

FILED

OCT 21 2005

RONALD A. LONGTIN, JR., CLERK  
By: K. Driggs  
DEPUTY

1 Code: 3060

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

7 IN AND FOR THE COUNTY OF WASHOE

8 \* \* \*

9 IN THE MATTER OF THE ESTATE OF WILLIAM  
10 POWELL LEAR, also known as WILLIAM P. LEAR,  
W.P. LEAR and BILL LEAR,

11 Deceased.

Case No. PR78-2800

12 Dept. No. 7

13 ORDER GRANTING AWARD OF ATTORNEY'S FEES AND COSTS

14 Attorney David Reese (Reese) submits to this Court for consideration and determination the  
15 matter of the Award of Attorney's Fees and Costs to the Trust. On August 2, 2005, this Court  
16 entered an "Order Re: Petition to Set Aside Accounting" directing Reese to submit to the Court  
17 before August 19, 2005, proofs of his attorney's fees and costs. The awarding of attorney's fees is  
18 governed by NRS18.010 (1) stating "the compensation of an attorney and counselor for his  
19 services is governed by agreement, express or implied, which is not restrained by law." The  
20 trustees are expressly authorized by the Trust Agreement and prior Court Orders to retain legal  
21 counsel for representation on trust matters—Reese, as the Lear Family Trust's Trustee's attorney,  
22 is thus entitled to reasonable attorney's fees for time spent on the case.

23 As ordered, Reese submitted a detailed schedule of the fees and costs associated with  
24 pursuing this matter, specifically at issue were expenses incurred reading and responding to  
25 Patrick Christopher Lear's (PCL's) one hundred and sixty nine page (169) Petition to Set Aside  
26

1 Accounting and seventy one page (71) Reply to Opposition of the Petition. By PCL's own  
2 statement, the length of the Petition was primarily due to the "fact that it covered a period  
3 exceeding two decades" and the "seriousness of the matters."<sup>1</sup> Surely PCL expected that these  
4 submitted documents would be read and responded to accordingly by counsel, and that in doing  
5 so, expenses would be incurred.

6 Besides the numerous and repetitive allegations of Reese's impropriety, PCL does not  
7 actually submit any proof or legal argument that Attorney's fees are unwarranted here. Additionally,  
8 the awarding of attorney's fees is a discretionary matter. "A court does not abuse its discretion  
9 when the court reaches a result which could be found by a reasonable judge."<sup>2</sup> Though PCL may  
10 not agree with the Court nor with Reese's actions, a reasonable judge would allow an attorney to  
11 be compensated for the work he does and the efforts expended in dealing with a case as complex  
12 as this one. Accordingly, the request for Attorney's Fees in the amount of \$8,621.73 is hereby  
13 GRANTED.

14 The amount stated above will *not* be paid out of the trust, but will be paid by PCL himself as  
15 discussed in the Order of August 1, 2005.<sup>3</sup> This Court has previously cautioned PCL that he is  
16 "perilously close to sanctions"<sup>4</sup> and PCL is once again admonished to conduct himself  
17 appropriately. This Judge has been declared to be without bias; repeated allegations concerning  
18 Judge's bias and collusion will no longer be tolerated and such accusations will be treated as  
19 contempt of court.<sup>5</sup> (For an example of what constitutes improper conduct, see footnote 5.) PCL  
20

21 <sup>1</sup> Motion to Strike Document Entitled "Affidavit and Proof of Attorney's Fees and Costs." 2:20-2:22.

22 <sup>2</sup> *Goodman v. Goodman* 68 Nev. 484, 236 P.2d 305 (1951).

23 <sup>3</sup> August 01, 2005 "Order Re: Petition to Set Aside Accounting" 2:15-2:16.

24 <sup>4</sup> August 02, 2005 "Order Granting Protective Order For Grant Thornton" 1:15.

25 <sup>5</sup> See, for example "Motion to Strike Document Entitled "Affidavit and Proof of Attorney's Fees and Costs"  
26 2:05-2:07 ("In a continuing *pattern of vagueness and inconsistency...*"); 2:25-2:26("Breen could then act  
*arbitrarily* against this Petitioner."); 3:02-3:03 ("...Breen, *in collusion with* Court appointed LFT Trustees...and  
David J. Reese...engaged in retaliatory measures..."); 3:23 ("...Order which *capriciously* limits the number of  
pages..."); #;26-3:27 ("...the Second Judicial District Court had been used and *did in fact consummate and*  
*conceal the fraud and mismanagement.*"); 2:23-4:24 ("...*Breen gave legal advice and counsel* to David J.  
Reese" which "constituted *practicing law from the bench...clearly intended to threaten, intimidate and*  
*damage...*"); 5:15-5:17 ("...Breen specifically *advised and counseled* Reese..."); 5:24-5:28 ("...Reese's every

