-Way Settlement, would have been required if they had agreed to work on a 3-Way Settlement. It meant that NONE of the billed work should have been approved by the Court.

Court disregarded that I repeatedly pointed out that his Affidavit for billed work was extensively littered with fabricated & false claims and blatant lies, all of which I refuted with substantiated facts in my Nov. 4, 2022 Certification, and that **ALL** billed work should **NEVER** have been approved by the Court.

Court also disregarded that some billed services were for legal work related to Estate Case Docket P-258-16, & **NOT** for the Trust Case, & should **NEVER** have been approved by the Court. See Jacobson's Oct. 26, '22 Affidavit summary (256a, lines 2-4 {P-258-16 & Appeals}; lines 7-8 {subpoena}; 257a, last 3 lines {2018 Estate tax returns}; 258a, lines 7-8 {Sibling Settlement})

Court disregarded it was rationally, ethically, & professionally disturbing for their grossly excessive request for Trust payment for \$113,497 legal fees since it was incomprehensible how Mr. Roth and Mr. Jacobson allowed legal work for \$10,902 from Nov. 11, '21 to Jan. 31, '22, as per Oct. 2022 Order, & \$113,497 from Feb. 1 to Oct. 25, '22, for a grossly excessive \$124,399 total in order to allow Mr. Roth to resign as Co-Trustee, which all parties agreed to, & settle Trust based on Surrogate audited Accounting. There should **NOT** have been any rationalization for \$124,399, nor for Court allowing \$104,180 based on \$10,902.24 in Oct. 2022 Order & \$93,277.54 in Mar. 7, '23 Order, for 1-year's work to resolve Exceptions to what should have been a straight forward Trust accounting & Co-Trustee resignation by Mr. Roth. To add insult to injury, Ferro

Labella's billed legal work from April to Oct. 25, 2022 should have been completely avoided if Roth & Jacobson heeded communications by me & Mr. Ambrose in April/May 2022 **NOT** to file May '22 Verified Complaint with formal Trust Accounting since there was a detailed 3-Way Settlement, that they then refused to negotiate, based on Apr. 18/25, '22, agreement by Leslie & me **(324a-325a)(327a-328a)**. They also **FAILED** to heed my communications from July to Sept. 2022, prior to any Hearing & Order, to join a 3-Way Settlement.

It was all addressed in Nov. 4th Cert. that did not justify any of his legal work **(Exh. "V", p. 6-14, Conclusions, p. 17-18) (308a-316a, 329a-320a)(Exh. "V", App. Exh. "D-"F") (324a-342a) (Exh. "V", App. Exh. "G") (208a-226a)**

This Section also support my May 25, 2023 Cross-Motion (Section "F") for refuting Feb. 17, 2023 Rulings & revising March 7, 2023 Order, par. 1&2.

D. CERTIFICATION REPLY TO AMBROSE'S OPPOSITION TO FEES

Judge did not allow Ambrose's Nov. 4, 2022 filing to reduce by \$28,060 the requested \$113,497 payment for legal fees **(3T, p. 12, Lines 16-18)**, as Judge came up with baseless \$22,219 reduction **(3T, p. 12, line 6, to p. 12, line 10)**.

My Nov. 9th Cert. substantiated facts/arguments to reject Ambrose's request due to refuting concocted/false claims. However, Court should **NOT** have approved **ANY TRUST PAYMENT** for Ferro Labella's legal fees since Ambrose's filing agreed with me that "Ferro Labella's fees incurred between

Feb. 1, 2022 & Oct. 25, '22 are exclusively result of (i) Roth's [& Jacobson's] refusal to engage in good-faith effort to achieve global resolution [for 3-Way Settlement] of all issues by & between parties" (**Exh."X"**, **Conclusions, p. 13, 3rd par.) (369a)**), as also validated in my Nov. 4, 2022 filed Opposition to all legal fees based on facts & communications with Mr. Ambrose & Mr. Jacobson.

This Section further justifies Section "C" for my Appeal in order to dismiss any further repetitions by Respondent of his prior false claims & accusations.

E. CERT. REPLY: JACOBSON REPLY TO OPPOSITIONS TO FEES

My Nov. 28, '22 Certification (**Exh. "Z" Conclusions, p. 20-22) (405a-407a)**) concluded that I presented substantiated facts/arguments for refuting, & Court rejecting Mr. Jacobson's Nov. 16th Reply & Oct. 26th filed Requests.

This Section further justifies Section "C" for my Appeal in order to dismiss any further repetitions by Respondent of his prior false claims & accusations.

F. CERT. FOR CROSS-MOTION: OCT. 2022 & MARCH 7, '23 ORDERS

Key facts/arguments for my Appeal based on cited paragraphs from my May 25, 2023 Cross-Motion to Mr. Jacobson's March 23, 2023 filing are noted:

11. Court disregarded "Leslie seized trust assets [(Wells Fargo accounts in Roth Accounting) w/o notifying Roth, who found out Nov. 14th (**Exh. "AA", App. Exh. "R", p. 2, Nov. 30, '22 letter to Judge)**] (**467a**) that Final Judgment [Oct. '22 Order] authorized Mr. Roth to retain" (**Jacobson Mar. 23, '23 Brief**).

This unethical & illegitimate action, which was also approved by Ambrose, violated the Oct. 2022 Order, par. 2&3, which required Mr. Roth to oversee the administration of Trust assets, while preparing a Final Trust Accounting, which required access to Wells Fargo financial documents for the Trust assets.

12. Feb. 17, '23 rulings disregarded legitimate facts/arguments in my Reconsideration Motion of Oct. '22 Order that refuted Judge DeLuca's rulings. Judge Jerejian disregarded that I proved I was vested Beneficiary, & my Accounting Exceptions demonstrated that, even if I was not vested, I had a "definitive, concrete future interest" in Trust Corpus, as Remainder Beneficiary, that was detrimentally reduced due to mistaken Accounting & financial actions identified in Accounting. Judge Jerejian simply repeated Judge DeLuca's Oct. '22 rulings for disallowing my Exceptions, w/o justifications for not addressing that his repeating those reasons had been refuted by my filing (**3T, p. 4, line 8, to p. 5, line 6**). Mar. 13, '23 Order corrected its Mar. 7th Order so that I was "Vested Remainder Beneficiary", which also negated Judges' repeated reasons.

[As a May 2024 update, in my Aug. 4, 2023 Hearing presentation I indicated that "A vested remainder beneficiary interest is when the vested remainder beneficiary will receive possession because the interest is not subject to any conditions or limitations except for the natural ending of the prior interest; that is the death of a lifetime beneficiary which in this case is Leslie. That is what

the [Harriet Ross] Will confers on me. New Jersey Appellate ruling for Estate of Mecca, Docket No. A-3233-10-T3 of September 6, 2011 further supports the case that I am vested remainder beneficiary, and I have found other Court cases in which Judges have ruled similarly.] (4T, p. 34, line 19, to p. 35, line 5)

Mr. Roth's Compliance, as Discharged Trustee, with Oct. '22 Order for Final Trust Accounting & Administration (see also par. 25-26) (427a)

21. Jacobson's Brief, p. 1, for his March, 23rd Reconsideration Motion stated that Mr. Roth needed "to finalize his administration of the Leslie Trust, as permitted by N.J.S.A. 3B: 31-52 (b)", as dictated by Oct. 2022 Order, par. 3. His Trust admin also required a Final Accounting, as per par. 2, incl. 3B:14-7.

22. Jacobson & Roth **FAILED** to carry out **ANY** Trust administrative & final accounting provisions of Oct. '22 Order, par. 2&3, incl. 3B:31-5(a)(2), 3B:14-7, & 3B:31-52(b), even after I repeatedly emailed them for compliance.

23. Since Oct. 21, 2022, I inquired by emails, w/o success, w/Jacobson about Roth's required filing of Final Trust Accounting. He did not respond. **(Exh. "AA", Appendix Exh. "B") (449a-450a)**

24. I tried on Feb. 21&27, 2023 to request their confirmation to issue & file a Final Informal Trust Accounting, or I would need to follow up with Court. They did not respond. **(Exh. "AA", Appendix Exh. "C", March 1, 2023 Letter to Judge, & its Appendix Exh. "A") (452a-459a)**

27. My March 20, '23 letter to Judge pointed out there were outstanding

issues & actions for Roth's compliance w/Oct. 2022 Order, par. 2, incl. 3B:14-7, to file Final Informal Trust Accounting. It noted that I had 2 lists of required info for inclusion in the Accounting. (Exh. "AA", Appendix Exh. "D") (451a-454a). Judge never addressed these matters, even after I requested a conference.

Refuting Judge's Claims and Rulings at Feb. 17, 2023 Hearing

29. Judge had mistaken rulings for Jacobson's Oct. 26th application for Trust payments for Roth & Spellman fees for Intermediate Accounting; Roth's Commissions for 2022; & Ferro Labella's legal fees from Feb. 1 to Oct. 25, '22.

30. Judge stated "there's this notion that there could have been an informal accounting, they could have saved fees, there could have been -- but that's not been the history of this case." (3T, p. 10, lines 14-18). Substantiated facts in my filings countered his wrong conclusions, which corrupted his rulings

Mr. Ambrose and I verified that our requested informal accounting would provide same details as Mr. Roth's 98-page Formal Accounting since informal accounting had to comply w/same formal accounting detail requirements of NJ 4:87-3, so there would be no questions, for whether there were sufficient details, that can arise due to a less rigorous informal, instead of formal, accounting.

Mr. Ambrose and I verified that we were ready to enter a Surrogate filed, Settlement w/Mr. Roth where we would accept his informal accounting in compliance w/NJ 4:87-3, w/o any exceptions. Mr. Ambrose engaged Mr. Roth

& Mr. Jacobson around Nov. 2021 before my involvement in these matters. I repeatedly made this clear to Mr. Jacobson after I first found out in Jan. 2022 about the request for Mr. Roth to resign as Co-Trustee. They repeatedly rejected our efforts by repeating irrational claim that they could not trust me, even after Ambrose & I repeatedly indicated that my interests, as Remainder Beneficiary, was to avoid unnecessary litigation, that would deplete Trust assets, based on Settlement for no exceptions to an informal accounting. It meant there would be **NO** questions about whether there would be **NO** unresolved exceptions, which can arise due to less rigorous informal, instead of formal accounting.

I verified Jacobson repeatedly told me he did not believe Ambrose, Leslie, & I could reach provisions for a 3-way Settlement, but that if we could reach such Settlement, that he & Mr. Roth would work with us to finalize such Settlement.

I verified that when Ambrose & I emailed Jacobson that Ambrose, Leslie, & I agreed on Apr. 25, '22 provisions of 3-Way Settlement, which would require acceptance, w/o exceptions, of an informal accounting in compliance w/4:87-3, Mr. Jacobson inexplicably responded they would not work on a Settlement.

Mr. Ambrose & I verified that we requested Mr. Jacobson to postpone filing Verified Complaint w/formal accounting for Surrogate/Court acceptance, so that we could quickly reach a Settlement w/acceptance of Trust accounting w/o further litigation. We verified that they ignored our requests & made their filing.

Mr. Ambrose & I verified that we confirmed to Jacobson there was no reason why I would not honor, as Mr. Jacobson and Mr. Roth claimed I would not, the April 25th Settlement since it would be financially beneficial to me by allowing me access, as a Remainder Beneficiary, to Ms. Ross' Trust and its income, since she would renounce her beneficiary status. I verified that I also responded to Mr. Jacobson with resolutions to his 5 exceptions to the April 25th Settlement.

I verified I regularly emailed Mr. Jacobson, who ignored my requests, thru Sept. 2022 to have Mr. Roth accept finalizing a 3-Way Settlement to avoid continuing litigation and expected exceptions to Verified Complaint and Trust Accounting, that would NOT have occurred if there was 3-Way Settlement.

See (Exh. "P", App. Exh. "J", p. 1, 1st two par., & p. 6; App. Exh. "K", p. 1, 1st two par., & p. 4; App. Exh. "L", p. 1, last two par. to p. 2, 1st three par., & p. 3) (Exh. "V", App. Exh. "D", "E", & "F") (208a) (213a) (215a) (218a) (220a-222a) (324a-344a).

So, the history of this Case was very clear that Mr. Ambrose & I made every effort to address and resolve all concerns by Roth & Jacobson for honoring a 3-Way Settlement based on acceptance of an informal accounting in compliance with 4:87-3 with the exact same level of details of a Court filed formal accounting vs. a long litigious process with expected exceptions to Mr. Roth's formal Intermediate Accounting and Court filed, Verified Complaint.

There was no justified basis for Court to conclude that a Settlement could not have been reached that did not allow exceptions to an informal accounting based on 4:87-3, while addressing any concerns of Mr. Roth and Mr. Jacobson.

31. Unfortunately, Mr. Jacobson had a not-so-hidden agenda. Based on his irrational rejections, and ignoring explanations, to resolve matters, it was in Ferro Labella's financial interests to continue litigation w/ endless billings instead of a quick Settlement, which would be honored by me & Leslie. That agenda led to Ferro Labella's excessive billings of \$124,399, which I opposed (since Jan. 2022), from Nov. 11, '21 thru Oct. 25, '22, & \$33,716, which I opposed, from Oct. 26, '22 to Mar. 7, '23, for a total of \$158,105, plus at least another \$25K, which I opposed, for any Trust reserve for future legal work.

As further proof of Mr. Jacobson's agenda, Ferro Labella's possible legal work billings would have only been around \$5K that I intelligently estimated & cited in my Nov. 28, 2022 Certification, p. 9, par. 16, to p. 10, if they had worked for a quick 3-Way Settlement. **(Exh. "Z) (394a-395a)**

32. Judge stated "it's understandable how Mr. Roth would want formal accounting, because I think Mr. Jacobson described otherwise it's a fool's errand, because nature of this whole case is just never ending" **(3T, 10:18-21)**

It was in **NO WAY** understandable how it would be a fool's errand, except for Mr. Jacobson trying to deceive the Court, when overwhelming evidence **(see**

par. 30) validated the idea that 3-Way Settlement was readily achievable since Nov. '21, & was 100% achievable after Apr. 25, '22, detailed 3-Way Settlement was reached by Mr. Ambrose, Leslie, & me. Unfortunately, Mr. Jacobson & Mr. Roth led their fools' errands to deny reality for 100% certainty for a 3-Way Settlement, & to deny that Oct. '22 Order, par. 2&3, required Mr. Roth, as a discharged Trustee, to complete final Trust administration & Final Accounting.

33. The Judge stated "Mr. Ambrose points out that he's been involved in the case *for several years* and has billed less than that. Mr. Jacobson is an excellent attorney, he does good work, but Court has to consider everything in totality and consider the factors to see if that fee was reasonable. Again, it comes out to more than \$113,000. I don't think it's fair to say he shouldn't get paid; he should get paid." (3T, p. 10, line 24, to p. 11, line 7)

First off, the disputes for this Trust Case had only gone on for a little over a year. Second, Mr. Ambrose was referencing several years of case work for significant amounts of litigation for Estate Case, P-258-16, since 2019. Third, any opinion about Mr. Jacobson, as an attorney, was meaningless since Judge needed to evaluate the legitimacy and reasonable efficacy of billed legal work independent of opinions about Mr. Jacobson's professional attributes.

And most importantly, the Judge was **NOT** deciding on whether Mr. Jacobson gets paid. He should have decided whether Trust should pay

those billed fees, which were Mr. Roth's obligation to pay since he instructed Mr. Jacobson for all of the unwarranted legal work.

Ferro Labella would have been paid regardless of the Judge's rulings.

Billed legal work for ~\$114K, even when reduced by Judge to ~\$93K, plus ~\$15K from Oct '22 Order, was excessive (~29%) in relation to Trust assets of \$378,455 (**Exh. "T", par. 4)(295a)** at end of Sept. '22, & closer to 36% when Trust assets were around my estimated \$300K on Feb. 17, '23, since it should have only cost around \$5K (**par. 31**) for readily achievable, 3-Way Settlement.

34. Judge stated that, after his rejections of \$20,219.50 from requested \$113,497.04, "So the total of fees and disbursements the Court will award is \$93,277.54, which I think is fair under the circumstances. There was a lot of work done. But, again, given what we're talking about in terms of assets, what we're talking about in terms of what exactly occurred, and I know Mr. Ambrose pointed out that, you know, a lot of this could have been avoided or perhaps diminished, but again, we have to also consider the history of the case. So I'll enter an order for that amount as well." (**3T, p. 12, lines 11-20**)

While there was lots of billed work, the extensive evidence, with communications by Mr. Ambrose & by me with Mr. Jacobson, validated that **NONE** of that extensive and endless billed legal work (based on unnecessary Court filings) would have been necessary if Mr. Jacobson & Mr. Roth agreed to

work on a readily achievable, 3-Way Settlement (see par. 30 above).

Once again, Judge also wrongly conflated “history of the [Trust] case” with very litigious, 8-year, Estate Case, P-258-16. There would **NOT** have been a 1-year Case nor litigation if Jacobson & Mr. Roth had agreed to 3-Way Settlement

I substantiated all of these facts/arguments in my Court filings & Dec. 22nd Hearing (2T, p. 4, line 5, to p. 7, line 16; p. 11, line 1, to p. 12, line 6; p. 24, line 8, to p. 32, line 18). Yet, Judge **FAILED** to refer to my facts/arguments that clearly refuted entire basis of Ferro Labella’s billed legal work for \$113,497.

Judge’s ruling was flawed & **NOT** fair based on substantiated facts that Roth & Jacobson proceeded w/Verified Complaint & formal Trust Accounting, which they were told to postpone since there would be exceptions by me, Leslie, & Mr. Ambrose, instead of finalizing a 3-Way Settlement that we achieved on April 25, 2022, and could have achieved it sooner if Jacobson and Roth had immediately agreed to the requests by Mr. Ambrose & Leslie in November 2021 for a 3-Way Settlement, which required no accounting exceptions.

Judge’s rejections for \$20,219.50 of billed work from the requested \$113,497 were also very subjective, and was **NOT** based on any legitimate facts.

Instead, my filed, substantiated, objective recommendation was Judge should ***NOT approve ANY Trust reimbursement of \$113,497*** since it was due to litigation work based on their unwarranted non-cooperation & false arguments

against a Settlement. That work should **NEVER** have occurred since Ambrose, starting in Nov. 2021, & I, starting in Jan. 2022, repeatedly told Mr. Jacobson they should focus on a 3-Way Settlement that Mr. Ambrose, Leslie, & I would agree on. Once again, Roth, & **NOT** the Trust, was responsible for those fees.

37. Judge made unprepared/unjustified rulings for Trust payments for Mr. Roth's commission and accounting fees, since he forgot to make any rulings until prompted by Mr. Jacobson **(3T, p. 14, lines 2-4)**.

38. Judge made unprepared decisions by then repeating Mr. Jacobson's requested amounts for accounting/commission fees w/o offering justifications or citing/refuting my filed objections. **(3T, p. 14, lines 5, to p. 15, line 8)**

Judge disregarded irrefutable facts in my **Nov. 4, 2022 Cert., par. 6-8 (304a-305a)**, that substantiated that Mr. Roth's Corpus and Income Commissions should be \$1,946.56, and **NOT** \$2,039.53, since I showed how Mr. Roth "decided to use the wrong basis for the Corpus Value for Calculating the Corpus Commission in contradiction to the facts, and that was not supported by the Court's Rulings and Order, dated October 6, 2022."

March 7th Order, par. 2, needs to be corrected to \$1,946.56 from \$2,039.53.

Judge disregarded irrefutable facts in my **Nov. 4, 2022 Cert., par. 9-12 (305a-307a)**. Roth & Spellman's fees from March 25 to May 4, '22 for Intermediate Accounting should be "corrected to \$16,575, which is their invoice

for \$17,135.50 hourly work minus \$560.5 hourly total for Ms. Dunne in July [work not related to May filed Accounting]. Court should NOT have approved the requested \$17,649.57, which also had \$514.07 administrative fee [based on slapping 3% administrative charge, which Roth approved w/o Leslie, on invoice totals. My Certification noted they also had an administrative charge of \$87.5 for delivering the Accounting to Ferro Labella]”. So, billing was double dipping with administrative fees of \$87.5 (acceptable) and \$514.07 (not acceptable).

Conclusions

Mr. Roth’s Compliance, as Discharged Co-Trustee, for Addressing Mr. Ross’ Exceptions, & Oct. ‘22 Order, par. 2, for Final Accounting

The Court overlooked requirements (Items a&b) due to its mistaken claim I had no standing for filing Exceptions (p. 1&2). Court needs to order that:

- a. Mr. Roth shall correct Intermediate Accounting based on Mr. Ross’ Aug. 8, 2022 Exceptions, and file with Court after Mr. Ross’ acceptance.
- b. Prior Trust payments of \$31,259.74 for Roth & Spellman accounting fees for 2019-2022 are not approved, as was allowed in Oct. 6, 2022 Order, par. 1c, pending Mr. Ross’ review of those payments & any Exceptions for resolution with Mr. Roth, or Court approval or denial, after submittal of his requested R&S invoice documents, as required by NJ R.3B:31-67.
- c. Mr. Roth shall prepare Final Informal Accounting, as required by Oct. 6, 2022 Order, par. 2, for period since April 1, 2022, for review by Mr. Ross

- d. Mr. Roth shall arrange to file with Court, any updates, as needed, to Final Informal Accounting based on resolving Mr. Ross' feedback, &/or require Court approval if there are outstanding Exceptions.
- e. Mr. Roth's Final Trust Accounting shall include all necessary details listed in Mr. Ross' March 1, 2023 letter, p. 2, to Judge Jerejian **(453a)**.
- f. Mr. Roth shall be allowed online access to Trust financial documents in Trust accounts prior to, and subsequent to, Trustee's seizure of assets in Nov. 2022 from the Wells Fargo Trust accounts ending in 4444 & 4088.
- g. Mr. Roth and/or his counsel shall simultaneously copy Mr. Ross on any communications with others that they have regarding Trust accounts, withdrawals, payments, purchases, sales, and other activity.
- h. Mr. Roth shall turn over, as a final Trust transfer of records, to Trustees, and Mr. Ross, as vested Remainder Beneficiary, as per NJ 3B:31-67, electronic spreadsheets for the Final and Intermediate Trust Accountings.

Court Rulings of February 17, 2023

Rulings for the March 7, '23 Order need to be revised as follows:

- a. Petitioner's motion for legal fees is **NOT GRANTED**. Ferro Labella shall pay back to the Trust \$93,277.54 awarded in March 7, 2023 Order.
- b. Petitioner's motion for Roth & Spellman's accounting fees is **GRANTED IN PART, DENIED IN PART**. Mr. Roth is awarded \$16,575. He shall

pay back to the Trust \$1,074.57, which is the overpayment from the \$17,649.57 awarded in the March 7, 2023 Order.

- c. Petitioner's motion for Mr. Roth's Trust income and corpus commission fees is **GRANTED IN PART, DENIED IN PART**. Mr. Roth is awarded \$1,946.56. He shall pay back to the Trust \$92.97, which is the overpayment from the \$2,039.53 awarded in the March 7, 2023 Order.
- d. Overpayments shall be paid back to the Trust within 21 days of this Order, with written confirmation to the Court and Mr. Ross.

In addition, based on my Aug. 8, 2022 Exceptions, which were overlooked:

- a. Cullen & Dykman shall pay back to the Trust \$74,248.18, as per Mr. Roth's Intermediate Accounting, p. 18&19 (**65a-69a**), that was for legal work in 2019-2021 for Estate Case P-258-16 upon behalf of Ms. Ross, and not the Trust, nor for Trust matters related to this Case.
- b. Ferro Labella shall pay back to Trust \$15,022.72, as per Intermediate Accounting, p. 19 (**66a**), that was awarded in Oct. 6, 2022 Order, par. 1d.

G. REPLY TO AMBROSE'S MAY '23 CROSS-MOTION: OCT. '22 ORDER

My May 30, 2023 Certification Reply agreed with his Cross Motion that Oct. 2022 Order should **NEVER** have authorized Ferro Labella's \$4,120.48 billed work, as part of \$15,022.72 in par. 1d, for review of Leslie's invalid request around June 2021 for Trust to pay off her personal home equity loan since it

was an indisputable fact that Ambrose, & NOT Jacobson, was counsel, at the time, for Trust & Co-Trustees, & Mr. Jacobson should NEVER have been consulted, nor accepted a review of this issue. My Aug. 8, 2022 filing, Item 10a, p. 14 (122a), had also argued that Court should reject that payment. Oct. '22 Rider, p. 14, last par. (30a), rejected Mr. Ambrose's Aug. 8, 2022 Exception. (Exh. "AC", Items 10&11, p. 6-7; p. 9, par. 10; p. 10) (484a-488a)

Proposed Order: I filed updated Order, incl. a provision that Court's prior approved \$4,120.48 should be paid back to the Trust (Exh. "AD") (503a-507a).