1 has had his opportunity to disqualify this Judge and has failed to produce evidence of his  
2 allegations. "In *propia persona* litigants are held to the same standard and restrictive procedural  
3 rules as an attorney."<sup>6</sup> "A litigant representing himself in *propia persona* is entitled to the same, but  
4 no greater, consideration than other litigants.<sup>7</sup> Attorneys are "not be permitted to engage in abusive  
5 and harassing tactics," but must address the Court in a "courteous and gracious manner"<sup>8</sup> PCL is  
6 cautioned that this Court will hold him to the same standard as an attorney. Further repetitive,  
7 redundant, and accusatory conduct will result in PCL being not only monetarily sanctioned, but  
8 could also result in his pleadings being stricken, default being entered against him, and / or any  
9 other sanctions that are appropriate.

10 IT IS SO ORDERED.

11 DATED this 18 day of October, 2005.

12 Peter J Breen  
13 DISTRICT JUDGE

14  
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16  
17 request...*whether right or wrong*... has been granted by the Court *without proper judicial review*...in a  
18 *continuing pattern of bias and prejudice* against the Petitioner. Reese is effectively acting as Judge..."); 6:02  
19 ("*...Breen's bias, prejudice, and willful disregard for the law...*"); 5:06 ("*Peter Breen continually refused or*  
20 *grossly neglected to address the rights and relationships of the parties...*"); 5:08-5:09 ("*Breen proposes to*  
21 *collude and join in the unlawful and fraudulent enterprises of the Court...*"); 5:15 ("*...the Order to support*  
22 *twisting of language and doublespeak*"); 7:01 ("*...Breen's Order is far less than lucid...*"); 7:08 ("*...this*  
23 *determination by Breen is beyond mere error it flies in the face...*"); 8:03-8:04 ("*...Breen refuses to recognize*  
24 *and take due consideration...*"); 8:23 ("*Peter I. Breen, in collusion and conspiracy with Court Appointed*  
25 *Trustee...and attorney Reese, intended to and did violate Petitioner's rights....and did secretly, covertly and*  
26 *continuously do substantial damage to the rights of this Petitioner...*"); 8:27-8:28 ("*...Court appointed*  
27 *conspirators filed false and fraudulent to cover up and conceal their unlawful enterprise...*"); (;03-9:04  
28 ("*...Breen was aware of these numerous unlawful acts and omissions and used the colors of a judicial office*  
29 *to further the unlawful schemes, artifices, and enterprise...*"); 9:07-9:08 ("*...Breen, in collusion with Court*  
30 *appointed trustees and Reese advised and directed...*"); 9:25-9:26 ("*...Reese's continuing pattern of undue*  
31 *influence and corrupting influence upon the Court.*"); 10:14-10:15 ("*...the sanctions against this Petitioner is*  
32 *in fact a tyrannical use of power...*"); 12:24-12:25 ("*...if it were not for the gross negligence of Breen...the*  
33 *matters...would have been determined a long, long time ago.*" Emphasis added in all quotations.

<sup>6</sup> *Kabbe v. Miller* 226 Cal.App 3d, 93 at 103, 275 Cal.Rptr. 893 (1991).

<sup>7</sup> *Id.* at 103, citing to *Nelson v. Gaunt*, 125 Cal.App. 3d, 623, 638-639

<sup>8</sup> *Kabbe v. Miller*, 226 Cal.App 3d, 93, 275 Cal.Rptr. 893 (1991).

1 CERTIFICATE OF SERVICE BY MAILING

2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Second Judicial  
3 District Court, in and for the County of Washoe; and that on this 21 day of  
4 October, 2005, I deposited in the County mailing system for postage and mailing with the  
5 United States Postal Service in Reno, Nevada, a true and correct copy of the attached  
6 document addressed as follows:

7 David J. Reese, Esq.  
8 P. O. Box 2229  
9 Reno, NV 89505

10 Patrick J. Martin, Esq.  
11 115 Ridge St.  
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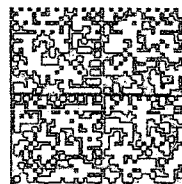


KIM DRIGGS  
Judicial Assistant

**PETER I. BREEN**  
DISTRICT JUDGE  
P.O. BOX 1125  
RENO, NEVADA 89504



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**\$0.35<sup>2</sup>**

OCT 24 2005

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