H. APPEALING RULINGS FROM AUGUST 4, 2023 HEARING

Refuting and Appeal of Superior Court Rulings

1. Judge ruled that all parties' Motions going back to my Reconsideration Motion of Oct. '22 Order "express dissatisfaction w/previous rulings". He cited what are legitimate bases for reconsideration of Orders. He misled by claiming "everybody believes that they have their right in their position and everybody else is wrong". He ruled "*This case has to end and, you know, at some point if there is dissatisfaction with rulings of this Court, it should be appealed instead of just keep coming back to this Court. So given that standard, I am not satisfied with any of this.*" (4T, p. 45, line 9, to p. 46, line 14)

My Motions substantiated Oct. '22 Rider & Feb. 17th Hearing claims/rulings are palpably incorrect & irrational; made in arbitrary & unreasonable, manner;

& overlooked significance of irrefutable probative, competent evidence contradicting Judges' claims/rulings, & were NOT filed due to dissatisfactions. (p. 12 to p. 22, par. 65) (p. 31-32, par. 12; p. 33, par. 29, to p. 41, par. 38)

Judge invented appealable, palpably incorrect "standards" that undermined unreasonable claims/rulings. His primary unreasonable, illegitimate, "standard" was *"This case has to end" period*, irrationally regardless of legitimate factors that he should have considered to correct the Orders. His corollary illegitimate "standard" was that *"if there is dissatisfaction with rulings of this Court, it should be appealed"*. Judge should know Appellate guidelines state Appeals must NEVER be based on dissatisfaction w/rulings. It NEVER mattered I had proved 1) significant, substantiated contradictions to Roth's Accounting (114a-119a, par. 8); 2) identified key info/docs (to verify accuracy/validity of figures) he NEVER provided (128a); 3) Roth's FAILURE to issue Final Accounting, as per Oct. '22, par. 2 (190a, par. 6 & last par.) (196a, par. 6g) (250a, par. 7h) (p. 32 to p. 33, par. 27 above) (439a-440a); & 4) unwarranted Court approved payments for legal, accounting, & commission fees that contradicted substantiated facts (Sect. "C", p. 26-29; p. 33 to p. 41, par. 38) (441a-442a). By approving unwarranted legal fees for \$15,022 & \$93,277; accounting fees for \$31,259 for 2019-2022, overpayments for commission & Intermediate Accounting fees, & overlooking required repayment of unwarranted \$74,248

Trust payments to Cullen & Dykman related to an Estate Case, the Court's rulings decimated Trust assets. My filings met his cited motion reconsideration requirements (p. 44, last par. to p. 45, 1st 3 lines; Sect. "I, p. 53-55).

2. Judge ruled that oppositions by Ambrose & me to Ferro Labella legal fees for work from June 7 to July 9, '23 for \$4,120.48 was not approved in Oct. 2022 Rider since Leslie provided written approval in Dec. '21, & he would not change it based on our Cross-Motions. (4T, p. 46, line 15, to p. 47, line 10)

Both rulings were **WRONG** (Sect. "G", p. 43-44; 122a, 3rd par.) since they disregarded that facts substantiated:

1) Ferro Labella should **NEVER** have done legal work since Cullen & Dykman was sole counsel to Co-Trustees, at the time, prior to these case matters starting Nov. '21; 2) Its invoice showed work checked for allowances to pay off Leslie's home equity loan based on its review of irrelevant Harold Ross' Will that had **NOTHING** to do w/Trust u/w of Harriet Ross; 3) It should **NEVER** have required any legal work since it should have been readily/rationally understood by Mr. Roth that since Will established a lifetime Trust for Leslie and me, if she predeceased me, he should **NEVER** use Corpus to pay off a past loan of Leslie.

Finally, both Judges' illegitimate rulings not to reject Trust payment simply because Leslie approved it in Dec. '21 would be a dangerous precedent where criminal, unethical, & fraudulent actions would be allowed by Courts simply if

a party previously approved an action, & not allowing that party, w/input by counsel, to then oppose the action as being illegitimate based on proven facts.

3. Judge irrationally ruled Roth's "obligations are done. If there needs to be any other accounting filed ever, it will be done by someone other than Mr. Roth. And Judge DeLuca discharged him. any conflict to the otherwise, I am in agreement that both Mr. Jacobson and Mr. Lahey -- and I can imagine bringing Mr. Roth back into this so Mr. Ross can have a field day with anything he says or does. So I don't agree with that as well." (4T, p. 47, line 19, to p. 48, line 9)

Judge's ruling violated Oct. 2022 Order, par. 2, which I repeatedly cited in Court filings, as well as to Mr. Jacobson, since Nov. '22, that Roth was discharged based on then completing Trust admin duties under 3B:14-7, which requires a discharged Trustee to file a Final Accounting in order to "settle his account". They repeatedly refused since Nov. '22 for Mr. Roth preparing a Final Accounting, which I repeatedly justified should and can be done at NO cost to Trust. (p. 45. Item "3") above)

So, Judge's ruling was setting illegitimate precedent for allowing Co-Trustee to violate NJ Uniform Trust Code statutes, & to violate a previous Court Order.

His ruling was also based on irrational, illegitimate claim w/o any evidence that "Mr. Ross can have a field day" with a Final Accounting. Overwhelming substantiated evidence (114a-119a, par. 8) was my simple focus was on whether

prior Accounting was accurate, & not contradicting substantiated facts that I also addressed in Reconsideration Motion w/o a “field day” (p. 12-20, par. 59)

His ruling overlooked Jacobson’s Oct. 26, 2022 letter, w/requests for Trust paying various fees, for reserve for discharged, Co-Trustee, Mr. Roth “to update Court approved intermediate accounting” which would be a Final Accounting, & his Mar. 23, ‘23 filed letter, w/request to pay legal fees, for reserve for “costs to finalize his administration of the Leslie Trust, as permitted by 3B:31-52(b) & authorized by Oct. 6, 2022 Judgement [par. 2 required Final Accounting]”.

4. Judge ruled that “I am denying any reconsideration of [Trust payments for] fees, or awarding any [from Jacobson March 23, 2023 application for Ferro Labella’s \$33,716 legal fees.] – [In Mar. 7, ‘23 Order] I awarded over \$90,000 [\$93,277] for Ferro Labella legal fees, We ordered [\$17,649 for Roth & Spellman accounting] fees, we ordered [\$2,039 for Mr. Roth’s] commissions”

“So I am going to deny Mr. Jacobson's application [for \$33,716 legal fees]”

“With regard to Mr. Ross, again, asking to reconsider the fees, asking to, you know, reduce [accounting fee to \$16,575 & Roth’s commissions to \$1,946.56] even though it is not a substantial amount, so on & so forth, *you know, I took a considerable amount of time.... and to a certain degree I can understand why fees had to be incurred, that’s why I gave Mr. Jacobson [Ferro Labella’s \$93,277 legal] fees* [for legal work from Feb. 1 thru Oct. 25, 2022].”

“I didn’t feel good about it because any time you are going to take \$93,277 out of a trust, and over [\$]113[K] was requested [in Jacobson’s Oct. 26, 2022 application], Mr. Ambrose argued that, well, we only charged like 80 something thousand dollars [\$74,248]”. (4T, p. 48, lines 14-16; p. 49, lines 7-20)

You know Judge took **ZERO** time to arrive at unprepared/unjustified rulings for Trust payments for commission/accounting fees, since he forgot any rulings until prompted by Jacobson at Feb. 17th Hearing, & then repeated the requested amounts for commission/accounting fees w/o offering justifications or citing & refuting my filed objections to legitimately reduce those fees. There was **NO REASON** not to correct Mar. 7th Order. (see p. 40, par. 37, to p. 41, par. 38)

To any “degree”, I nor the Appellate should “understand” why any of Ferro Labella’s billed legal work should have been incurred since all work was due to repeated objections to Mr. Ambrose since Nov. 2021, & then me since Jan. ‘22, for a readily achievable Settlement. It led to Court filings (w/formal accounting for Surrogate Audit) by Mr. Ambrose, Mr. Jacobson, & myself, **NONE** of which would have been required if Jacobson & Roth worked to finalize a Settlement.

In their \$124,399 invoices (\$10,902.24 from Nov. 11, ‘21 to Jan. 31, ‘22, & \$113,497.04 from Feb. 1 to Oct. 25, ‘22), there were **ZERO** entries for work on a Settlement since they always refused it. Court should **NEVER** have rewarded them for those wrong decisions. It led to unwarranted, decimating depletion of

\$93,277 (31%) from my estimate of less than \$300K in Trust assets, as of Mar. '23. (see above Statements of Facts, p. 8 to p. 10, 1st 2 lines; response to Jacobson Oct. 26, '22 Affidavit, p. 27-29; p. 33-40, par. 30-36)

It appears that the Judge did spend a lot of time for trying to determine a smaller amount (\$93,277) from requested \$113,497 for Trust reimbursement. His time spent on reducing it by \$20,219.50 was misspent since he spent his time on the **WRONG** issues, and **NEVER** on Roth/Jacobson refusals to work on a readily achievable Settlement (see p. 38-40, par. 34 above). Furthermore, Judge's rejections for \$20,219.50 of billed work from the requested \$113,497 were also very questionable and subjective, rather than irrefutable & objective.

As one example, his misdirected reductions **DISREGARDED** that some of their billed services were for legal work for Estate Case Docket No. P-258-16, and was **NOT** under the Trust Case, and should **NEVER** have been approved by the Court. (also confirmed on p. 28, 2nd par., above)

As per my Nov. 28, '22 Certification, Ferro Labella's potential legal work, which I intelligently itemized, & which could have been reimbursed by Trust, would have been limited to around \$5K that I intelligently estimated if they had worked for quick 3-Way Settlement. Their minimal work would have occurred after upfront Settlement work would have been done by Ambrose, Leslie, & me. (Exh. "Z", p. 9-10, par. 16) (394a-395a) (see p. 36, par. 31,)

Once again, there is an example in which Ambrose, Leslie, & I worked out details of 3-Way Settlement that was achieved on April 25, '22. Roth & Jacobson then repeatedly refuse to engage in finalizing a Settlement, even after I resolved their 5 objections, and even though we repeatedly notified them **NOT** to proceed with their Verified Complaint, which would be unnecessary, in order to finalize the Settlement. **(Exh. "Z", p. 21-22, par. 8&9) (406a-407a)**

And most importantly, Judge should **NOT** have been deciding on whether Ferro Labella got paid. He should have decided whether Trust should pay those billed fees, which were Mr. Roth's obligation to pay since he instructed Mr. Jacobson for the unwarranted legal work. Ferro Labella would have been paid regardless of the Judge's rulings. **(See above p. 37, last par., to p. 38)**

Judge had mistaken recollection about \$80K (actually \$74,248) for Ambrose's claim that Cullen & Dykman's billed time was less than Ferro Labella's billed time (\$113K). I indicated it was an irrelevant comparison since C&D's work was Estate work for P-258-16 for 2019-2021 **(p. 37, par. 33, 1st two par., above)**, & Ferro Labella's work was for Trust work for 2022.

As shown, Judge's claims/rulings to try & justify not revising/correcting his March 7, 2023 Order to vacate Trust payment of \$93,277 for Ferro Labella's misguided & unjustified legal work, & reduce paid accounting fee to \$16,575 & commissions to \$1,946.56, had been **REPEATEDLY REFUTED** by me based

on substantiated evidence that complied w/NJ Case rulings for reconsideration.

5. **In Conclusion**, Judge's claims/rulings are palpably incorrect & irrational; made in arbitrary & unreasonable, manner; & overlooked significance of irrefutable probative, competent evidence (as per Sect. "F"&"G", p. 30-44) that refuted his false claims and wrong rulings.

Refuting False Claims by Mr. Lahey (Cullen & Dykman) & Mr. Jacobson

Unfortunately, Mr. Jacobson's Hearing presentation relied on extensive false claims about this Court Case, misleading irrelevant issues, & slanderous false claims against me. Both of them falsely claimed I have a litigious nature without any substantiated facts. Mr. Lahey falsely claimed I had no standing to file exceptions, & that Mr. Roth had no further Trust obligations after Oct. 2022 Order. I refuted everything based on substantiated facts. (4T, p. 19, line 17, to p. 22, line 4; p. 39, line 4, to p. 40, line 17; p. 41, line 22, to p. 42, line 17)

Refuting Mr. Jacobson's May 30, '23 Reply to May 25th Cross-Motions

His Hearing presentation repeated a lot of false claims from his May 30, '23 Reply to May 25th Cross Motions by Mr. Ambrose & me. I refuted those false claims, plus other false claims from his Reply based on substantiated facts. I also substantiated key points in order for the Judge to **GRANT** my Cross-Motion & May 30th proposed Order. (4T, p. 22, line 5, to p. 33, line 15)

His Hearing presentation and Reply **FAILED** to refute any substantiated facts and arguments from my Cross-Motion. (4T, p. 22, lines 13-14)

His Hearing presentation **FAILED** to refute my May 30th updated proposed Order. (Exh. "AD") (493a-497a) (4T, p. 22, lines 9-12)

I. COMPLIANCE WITH LEGAL CRITERIA TO RECONSIDER ORDERS

Issues that I am appealing from my Motion for Reconsideration of Oct. 2022 Order, w/Nov. 25, 2022 Reply to Oppositions; reconsidering Mr. Jacobson's Requests for Legal, Commission, & Accounting Fees due to my Nov. 4,9,&28, 2022 Certifications; & May 25&30, '23 Cross-Motion to reconsider Mar. 7, '23 & Oct. '22 Orders; and my appeal of Sept. 6, '23 Order due to invalid Aug. 4, 2023 rulings should be granted since I verified how relevant provisions of those Orders are based on rulings in conflict with, or never addressing, my probative competent evidence that met legal criteria to grant my Motions and this Appeal.

A. **Motion for Reconsideration**

Motions for reconsideration are governed by NJ R,4:49-2, for motions:

“seeking to alter or amend a judgment or order shall be served not later than 20 days after service of the judgment or order upon all parties by the party obtaining it [and] shall state with specificity the basis on which it is made, including a statement of the matters or controlling decisions which counsel believes the court has overlooked or as to which it has erred.”

“Reconsideration is a matter within the sound discretion of the court, to be exercised in the interest of justice.” D'Atria v. D'Atria, 576 A.2d 957, 961

(N.J. Ch. Div. 1990). “A litigant should not seek reconsideration merely because of dissatisfaction with a decision of the court.” Id. Reconsideration should be granted if “(1) court has expressed its decision based upon a palpably incorrect or irrational basis, or (2) it is obvious that the court either did not consider, or failed to appreciate the significance of probative, competent evidence.” Id. Reconsideration is appropriate where court’s decision is “arbitrary, capricious, or unreasonable,” which is “the least demanding form of judicial review.” Id.

Although a litigant may not use a Motion for Reconsideration to substitute an insufficient record, a litigant may offer additional information in a Motion for Reconsideration if information “could not have been provided on the first application” Id. If additional information is presented, “the court should, in the interest of justice (and in the exercise of sound discretion), consider the evidence” Id. Generally, a court should consider a Motion for Reconsideration on its merits unless it can articulate specific grounds for not doing so. Udechukwu v. Udechukwu, 2017 WL 744691 at *3 (App. Div. 2017).

My Statements of Facts & Legal Arguments provide extensive probative competent evidence that the Court expressed its rulings for cited provisions of those 3 Orders based upon palpably incorrect & irrational bases that were in contradiction to evidence, decedent’s Will, cited NJ statutes, & Court’s own Oct. ‘22 Order, par. 2; and it was obvious Court did not consider & failed to

appreciate significance of probative, competent evidence & arguments, and all of which made its rulings arbitrary, contradictory, and/or unreasonable.

Judge Jerejian worsened his invalid denials of my Motions, & made them ripe for Appeal, by stating reconsideration “would be granted if “the decision rests on palpably incorrect or irrational basis, or the court didn’t consider or failed to appreciate the significance of probative, competent evidence”.” (3T, p. 6 line 4, to p. 7, line 7). It is exactly what my Motions & this Appeal address

I substantiated that my Reconsideration Motion had additional evidence & arguments, which I address in this Appeal, that “could not have been provided on first application” from my Aug. 8, 2022 filing since I substantiated that Judge DeLuca refused to allow me to present this new evidence (when he also rejected my Sept. 12, 2022, requested Sur-Reply) at the Sept. 22, 2022 Hearing by restricting my presentation to only 8-minutes, even after I stated it would then be impossible to also present new arguments with new evidence that would be in response to new info in Mr. Roth’s Aug. 12, 2022 Certification.

J. SUMMARY - CONTRADICTIONS & ERRORS IN COURT’S ORDERS

Sections “A” to “I”, which provide citations to rulings & filed evidence, addressed & justified my appeal of Oct. ‘22 Order, incl. par. 1,1c,&1d, Mar. 7, ’23 Order, & Sept. 6, ‘23 Order, incl. par. 3&4, as well as missing provisions, as I substantiated how rulings contradicted or overlooked key, probative

competent evidence. This is a summary of Order provisions needing corrections.

1. Court erred in Oct. '22 Order, par. 1, & Mar. 7, '23 Order, par. 3, to reject, & not grant, my Aug. 8, '23 Exceptions to Roth's Intermediate Accounting for his updates & redistribution. It was due to Oct. '22 Rider's wrong rulings, as accepted by Judge Jerejian simply by repeating them in Feb. 17th rulings w/o explanations, & disregarded evidence proving 1) they contradicted decedent's Will & NJ Court rulings that I am Vested Remainder Beneficiary, w/standing to submit Exceptions, rather than Contingent, as wrongly ruled; 2) Verified Complaint listed me as "Interested Party" to review Accounting that allowed Exceptions; & 3) My Exceptions focused on Corpus mistakes, that would directly impact me as lifetime beneficiary, & accounting misstatements, & NOT on Income, Commissions, nor Accounting "style", as wrongly ruled. Mar. 13, '23 Order corrected that I was a Vested Remainder Beneficiary.
2. Court erred in Oct. '22 Order, par. 1, & Mar. 7, '23 Order, par. 3, in overlooking my requests, as Qualified Beneficiary, for Roth to provide my listed Trust info/documents, as required by R.3B:31-67, in my Aug. 8, '22 Exceptions, for my review for any Exceptions (for Court approval or denial) to the accuracy/validity of figures in the Intermediate & Final Accountings.
3. Court erred in Oct. 2022 Order, par. 1c, & Mar. 7, '23 Order, par. 3, by overlooking my requests for Mr. Roth to provide Roth & Spellman's detailed

invoices, as req'd by 3B:31-67, to verify accuracy/legitimacy, for potentially inaccurate/excessive \$31,259.74 accounting fees for 2019-2022 tax returns & questionable Trust admin. Court should have withheld its approval of those paid fees pending my follow-up review & potential Exceptions for its review

4. Court erred in Oct. '22 Order, par. 1d, & Mar. 7, 2023, par. 3, since it should not have approved prior Trust payments for Ferro Labella's \$15,022.72 legal fees that needed to be paid back to Trust. Ambrose & my Exceptions proved none of \$10,902 Ferro Labella's work was required if Roth had agreed to readily achievable Settlement, nor approved by Leslie, as Co-Trustee, for payment, nor submitted for Court approval prior to Trust payment, as per Mar. 25, '22 Ruling (P-069-22). Ambrose & my Exceptions proved Ferro Labella should NOT have accepted \$4,120 work in mid-2021 for Leslie's request for Trust to pay off her home equity loan, since Cullen & Dykman was Trust counsel at the time It disregarded evidence that Roth did not need counsel to reject her request due to common sense not to use Trust assets to pay her personal loan since it was contrary to the Will for Trust Corpus to be dedicated for a lifetime Trust for Leslie, & then me, if she predeceased me .
5. Court erred in Oct. '22 Order & Mar. 7, '23 Order, par. 3, by overlooking my Aug. 8, '22 Exceptions for C&D to pay back \$74,248.18 for 2019-2021 Trust-paid, C&D legal fees, as it was all done on behalf of Leslie for Estate

Case (P-258-16), & **NOT** on behalf of Trust nor its Co-Trustees. It overlooked Jacobson's Aug. 4, '22, response to Surrogate Audit questions that showed work was Estate related (on behalf of Ms. Ross for P-258-16), & disregarded Roth's Aug. 12, '22 Cert. that work was Estate related on behalf of Ms. Ross w/majority (\$57,256) needing to be paid back to Trust. His Cert. should not have accepted a small, Trust related portion as paid by Trust since work was still Estate related on behalf of Ms. Ross, personally, for P-258-16.

6. Court erred in Mar. 7, '23 Order, par. 1, for \$93,277.54 Trust payment of Ferro Labella legal fees, which needed to be paid back, since it rejected evidence by Ambrose & me that **ALL** work, which led to unnecessary Court filings, was due to Jacobson & Roth refusing from Jan. to Sept. '22 to work on readily achievable 3-Way Settlement that Jacobson stated he would allow if Ambrose, Leslie, & I would agree on Settlement details, which we did on April 25, '22, & could have done sooner if they were agreeable sooner to a Settlement, that would have required around \$5K in fees, as I substantiated.
7. Court erred in Mar. 7, '23 Order, par. 2, for Trust payment of Ferro Labella's requested \$17,649.57 for Roth & Spellman fees for Intermediate Accounting, since it contradicted my evidence that proved it should be \$16,575, by disallowing \$560.5 billed work in July 2022 for Accounting, which was finalized and issued in May 2022, & \$514.07 admin fee (3% of billed work

based on Roth's signed retainer agreement, which Leslie didn't see/approve).

It should require Mr. Roth to pay back to Trust the \$1,074.57 overpayment.

8. Court erred in Mar. 7, '23 Order, par. 2, for Trust payment of \$2,039.53 Roth commission as it contradicted my evidence that it should be \$1,946.56, which was due to my commission calculation based on actual Corpus value of \$353,659 rather than Mr. Roth's wrongly assumed value of \$378,454. It should require Mr. Roth to pay back to the Trust the \$92.97 overpayment.
9. Court erred in Sept. 6, '23, par. 3. It rejected my evidence, that it overlooked in Feb. 17th rulings, requiring Roth to issue, as discharged Trustee at no cost to Trust, a Final Accounting (from Apr. 1, '22), as per Oct. '22 Order, par. 2 citing 3B:14-7, that required discharged Trustee to issue, but that he refused.
10. Court erred in Sept. 6, 2023 Order, par. 3&4, by rejecting Cross-Motions by Mr. Ambrose & me & my Reconsideration Motion that had evidence & arguments supporting Items 1-9. Court's rejections of all parties' Motions at the Aug. 4, 2023 Hearing rulings relied on Judge Jerejian's illegitimate "standard" that "*This case has to end and, if there is dissatisfaction with rulings of this Court, it should be appealed instead of just keep coming back to this Court. So given that standard, I am not satisfied with any of this.*" (4T, p. 46, lines-14), as the driving basis for his subsequent rulings. He rejected & overlooked that my Motions substantiated Oct. '22 Rider &

Feb. 17th rulings were palpably incorrect & irrational in contradiction to evidence; made in arbitrary & unreasonable, manner in contradiction to evidence, & overlooked significance of irrefutable evidence contradicting Judges' rulings, all of which are legal criteria based on NJ Court Case rulings (**See Section I**) for supporting reconsideration of Orders, & those Motions were **NOT** filed due to any dissatisfactions with the Court rulings.

CONCLUSIONS

For the foregoing reasons that I have proven, my Appeal should be granted. Proposed Order (**Exh. "AF"**) (**502a-507a**), which consolidates the relevant issues that I am appealing, should be granted for issuance by Superior Court.

Based on substantiated evidence, I refuted all false objections to my filings & false accusations against me by Mr. Jacobson & Mr. Ambrose. No matter how many times I refute them, they repeat false claims/accusations with a hope to mislead the Court. In fact, Mr. Ambrose's Case Information Statement, in response to my Notice of Appeal, had 23 false claims & accusations based on objections for irrelevant Estate matters, & 23 false claims & accusations based on objections for Trust matters, that I had refuted (**Exh. "AE"**) (**499a-500a**).

Respectfully submitted,

Dated: May 31, 2024


By: Jeffrey Ross, Appellant – Interested Party



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June 26, 2024

VIA eCOURTS

Superior Court of New Jersey
Appellate Division
Richard J. Hughes Justice Complex
25 Market Street, CN-006
Trenton, New Jersey 08625-0006

Re: I/M/O Leslie Karen Ross Trust Under the Last Will and Testament of Harriet Ross, Deceased
Docket No.: A-000915-23T1
On Appeal from Bergen County Probate Part-Docket No.: BER-P-242-22

Sat Below: Honorable James J. DeLuca, J.S.C. and Honorable Edward A. Jerejian, P.J. Ch.

Respondent Carl Roth's Brief in Opposition to Appeal from the October 6, 2022, March 7, 2023 and September 6, 2023 Orders

Your Honors:

We represent Respondent Carl Roth ("Respondent"), the discharged professional co-trustee of the Leslie Karen Ross Trust ("Trust"). Respondent submits this letter brief in opposition to Appellant Jeffrey Ross' appeal from: (1) the October 6, 2022 Judgment approving Respondent's intermediate account ("Judgment"); (2) the March 7, 2023 Order: denying his motion for reconsideration of the Judgment; and granting in part and denying in part

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Respondent's award of attorneys' fees, accounting fees and commissions; and
(3) the September 6, 2023 Order denying his motion for reconsideration of the
March 7, 2023 Order awarding attorneys' fees, accounting fees and
commissions.

Respectfully submitted,

Scott D. Jacobson, Esq. (ID No.: 16891980)
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Attorneys for Respondent, Carl Roth

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PROCEDURAL HISTORY

On May 5, 2022, Respondent filed a Verified Complaint to settle his intermediate account (“IA”) of the Trust created under the Last Will and Testament of Harriet Ross (“Will”). 51a-82a. On August 8, 2022, Appellant filed exceptions to the IA. 114a-128a. On August 12, 2022, Respondent filed a reply certification, asserting that the Appellant’s exceptions were insufficient as a matter of law. 155a-160a. On September 22, 2022, the trial court heard argument regarding the Respondent’s petition to settle the IA. IT 3:1-25:13.

On October 6, 2022, the Honorable James J. De Luca J.S.C. entered a Judgment: approving the IA; finding that Appellant did not have standing to challenge the IA but if he did, striking his exceptions; and discharging the Respondent as professional co-trustee. 16a-34a.

On October 26, 2022, Respondent applied for an award of legal fees, accounting fees, and commissions (“Fee Application”). 253a-301a. On the same day, Appellant moved for reconsideration of the Judgment. 161a-226a.

On November 4, 2022, Appellant filed a certification opposing the Fee Application. 303a-344a. On November 14, 2022, Respondent filed a letter brief opposing the Appellant’s motion for reconsideration. 228a. On November 16, 2022, Respondent filed a reply certification in further support of the Fee

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Application. 376a-380a. On November 28, 2022, Appellant filed a sur-reply regarding the Fee Application. 386a-408a. On December 22, 2022, the trial court heard argument on the Fee Application and the motion for reconsideration. 2T 3:1-46:10.

For the reasons stated on the record on February 17, 2023, the Honorable Edward A. Jerejian, P.J. Ch. entered the order dated March 7, 2023: (a) granting the Fee Application, but reducing Respondent's request for attorneys' fees and costs from \$113,497.04 to \$93,277.54; awarding accounting fees of \$17,649.57; awarding income and corpus commissions totaling \$2,029.53; and (b) denying the Appellant's motion for reconsideration of the Judgment. 36a-39a¹.

On May 25, 2023, Appellant filed a motion to reconsider the March 7, 2023 order. 410a-477a. For the reasons stated on the record on August 4, 2023, and memorialized by order dated September 6, 2023, the trial court denied the Appellant's motion. 41a-42a.

On October 17, 2023, Appellant filed a notice of appeal. 1a-4a.

¹ On March 13, 2023, the trial court modified the March 7, 2023 Order to correctly state that the award of \$2,029.53 is for accounting costs. 39a.

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COUNTERSTATEMENT OF FACTS

The Respondent's Verified Complaint sought to approve the IA of the Trust for the period January 4, 2019 – March 31, 2022. 51a-82a. Paragraph 10.6 of the Will which created the Trust, "Corporate or Other Professional Co-Trustees Accounting", states that no one other than Leslie Ross, the child co-trustee of the Trust, may challenge the IA or the Respondent's fees and expenses. That provision states in pertinent part:

The... professional co-trustee may ... file an account of its administration with a court of competent jurisdiction. Any professional Co-Trustee shall provide prior notice for such review as well as acceptance ... by my respective child Co-Trustee All of the Co-Trustee's fees and expenses (including reasonable attorney's fees) attributable to any such accounting and approval shall be submitted for review, as well as acceptance ... by my respective child Co-Trustee.... 48a.

After reviewing the IA, the Appellant's exceptions, the Respondent's reply certification and hearing oral argument, on October 6, 2022, the trial judge approved the IA and ruled that Appellant did not have standing to challenge it, but if he did, then his exceptions were insufficient as a matter of law:

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[Appellant] asserts that the following revisions, among others should be made Intermediate Account (i) \$890,083.58 for total charges as to the corpus; (ii) \$450,335.23 for total credits as to the corpus; (iii) \$439,748.35 for the corpus on hand; (iv) \$47,190.10 for total credits as to income; and (v) \$2,786.04 for income on hand.... [Appellant] asserts that the additional tax payment of \$291.58 on October 29, 2019 ... was the result of [Respondent's] late filing and the ... Trust payment of the 2018 obligation [Appellant] asserts that [Respondent] should explain and provide additional documentation for several payments and calculations on the Intermediate Account.... [Appellant] further asserts that [Respondent's] responses to the Surrogate Court's audit questions are inadequate [Appellant] asserts that [Respondent] should provide additional information to verify his accounting and comply with his obligations as co-trustee....

[Respondent] asserts that [Appellant's] Exceptions ... should be stricken because they are immaterial or concern matters of fiduciary discretion [Respondent] asserts that [Appellant] objects to the omission of unrealized gain on corporate assets in the Intermediate Account but fails to cite any inaccuracies or missing information [Respondent] asserts that the Intermediate Account properly represents the corpus on hand and income on hand at book value, as opposed to market value....

Additionally, [Respondent] asserts that [Appellant], as executor of the Decedent's estate, was the cause of the October 29, Payment of additional tax interest to the State of New Jersey.... [Respondent] asserts that [Appellant] was late in providing the information and documentation needed to prepare the

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2018 tax return for the Trust.... [Respondent] further asserts that [Appellant] prevented [the Accounting Firm] from speaking directly with the estate's accountant.... [Respondent] asserts that he exercised discretion in charging the \$12,699.74 for accounting and tax services to the corpus. [Respondent] disputes that [Appellant's] assertion that one-third of the accounting fees should be charged to income.... [Respondent] admits that [Appellant] correctly identified an error on attachment 6, wherein \$93.64 should be charged to corpus and \$46.82 should be charged to income for advisory fees, but asserts that said error is "cosmetic and inconsequential"....[Respondent] asserts that the error identified on attachment 7 which results on an overstatement of Leslie's income by \$83.33, would not affect Leslie's distribution.... [Respondent] asserts that [Appellant] should be prohibited from seeking discovery that relating to prior litigation.... [Appellant] seeks discovery relating to adjustments that were reported by [the Accounting Firm] for the 2018 Trust tax return on Form 8082 and filed on June 3, 2019, as an attachment to Form 1041....

An action to settle an account on an estate trust is a formalistic proceeding, unique to probate. Its stylized format involves a line-by-line review on the exceptions to an accounting. Higgins v. Thurber, 205 N.J. 227, 229 (2011). "An action for an accounting on an estate provides a means for addressing "the conduct of the executor, not the conduct of others." Id. (quoting Perry v. Tuzzio, 288 N.J. Super. 223, 229 (App. Div. 1996).

The court has reviewed the exceptions by...[Appellant] and is satisfied with the Intermediate

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Account and that the “exceptions” raise no genuine disputes. The Intermediate Account accurately details the assets, expenses and liabilities of the Trust. The co-trustees, [Respondent] and Leslie, adequately answered the audit questions by the Bergen County Surrogate and paid the audit fee.

First, this court finds that [Appellant] lacks standing to file exceptions to the Intermediate Account. New Jersey case law suggests that contingent remaindermen under a testamentary trust (such as [Appellant]) who are unaffected by allowances out of the income or from payments of corpus commissions cannot file exceptions to such items in an accounting. See In re Oathout’s Estate, 25 N.J. Misc. 186 (1947); In Phipps Family Trust, 147 N.J. Super, 331, 346 (Ch. Div. 1976); In re Walsh’s Estate, 32 N.J. Super. 528, 534 (App. Div. 1954). [Appellant], a contingent remainder beneficiary of the... Trust, has no current entitlement to the... Trust income. As such, it cannot be set with certainty that [Appellant] would be adversely affected by the payments of the income or corpus commissions outlined in the Intermediate Account. Moreover, the terms of the ... Trust only provide the “respective child co-trustee” (Leslie) with the explicit authority to approve the accounting prior to the payment by the ... Trust. The plain language of the Will (at Section 10.6) does not suggest that approval is required from ... [Appellant]....

Further, even assuming *en arguendo* that [Appellant] has standing to file exceptions to the Intermediate Account, his exceptions are flawed and fail pursuant to R. 4:87-8 of the Court Rules, which

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states “[t]he exceptions shall state particularly the item or omission excepted to, the modification sought in the account and the reasons for the modification.” In addition “an exception may be stricken because of its insufficiency in law.” *Id.* [Appellant]’s exceptions are insufficient as a matter of law because they relate to style rather than substance, concern matters of fiduciary discretion or do not relate to the accounting.

For the foregoing reasons, this matter can proceed summarily. The Intermediate Account is approved. [Respondent] is discharged as co-trustee of the ...Trust. 24a-34a.

On October 26, 2022, the Respondent filed the Fee Application, requesting: attorneys’ fees of \$108,590.50 and expenses totaling \$4,906.54; income and corpus commissions totaling \$2,039.53; and accountant fees of \$17,649.57. 254a-301a. On the same day, the Appellant moved for reconsideration of the Judgment, repeating the same facts and arguments in his exceptions. 162a-226a; 2T 7:21-8:13. On November 4, 2022, the Appellant filed a certification opposing the Fee Application. 303a-344a.

After hearing arguments on December 22, 2022, and for the reasons stated on February 17, 2023, the trial court entered an order dated March 7, 2023: approving reduced attorney’s fee and costs of \$93,277.54; awarding the requested accounting fees and commissions; and denying the Appellant’s motion for reconsideration of the Judgment:

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So the Court ruled that [Appellant]... lacks standing to file exceptions. And the judge, ... went on to indicate that those presently receiving distribution from the Trust or those with a definitive, concrete future interest in the Trust, would have standing to file exceptions.

So I have no reason to disagree with that opinion.

“Reconsideration should only be utilized for cases which fall into certain categories, and is governed by court rule, and shall state with specificity on the basis which it’s made, including statement of matters and controlling decisions,” and of course should only be granted in the most limited circumstances, and not just to have reargument or disagreement with a Court’s decision.

So reconsideration in this particular matter the Court agrees should be denied, because [Appellant] seeks reconsideration of issues which the Court considered and in its judgment rejected.

...[W]e know that the application for award of counsel fees is to be supported by an Affidavit of Service, which it was, and it should address the RPC 1.5A factors; the recitation of other applicable factors; and the amount and allowance applied for and the itemization of disbursements.... And the Court has to consider the time and labor of the party, the novelty and difficulty of issues involved, and the requisite skills to perform the legal service properly. Also, the likelihood that the acceptance of the specific employment will preclude other employment; the fees customarily charged in the locality for similar legal services; the amount involved and the results obtained; the time limitations imposed by the client or by the circumstances; the nature and length of the professional relationship; the experience, reputation, and ability of the lawyer or lawyers performing the services.

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Additional factors that can be considered by the Court ... is the amount that's available, whether it's the estate or otherwise, and the amount in dispute or jeopardy as to which the professional services were made necessary; the nature and extent of the jeopardy or risk involved; the nature and extent of the difficulty of services rendered; the experience of legal knowledge required; the time necessarily ... spent by the attorney in the performance of the services; the results obtained; the benefits or advantages resulting to the Estate; and any other special circumstances.

I don't think it's fair to say [Respondent's counsel] shouldn't get paid; he should get paid. I've looked at it carefully. There are certain areas that the Court felt that there should be some adjustments.

So the total of fees and disbursements the Court will award is \$93,277.54, which I think is fair under the circumstances. There was a lot of work done.

MR. JACOBSON: Your Honor ... didn't speak to the commission and the C.P.A. claim....

THE COURT: Just refresh my memory on that.

MR. JACOBSON: We submitted a certification from [Respondent] for income commission, and then there were C.P.A. fees relative to the preparation of the accounting, which was ... \$17,649.57.

THE COURT: Give me the commission amount again?

MR. JACOBSON: The commission amount was \$2,039.57.

THE COURT: All right, The Court will grant those as well.
3T 4:23-14:16.

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On May 25, 2023, Appellant moved for reconsideration of the March 7, 2023 Order, asserting that the reduced attorneys' fee award of \$93,277.54 is excessive and that no fees should have been awarded. 411a-445a. After hearing oral argument, and for the reasons stated on August 4, 2023, the trial court entered the order, dated September 6, 2023, denying the motion:

[Appellant]... files... a motion for reconsideration of March the 7th and March 13th orders... where [Respondent's] motion for legal fees for \$113,497.04 which was reduced by the Court to \$93,277.54... not [be] granted.

That the ... accounting fees, ... be reduced [from]...17,649.57 to 16,575 ... also with respect to commission fees, 2,039 dollar and 53 cents down to 1,946 dollars and 56 cents.

Now I would say just about all of this is really reconsideration.

We cite these holdings, but I think in this case it has some enhanced meaning that motion practice must come to an end at some point, and if repetitive bites at the apple are allowed, the core will swiftly sour.

That is D'Atria v. D'Atria, 242 N.J. Super, 392 at 402.

Litigants should not seek reconsideration merely because of a dissatisfaction with the decision of the Court...

With regard to [Appellant].... asking to reconsider the fees, asking to..., reduce even though it is not a substantial amount, so on and so forth, you know, I took a considerable amount of time.

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I wasn't happy about it, and I said it, ... and it was argued ... and to a certain degree I can understand why fees had to be incurred, that's why I gave [Respondent's counsel] fees.

So [Appellant], your application is denied.... 4T 43:22-50:25

On October 16, 2023, Appellant noticed this appeal. 1a-4a.

LEGAL ARGUMENT

POINT I

THE APPELLANT DOES NOT HAVE STANDING TO CHALLENGE THE ACCOUNTING OR THE PETITIONER'S FEE APPLICATION.

Standing is a threshold determination that this Court reviews de novo, affording no deference to the trial court's conclusions. Cherokee LCP Land, LLC v. City of Linden Planning Bd., 234 N.J. 403, 414 (2018). Here, the trial court's determination that the Appellant lacks standing to challenge the IA or the Fee Application is correct as a matter of law.

Article 10.6 of the Will, the instrument governing the Respondent's accounting action, plainly states that the Appellant, who is not the "child" Co-Trustee of the Trust, has no right to review or approve the IA or the Fee Application. To be sure, the Judgment also relies on case law holding that the Appellant is a contingent remainderman who is unaffected by allowances out of income or from payment of corpus commission and, therefore, he cannot

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file exceptions challenging such items in an accounting. Simply put, the trial court correctly determined that the Appellant does not have standing to file exceptions to the IA or challenge the Fee Application.

POINT II

THE TRIAL COURT DID NOT ERR BY STRIKING THE APPELLANT'S EXCEPTIONS.

Assuming arguendo the Appellant has standing to file exceptions, the trial court carefully reviewed his submission, and determined that the exceptions failed to identify with particularity the item or omission excepted, the modification sought and the stated reasons for the modifications. In other words, the exceptions did not raise any genuine disputes. Moreover, the trial court determined that the exceptions were insufficient as a matter of law because they relate to style, concern matters of fiduciary discretion or do not bear on the accounting.

As the trial court correctly noted, an action to settle an account is a formalistic proceeding, unique to probate. And while “a trial court’s interpretation of the law and legal consequences that flow from established facts are not entitled to any special deference”, State v. Elders, 192 N.J. 224, 244 (2007), but given the unique nature of a proceeding to settle an account,

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and the probate judge's equitable powers and feel for the case, this court should review the trial court's determinations only if there is a clear abuse of discretion. See In Re: Estate of Hope, 390 N.J. Super. 533, 541 (App. Div. 2007).

Here, Judge DeLuca's cogent and detailed decision approving the IA is well reasoned and does not rest on a misinterpretation of the law. As such, this Court should not disturb the Judgment.

POINT III

THE TRIAL COURT DID NOT ERR IN DENYING THE APPELLANT'S MOTION TO RECONSIDER THE JUDGMENT.

Assuming arguendo that the Appellant has standing to challenge the IA, this Court's review of an order adjudicating a motion for reconsideration is deferential to the trial court. Pitney Bowes Bank, Inc. v. ABC Caging Fulfillment, 440 N.J. Super. 378, 382 (App. Div. 2015). Accordingly, the denial of a motion for reconsideration is reviewed for an abuse of discretion. Fusco v. Board of Ed Newark, 349 N.J. Super. 455, 462 (App. Div. 2002).

Reconsideration is appropriate in two circumstances: (1) when the court's decision is "based upon a palpably incorrect or irrational basis," or (2)

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when “it is obvious that the [c]ourt either did not consider, or failed to appreciate the significance of probative, competent evidence.” Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996) quoting, D’Atria v. D’Atria, 242 N.J. 393, 401 (Ch. Div. 1990)).

Here, neither of the two reconsideration circumstances apply. The trial court denied the Appellant’s motion because his dissatisfaction or disagreement with the Judgment is not a valid ground for reconsideration. The Appellant’s motion repeats the arguments that had been rejected in connection with the entry of the Judgment. As such, the trial court did not abuse its discretion when it denied the motion for reconsideration.

POINT IV

THE TRIAL COURT DID NOT ERR IN DETERMINING THE FEE APPLICATION.

Assuming arguendo that the Appellant has standing to challenge the Fee Application, “fee determinations ... will be disturbed only on the rarest occasions, and then only because of a clear abuse of discretion. Packard-Bamburger & Co. v. Collier, 167 N.J. 427, 444 (2001). In other words, a fee award is entitled to substantial deference by this Court. In re Probate of Alleged Will of Hughes, 244 N.J. Super. 322, 328 (App. Div. 1990).

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Here, the trial judge reviewed the affidavit of services, considered the RPC 1.5(a) factors, considered the size of the Trust and then made appropriate adjustments to reduce the fee award. Simply stated, the trial court did not misapply the law or abuse its discretion.

POINT V

THE TRIAL COURT DID NOT ABUSE ITS DISCRETION IN DENYING THE APPELLANT'S MOTION TO RECONSIDER THE FEE AWARD.

Assuming arguendo that the Appellant has standing to challenge the Respondent's Fee Application, as noted in Point III, the standard for review of a motion to reconsideration is whether the trial judge abused his discretion. Here, the trial court denied the Appellant's motion for reconsideration because the Appellant did nothing more than repeat his argument that no fees should be awarded. But disagreement or dissatisfaction with the trial court's determination is not a valid ground for reconsideration. As such, the trial court did not abuse its discretion in denying the motion for reconsideration.

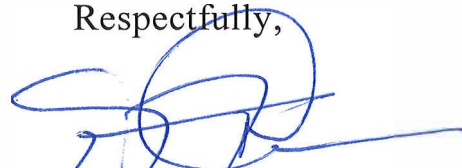
CONCLUSION

For all the foregoing reasons, the Respondent respectfully submits that the Appellant's Appeal should be denied and that the October 6, 2022

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Judgment, March 7, 2023 Order and the September 6, 2023 Order should be affirmed.

Respectfully,

A handwritten signature in blue ink, appearing to be "Scott D. Jacobson", written over a circular stamp or seal.

Scott D. Jacobson

cc: Paul N. Ambrose, Esq. (via eCourts pambrose@cullenanddykman.com)
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IN THE MATTER OF THE LESLIE KAREN
ROSS TRUST UNDER THE LAST WILL
AND TESTAMENT OF HARRIET ROSS,
DECEASED

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION

DOCKET NO. A-000915-23

CIVIL ACTION

ON APPEAL FROM

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION,
BERGEN COUNTY
PROBATE PART

DOCKET NO.: BER-P-242-22

HONORABLE JAMES J. DeLUCA, J.S.C.
RETIRED

HONORABLE EDWARD A. JEREJIAN, P.J.Ch.
PRESIDING

**REPLY BRIEF IN SUPPORT OF APPEAL OF
OCTOBER 6, 2022, MARCH 7, 2023, & SEPTEMBER 6, 2023 ORDERS**

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PRELIMINARY STATEMENT

The entirety of Mr. Jacobson's Opposition Brief for the Respondent, Carl Roth, relies on trying to mislead & confuse the Appellate Court based on unsubstantiated, concocted, and new/prior false claims, without any credible/legitimate evidence.

REPLY TO RESPONDENT'S PROCEDURAL HISTORY

Mr. Jacobson clearly wants this Court to overlook key relevant actions and facts, which he omitted from his Procedural History, since they also invalidate and refute key parts of his subsequent opposition to my filed Appeal.

His Faulty History starts w/his May 5, 2022 Verified Complaint, as if there was no prior legal action/requirement for filing it. As prior Brief stated (p. 4), "Court issued Mar. 25, '22 Order (P-069-22) (13a-14a) based on same day Hearing rulings for Mr. Roth to file a formal accounting based on R.4:87 for review & any exceptions from Surrogate Audit & Interested Parties based on his filing Verified Complaint to resign [as Co-Trustee]." R.4:87-8 states "any interested party [incl. me, as per Verified Complaint, par. 4 (52a)] may... serve accountant written exceptions... to any item in or omission from the account".

It deliberately misrepresented procedural purpose of the Verified Complaint. It was **NOT** filed simply "to settle his IA". It was filed since the March 25th Order required it to be filed in order for Mr. Roth to address any Exceptions and requests by Interested Parties and Surrogate Audit regarding his IA, as per 4:87,

and for its Court approval prior to allowing Mr. Roth to be discharged as Co-Trustee. It also had to address final Trust admin responsibilities, as Discharged Trustee, that might also require a Court approved amount for a Trust Reserve.

See prior Brief, p. 4, 1st 3 paragraphs, for a more accurate history & purpose regarding the Verified Complaint. See its next 4 paragraphs regarding the filed Exceptions & Surrogate Audit that were omitted from his Faulty History.

My Oct. 26, 2022 Certification (**p. 9, par. 27, to p. 15, par. 41**) (**170a-176a**) for Motion for Reconsideration refuted with substantiated facts regarding Mr. Roth's Aug. 12, 2022 Certification "asserting that the Appellant's exceptions were insufficient as a matter of law." It (**p. 18, par. 48, to p. 21, par. 55**) (**179a-182a**) (**see prior Brief, p. 16, par. 48, to p. 20, par. 55 for updated clarifications**) also refuted Court's "finding that Appellant did not have standing to challenge the IA but if he did, striking his exceptions". See prior Brief, p. 5, 6th par., for other relevant details/problems w/Oct. '22 Order.

See remainder of my prior Procedural History (**p. 5-7**) for a more complete history, which is missing from his Faulty History, along w/more relevant details

March 13, '23 Order corrected March 7th Order so that awarded \$2029.53 is for Trust income/corpus commission fees, & **NOT** "accounting costs".

Faulty History omits the most important action after my Notice of Appeal:

Appellant filed on May 31, 2024 an Appeal Brief, which was accepted by

Appellate Division for resolution of deficiencies in their May 14, 2024 letter, along with his updated Proposed Order **(502a-507a)** for Appellate review for sign-off by the Bergen County Superior Court, Chancery Division, Probate Part.

REPLY TO RESPONDENT’S COUNTERSTATEMENTS OF FACTS

Unfortunately, the evidence should be crystal clear that Mr. Jacobson has engaged in major deliberate, fraudulent falsifications and omissions of the record in order to try and deceive the Appellate Court with his Brief.

Mr. Jacobson should know that “Verified Complaint sought [for the Court] to approve the IA [only after Exceptions by Interested Parties (as per Verified Complaint, par. 4) **(52a)**, incl. Mr. Ross, were addressed by Mr. Roth, as also required by R.4:87-8, which was dictated by March 25, 2022 Order, par. 1 **(13a)**, and only after addressing Surrogate Audit feedback]”.

In his citation of the Will, par. 10.6, he deliberately and fraudulently omitted that “Prior to transferring any or all of the assets of each trust to a Successor professional Co-Trustee.... the professional Co-Trustee may require an approval of its account either by a court of competent jurisdiction *or by such of the beneficiaries it deems appropriate.*” The Verified Complaint, par. 4, listed the beneficiaries, incl. me, it deemed appropriate, & IA compliance w/R.4.87-8 allowed for Exceptions by Interested Parties, as per Verified Complaint, par. 4. In the Oct. 6, 2022 Rider, the Judge made a similar fraudulent omission, while

similarly trying to wrongly cite the Will's par. 10.6 as only allowing Ms. Ross to file Exceptions to IA. (**prior Brief, p. 1, last par., to p. 2, 1st par.; & p. 18, Certification, par. 51, for my Oct. 26, 2022 Reconsideration Motion**).

Based on Mr. Jacobson's fraudulent assertion, we are transformed from the well-recognized truthful & substantiated facts that Trust beneficiaries, incl. me, were allowed to challenge the IA based on his Verified Complaint, par. 4; compliance with R. 4:87-8, as per the March 25, 2022 Order, that allows Exceptions by all Interested Parties; and compliance with the Will, par. 10.6 to allow Exceptions by beneficiaries, to his fraudulent assertion, which he **NEVER** presented in any filings or Hearings in the Lower Court, that only Leslie Ross can challenge the IA based on his fraudulent citation of the Will, par. 10.6.

He presented (**p. 7, last par., to p. 11**) Oct. 6, 2022 Rider record regarding the basis for Judge's Rulings to reject my Exceptions, while omitting that my Certification (**par. 18-25; par. 27-56, 1st point; par. 57-59**) (167a-185a) (see **prior Brief, p. 12, "Jeffrey's Exceptions", to p. 20, "Requested Back-Up" for further clarifications**) for my Motion for Reconsideration had refuted with substantiated facts all of the Judge's false claims, opinions, and Rulings in that Rider record in order to validate that I "did [actually] have standing to challenge it [IA]... [and that my substantive] exceptions [in regards to various IA figures of Trust corpus and expenses] were sufficient as a matter of law".

He invalidates his case since he chose **NOT** to refute, let alone even address, any of my facts and arguments in my prior Brief based on my Certification for my Motion for Reconsideration that refuted the Judge's Rider claims & rulings.

He destroys his credibility by falsely/wrongly stating that I "moved for reconsideration of the [Oct. 6, 2022] Judgement repeating the same facts and arguments in his exceptions. **162a-226a**". My Aug. 8, '22 Exceptions w/o Exhibits were 15 pages of single line spacing (**114a-128a**). My Reconsideration, incl. substantiating Exhibits (**162a-226a**), addressed and/or refuted Verified Complaint Application, Court Rulings/Discussions about my Exception, Roth's Aug. 12, 2022 Reply to my Exceptions, Sept. 22nd Hearing, Follow-up Issues to Roth's Aug. 12th Reply & Sept. 22nd Hearing, and proposed Order to replace Oct. 6th Order. So, it addressed and/or refuted many issues separate from my Exceptions, and new issues & Court opinions/rulings subsequent to Exceptions. It elaborated on my Exceptions in order to refute false claims/arguments by Mr. Roth & the Court, incl. its Rulings. It would have been irrational to refute the false claims, arguments, & Rulings without also citing some key facts & arguments from my Exceptions in order to substantiate my case.

He points (**2T 7:21-8:13**) to his Dec. 22, 2022 Hearing arguments, none of which are true nor substantiated with relevant facts in his prior filing, and all of which were refuted by my Certification w/Reconsideration Motion, in order to

conclude that I was only “seeking a second bite at the apple. That’s not the basis for a motion for reconsideration”. Of course, he deliberately omitted my Hearing responses (**2T 11:1-12:3**) that refuted his false arguments that repeated the Judge’s false claims & rulings from the Oct. 6, ‘22 Rider, which I refuted point-by-point in my Motion, since they were palpably incorrect, arbitrary, unreasonable, or irrational due to overlooking key facts/statutes, as per NJ legal criteria to grant such Motions.

He simply copied (**p. 12-15**) extensive portions of the Feb. 17, 2023 Hearing Transcript, incl. Judge’s Rulings, as the basis, without any of his own feedback and justifications, for the March 7, 2023 Order provisions that he itemized.

He did **NOT** address my May 25, 2023 Cross-Motion, which also refuted point-by-point, based on substantiated evidence, the Judge’s invalid, Feb. 17, 2023, claims and Rulings that were palpably incorrect, arbitrary, unreasonable, or irrational due to overlooking key facts/statutes (**prior Brief, p. 31, par. 12; p. 33, par. 29, to p. 41, par. 38; p. 42-43, Court Rulings, Items a-d**).

He did **NOT** address my May 30, 2023 Reply to Mr. Ambrose’s May 23rd Cross-Motion. My Reply agreed with the evidence/arguments, all of which we had argued in our Aug. 8, 2022 Exceptions to the IA, that Oct. 6, 2022 Order should **NEVER** have authorized Ferro Labella’s \$4,120.48 billed work, as part of \$15,022.72 in par. 1d, for review of Ms. Ross’ invalid request around June

2021 for the Trust to pay off her personal home equity loan since it was an indisputable fact that Mr. Ambrose, & **NOT** Mr. Jacobson, was counsel, at the time, for the Trust & Co-Trustees, and Mr. Jacobson should **NEVER** have been consulted, nor accepted a review of this issue. (**prior Brief, p. 43-44**)

He did **NOT** address my appeal (**prior Brief, p. 44-52**) of the Judge's invalid claims/Rulings, which I refuted point-by-point since they were palpably incorrect & irrational; made in arbitrary & unreasonable, manner; & overlooked significance of irrefutable probative, competent evidence, from the Aug. 4, 2023 Hearing that were the basis for the Sept. 6th Order, which rejected the three parties' Motions, incl. my May 25, 2023 Cross-Motion with May 30th Reply.

FINALLY, & MOST IMPORTANTLY, his Counterstatements **NEVER** acknowledged the issuance of my May 31, 2024 Appeal Brief, and did **NOT** refute anything in my Brief's Procedural History and Statements of Facts.

It should be clear that Mr. Jacobson knowingly concocted a fraudulent falsification of the irrefutable record that I have presented to refute his lies.

REPLY TO RESPONDENT'S LEGAL ARGUMENTS

Mr. Jacobson did **NOT** refute any substantiated facts, arguments, nor cited NJ statutes and NJ Case Rulings in the **Legal Arguments** section of my prior Brief. Everything under my Legal Arguments section should be considered as truthful & valid. See my responses to refute five points raised by Mr. Jacobson.

POINT I

THE APPELLANT DOES HAVE STANDING TO CHALLENGE THE ACCOUNTING AND THE PETITIONER'S FEE APPLICATIONS

“Here, trial court's determination that the Appellant lacks standing to challenge the IA or the Fee Application is [NOT] correct as a matter of law”. Furthermore, it is only Mr. Jacobson’s newly concocted, **FALSE** claim regarding Fee Applications, since he & trial court **NEVER** addressed my standing, nor lack of standing, in regards to the Fee Applications.

In his citing Article 10.6 of the Will, which is **ONLY** one of several instruments, in addition to his Verified Complaint, par. 4, & R.4:87, governing Respondent's accounting actions, he fraudulently omits “Prior to transferring any or all of the assets of each trust to a Successor professional Co-Trustee, the professional Co-Trustee may require an approval of its account either by a court of competent jurisdiction *or by such of the beneficiaries it deems appropriate.*” As such, I, as vested Remainder Beneficiary, who his Verified Complaint, par. 4, also deemed appropriate to review the IA, meant “Appellant has [EVERY] right to review or approve the IA [and] the Fee Application”. My rights are further substantiated based on IA’s required compliance w/R.4.87-8, which allows for Exceptions by Interested Parties, incl. me, as per Verified Complaint, par. 4.

“To be sure, [Oct. 6, ‘22] Judgment also [**WRONGLY distorted**] case law [**& CONCOCTED FALSE SCENARIOS**] holding that the Appellant is a contingent remainderman, who is unaffected by allowances out of income or from payment of corpus commission and, therefore, he cannot file exceptions challenging such items in an accounting.”

Of course, all of that is diametrically contradicted by case law and the Court’s March 13, 2023 Order that I am a vested Remainder Beneficiary, who is affected by my IA Exceptions that focused on Trust Corpus and unwarranted and/or wrongfully reported Trust expenses, which impact Trust Corpus, & that did **NOT** focus on income nor Corpus commissions.

“Simply put, [my prior Brief and Court filings overwhelmingly substantiated that] the trial court [incorrectly and falsely] determined that the Appellant does not have standing to file exceptions to the IA or challenge the Fee Application, [when in fact he does have standing since he is a vested Remainder Beneficiary and his Exceptions focused on Trust Corpus and unwarranted & wrongfully reported expenses that negatively impact Corpus, which affects him as a vested Remainder Beneficiary]”. Once again, it is only Mr. Jacobson’s newly concocted, **FALSE** claim regarding Fee Applications, since he & trial court **NEVER** addressed my standing, nor lack of standing, in regards to the Fee Applications.

POINT II

THE TRIAL COURT DID ERR BY STRIKING THE
APPELLANT'S EXCEPTIONS

As per Point I, it is an inconvertible fact, without any need for assumptions, that the Appellant had/has standing to file IA Exceptions based on the March 25, 2022 Order, the Will, par. 10.6, the Verified Complaint, par. 4, R.4:87-8, and NJ Case Law.

“The trial court [clearly did **NOT**] carefully review his submission, [since it **FALSLEY & INCOMPETENTLY**] determined that the exceptions failed to identify with particularity the item or omission excepted, the modification sought, and the stated reasons for the modifications”. I refuted that concocted **FALSE** claim, which originated with Order Rider, dated Oct. 6, 2022, based on my Certification, par. 53, of my Motion for Reconsideration (**181a; prior Brief, p. 19, par. 53**) since “The only problem with that Court denial is that each of my Exceptions did state particularly the items or omissions for exceptions, the modifications sought in the accounting, and the reasons for the modifications.” Those 3 requirements are irrefutably validated based on my IA Exceptions, Items 1-8, which addressed problems with reported IA figures, & Items 9-11, which addressed problems with reported expenses and lack of Trust documentation to verify those expenses (**114a-128a**). “In other words, the exceptions [**ABSOLUTELY**] did raise genuine disputes.”

“Moreover, the trial court [**FALSLEY & INCOMPETENTLY**] determined that the exceptions were insufficient as a matter of law because they relate to style, concern matters of fiduciary discretion or do not bear on the accounting.” I refuted those concocted **FALSE** claims, which originated with Order Rider, dated Oct. 6, 2022, based on my Certification, par. 55, of my Motion for Reconsideration (**182a; prior Brief, p. 19-20, par. 55**) since “all of which were falsely claimed by Mr. Roth [and inexcusably repeated by the Judge], but refuted by me, since none of his claims are supported by facts challenging *my Exceptions, all of which relate to substance of Trust assets, substance of Trust expense deductions against assets, and substance of required reporting details for figures in the Trust Accounting.*” Once again, it is irrefutably validated based on my IA Exceptions, Items 1-11 (**114a-128a**).

“Here, Judge DeLuca’s [ineffective, invalid, and falsified] decision approving the IA is [**ABSOLUTELY NOT**] well-reasoned and [**clearly does**] rest on a misinterpretation of the law, [misinterpretation of irrefutable facts, repetition of Mr. Roth’s claims, which I refuted with substantiated facts, falsifying the requirements of the Will, par. 10.6, and irrationally overlooking the requirements of the March 25, 2022 Order, Verified Complaint, par. 4, and R.4:87-8].”

“[Appellate] court should review trial court's determinations [since] there is a clear abuse of discretion [as substantiated in great detail in my Oct. 26, 2022

& May 25, 2023 Motions for Reconsideration, and May 31, 2024 Appeal Brief].”

“As such, [Appellate] Court [MUST] disturb the [Lower Court] Judgment.” My Oct. 26, 2022 & May 25, 2023 Motions for Reconsideration, and May 31, 2024 Appeal Brief clearly substantiated the legitimacy for reconsidering the Oct. 6, 2022, March 7, 2023, & Sept. 6, 2023 Orders based on the criteria established in R.4.49-2, and NJ Court Case D'Atria v. D'Atria, 576 A.2d 957, 961 (N.J. Ch. Div. 1990). See my prior Brief, Section I, p. 53-55, for further details.

POINT III

THE TRIAL COURT DID ERR IN DENYING THE APPELLANT'S MOTION TO RECONSIDER THE JUDGMENT

Mr. Jacobson & the trial court need to also **STOP** “assuming arguendo that the Appellant has standing to challenge the IA”, since I have repeatedly substantiated that I have standing to challenge the IA based on R.4:87, Verified Complaint, par. 4, and the Will, par. 10.6.

Mr. Jacobson remains, & trial court was, in denial that reconsiderations of Oct. 6, 2022, March 7, '23, & Sept. 6, 2023 Orders are appropriate based on his two cited circumstances for Court acceptance (Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996) quoting, D' Atria v. D'Atria, 242 N.J. 393, 401 (Ch. Div. 1990)). They both apply since my Oct. 26, '22 & May 25, '23 Motions for Reconsideration, & May 31, '24 Appeal Brief clearly addressed/substantiated those

circumstances. **See my prior Brief, Section I, p. 53-55, for further details.**

As I also stated in Section I, “Judge Jerejian worsened his invalid denials of my Motions, & made them ripe for Appeal, by stating reconsideration “would be granted if “the decision rests on palpably incorrect or irrational basis, or the court didn’t consider or failed to appreciate the significance of probative, competent evidence”.” (3T, p. 6 line “24”, to p. 7, line 7) **(mistakenly cited line “4” in prior Brief)**. It is exactly what my Motions & this Appeal address.”

Mr. Jacobson misleading claim: “trial court denied the Appellant's motion because his dissatisfaction or disagreement with the Judgment is not a valid ground for reconsideration.” Feb. 17, 2023 Rulings cited those 2 minor baseless claims, among other key baseless claims, all of which I refuted in my filings, when it denied my Motion for Reconsideration. Judge’s misguided Aug. 4, 2023 Hearing opinion indicated that **ALL** parties’ Reconsideration Motions [incl. Jacobson’s March 23, 2023 & Mr. Ambrose’s May 25, 2023] going back to my Reconsideration Motion of Oct. ’22 Order “express dissatisfaction w/previous rulings” (4T, p. 45, line 9, to p. 46, line 14). My prior Brief, Section H, p. 44-46, par. 1; Section I, p. 54-55; & Section J, p. 59-60, par. 10, refuted the Court’s 2 misguided claims about my Motions that (along w/my Appeal) are based on contradictions by the Court and the parties to my probative competent evidence, and citations of NJ Statutes, Order provisions, and the Will of Harriet Ross.

My Appeal points out the substantiated evidence and arguments that the Lower Court wrongly rejected in its false claims and rulings that were palpably incorrect & irrational; made in arbitrary & unreasonable, manner; & overlooked significance of irrefutable probative, competent evidence contradicting the Judges' claims/rulings. Judge Jerehian's Aug. 4, 2023 Hearing Rulings, were clearly appealable, palpably incorrect "standards" that undermined his unreasonable claims/rulings. As I pointed out in my prior Brief, his primary unreasonable, illegitimate, "standard" was *"This case has to end" period*, irrationally regardless of legitimate factors that he should have considered to correct the Orders. His corollary illegitimate "standard" was that *"if there is dissatisfaction with rulings of this Court, it should be appealed"*. (4T, p. 45, line 9, to p. 46, line 14).

As I also pointed out, Judge should know Appellate guidelines state Appeals must **NEVER** be based on dissatisfaction w/rulings. He disregarded the substantiated evidence and arguments that proved my Motions, which substantiated the contradictions with the Court's false claims & wrong Rulings.

"As such, the trial court [**ABSOLUTELY did**] abuse its discretion when it denied the [Appellant's 2] motions for reconsideration [Oct. '22 & May '23].

Accordingly, this Court must review my Appeal, which is also based on the prior two Motions for Reconsideration, that substantiates that the denials of

my Motions were “an abuse of discretions” (Fusco v. Board of Ed Newark, 349 N.J. super. 455, 462 (App. Div. 2002)) by the trial court.

POINT IV

TRIAL COURT DID ERR IN DETERMINING FEE APPLICATIONS

SHAME on Mr. Jacobson, since he knows that he and Judge Jerejian **NEVER** argued that I have no standing to challenge Jacobson’s Fee Applications, and they **NEVER** argued anything based on his newly, absurd concocted claim of “Assuming arguendo that the Appellant has standing to challenge the Fee Application”.

His Court case citation (Packard-Bamburger & Co. v. Collier, 167 N.J. 427, 444 (2001)) actually should justify the Appellate Court vacating Court’s approval for legal fees of \$93,277.54 for a period from Feb. 1 to Oct. 25, 2022 based on the March 7, 2023 Order, since my Nov. 4&28, 2022 Oppositions, May 25, 2023 Cross-Motion for Reconsideration, and May 31, 2024 Appeal have substantiated that Judge Jerejian’s approval of the grossly excessive and totally unwarranted legal work for \$93,277.54 was “a clear abuse of discretion”.

“Here, the trial judge reviewed the affidavit of services [for the totally unwarranted & grossly excessive \$113,497 for legal fees],[identified in Feb. 17, ‘23 Rulings, but clearly had **NOT** validly] considered the RPC 1.5(a) factors, [had **NOT** rationally] considered the size of the [~\$360K] Trust [vs. assessed

fees], & then made [unjustifiable, concocted, & irrational] adjustments to reduce the fee award [to \$93,277.54, which was still more than 25% of Trust assets].”

Mr. Jacobson’s request for the grossly astronomical \$113,497 for legal fees in less than 9 months for allowing what should have been relatively simple work for Mr. Roth’s resignation as a Co-Trustee, which all parties wanted, and resolving IA Exceptions, which could have been handled exclusively by Mr. Roth, who was responsible for the IA, with almost no legal assistance required, should have been a screaming red warning flag if the Judge had rationally considered RPC 1.5(a) factors below that were clearly violated by the \$113,497 request, and the inconsequential adjustment by the Judge to \$93,277.

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;

Furthermore, in reality the overwhelming substantiated evidence in my Nov. 4&28, 2022 Oppositions, May 25, 2023 Cross-Motion for Reconsideration, and May 31, 2024 Appeal Brief demonstrate that **NONE** of that billed legal work would have been required, incl. his responding to Mr. Ambrose’s Verified Complaint (P-069-22), which **NEVER** would have

been filed, their filing a Verified Complaint & “formal” IA, **NEITHER of which were ever required**, for Surrogate Audit, Beneficiaries’ Exceptions, and Court Approval, which was **NEVER** required, if Mr. Jacobson & Mr. Roth had instead worked on a 100% guaranteed, achievable 3-Way Settlement with Mr. Roth, Ms. Ross, and me. Mr. Ambrose, counsel to Ms. Ross, Co-Trustee, & I, as sole vested Remainder Beneficiary of her Trust, repeatedly told them we were ready to agree to, & ultimately issued final draft Settlement for their approval, in order for Mr. Roth to issue to Ms. Ross & me for our acceptance an “informal” IA with details based on R.4:87, which his formal IA was also based on, but without any allowed Exceptions, & to allow Mr. Roth’s resignation, as Co-Trustee, without any liabilities for him.

Judge Jerejian irrationally chose to dismiss my overwhelming substantiated evidence that verified how Mr. Jacobson’s legal work fees would have been closer to ~\$5K, if he and Mr. Roth had instead chosen to work on a 3-Way Settlement (**prior Brief, p. 9, last par, to p. 10, 1st 2 lines; p. 36, par. 31; p. 50 last. par.**), as I had addressed in my Nov. 28, 2022 Reply Opposition regarding the legal fees, and May 25, 2023 Cross-Motion & May 31, 2024 Brief refuting the Judge’s false claims and invalid Feb. 17 & Aug. 4, 2023 Rulings regarding my opposition to the legal fees. Based on my Nov. 4&28, 2022 & May 25, 2023 Lower Court filings, my prior Brief extensively

substantiated how they repeatedly refused to work on a 100% guaranteed, achievable Settlement based on repeated requests by Mr. Ambrose & me. Unfortunately, the Judge abused his discretion by irrationally deciding that he would not believe the probative competent evidence that was presented to him.

To further compound Judge Jerejian's gross, discretion abuse, he chose to ignore my substantiated evidence that Mr. Jacobson told me, while refusing to engage in work towards any Settlement, that if Mr. Ambrose, Ms. Ross, and I would reach agreement on a detailed 3-Way Settlement, which he believed we could never do, he would agree to work on finalizing that 3-Way Settlement for Mr. Roth. Judge then ignored my substantiated evidence that Mr. Jacobson & Mr. Roth repeatedly **REFUSED** to work towards final Settlement and hold off filing Verified Complaint and "formal" IA for Surrogate Audit, as we requested, when we presented them w/detailed Settlement we had agreed to. (**prior Brief, p. 9, 2nd par.; p. 35, 1st par.; p. 39, 3rd par.; p. 51, 1st par.; p. 58, par. 6).**

"Simply stated, the trial court did [NOT properly apply] the law [and grossly abused] its discretion."

POINT V

THE TRIAL COURT DID ABUSE ITS DISCRETION IN DENYING THE APPELLANT'S MOTION TO RECONSIDER THE FEE AWARDS

In response to the Aug. 4, 2023 Hearing's claims & Rulings by Judge Jerejian to deny my May 25, 2023, Cross-Motion regarding awarded fees for

legal work, IA, and commissions in March 7, 2023 Order, I refuted them (**prior Brief, Sect. "H", p. 44-52**) based on previously presented, probative competent evidence that proved they were palpably incorrect & irrational; made in arbitrary & unreasonable, manner; & overlooked significance of irrefutable probative, competent evidence (**prior Brief, Sect. "F"&"G", p. 30-44**), all of which are legal grounds for approving my Cross-Motion for Reconsideration (**prior Brief, Sect. "I", p. 53-55**) that refuted his false claims & wrong Rulings

"The standard for review of a motion to reconsideration is whether the trial judge abused his discretion, [which I validated that he did in Point IV]. Here, the trial court denied the Appellant's motion for reconsideration [**NOT**] because [of Mr. Jacobson's concocted **FALSE** claim, which was never cited nor accepted by the trial Judge that] the Appellant did nothing more than repeat his argument that no fees should be awarded. But [Mr. Jacobson's concocted **FALSE** claim that I filed my Motions simply based on] disagreement or dissatisfaction with the trial court's determination is not a valid ground for reconsideration. [I repeatedly pointed out in my Motions & Appeal Brief that my Motion for Reconsideration had **NOTHING** to do with simple disagreement or dissatisfaction, which I indicated are not allowed based on NJ Case rulings]."

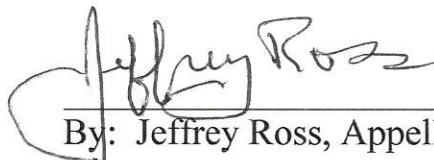
As such, the trial court [**ABSOLUTELY did**] abuse its discretion in denying the [May 25, 2023] motion for reconsideration."

CONCLUSIONS

For all the foregoing reasons, I have proven that Mr. Jacobson, upon behalf of Mr. Roth, Respondent, has made absolutely **NO** valid claims nor legal arguments, all of which I have refuted based on previously substantiated evidence from my prior Appeal Brief and my prior Motions, for denying my Appeal, which should be granted. Proposed Order (**prior Brief, Exh. "AF"**) (**502a-507a**), which consolidates the relevant issues that I am appealing, should be granted for issuance by Bergen County Superior Court, Chancery Division, Probate Part.

As I concluded in my prior Brief, no matter how many times I refute Mr. Jacobson, he simply repeats many of his false claims/accusations with a hope to mislead the Court. Or, he concocts new false claims/accusations that I refute with probative competent evidence.

Respectfully submitted,

A handwritten signature in black ink that reads "Jeffrey Ross". The signature is written in a cursive style with a large, looping initial "J".

Dated: July 15, 2024

By: Jeffrey Ross, Appellant – Interested Party