

**THE STATE OF NEW HAMPSHIRE
SUPREME COURT**

CASE NUMBER 2021-0373

**IN THE MATTER OF BRIAN COLSIA AND ALLANA KELLEY-
COLSIA**

**On Interlocutory Appeal from the 9th District Family Division
Merrimack**

Case No. 657-2015-DM-00092

**BRIEF OF FAITH DEETER-MACOMBER & FOXTROT DELTA,
INC. INTERVENORS BELOW, APPELLEES HERE**

FAITH DEETER-MACOMBER and
FOXTROT DELTA, INC.

By and Through Counsel,

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TABLE OF CONTENTS

Table of Contents	1
Table of Authorities	2
Questions Presented for Review	4
Statement of Case and Statement of Facts	6
Summary of Argument	16
Argument	18
Conclusion	26
Request for Oral Argument	27

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Alward v. Johnston</i> , 171 N.H. 574, 199 A.3d 1190 (2018).....	22
<i>State v. Goding</i> , 128 N.H. 267, 513 A.2d 325 (1986).....	24
<i>Redlon Co. v. Corporation</i> , 91 N.H. 502, 23 A.2d 370 (1941).....	24
<i>State v. Wilkinson</i> , 136 N.H. 170, 612 A.2d 926 (1992).....	24
<i>State v. Poirier</i> , 136 N.H. 477, 617 A.2d 653, (1992).....	24
<i>Gust v. Gust</i> , 78 Wash. 414 (1914).....	25
 Statutes	
N.H. Rev. Stat. Ann. § 458:16-a	24
N.H. Rev. Stat. Ann. § 511-A:8 (III).....	24
 Other Authorities	
NH Family Court Rule 1.2.....	20
NH Family Court Rule 1.25.....	22

Rule 16(3) (b): QUESTIONS PRESENTED FOR REVIEW

Here, Faith Deeter Macomber and Foxtrot Delta, Inc.¹ (hereinafter “Deeter/Foxtrot”) adopts and incorporates the questions for review as presented by the Receiver, in the corresponding QUESTIONS PRESENTED FOR REVIEW section of the Receiver’s brief, set forth pursuant to NH Supreme Court Rule 16 (4)(a): Appellee(s) allowed to restate the questions presented for review when “dissatisfied with their presentation by the other side.”

1. Does a divorce court that appointed a receiver for the marital estate have authority to approve settlements proposed by the receiver of causes of action that are part of the marital estate? ²

Answer: Yes.

¹ For the sake of heading off any confusion on the subject, Deeter/Foxtrot notes that Foxtrot Delta, Inc. is in fact a business corporation organized under the laws of the State of Wyoming. At various places in the record references are made to Foxtrot Delta, LLC. Any reference to either of Foxtrot Delta, Inc. or Foxtrot Delta, LLC are in fact made in reference to the one and the same entity.

² Question presented pages 11-12 of the Interlocutory Appeal Statement certified by the Family Court below, Derby, J. August 6, 2021, hereinafter the “IAS.”

2. Do mortgagees possess standing to intervene in a divorce proceeding, in connection with proposed agreements with them? ³

Answer: Yes, if, the Family Division in the exercise of its discretion permits.

3. Does a divorce court which appointed a receiver have authority to approve settlements of marital claims against third parties over the objections of a spouse, without review and approval by the superior courts in which those claims are pending? ⁴

Answer: Yes.

4. Did the divorce court err in approving the settlements over a spouse's objections? ⁵

Answer: No.

³ ID at 12.

⁴ ID. **Deeter/Foxtrot has no cases pending in the superior court.**

⁵ ID.

5. Can a party who moved to have a receiver appointed with broad settlement powers and failed to challenge the Marital Court's issuance of an order providing the receiver with such settlement powers subsequently challenge the receiver's ability to exercise such settlement powers? ⁶

Answer: It depends on the nature of the challenge and whether to allow such a challenge creates an unfair advantage or detriment.

Rule 16(3)(d): STATEMENT OF THE CASE

Here, Deeter/Foxtrot adopts and incorporates the statement of the case as presented by the Receiver, in the corresponding STATEMENT OF THE CASE section of the Receiver's brief, together with all of the Receiver's references contained therein to the Record and/or the Receiver's Appendix.

Deeter/Foxtrot further submits the following particulars concerning Deeter/Foxtrot's specific involvement in the case:

⁶ ID

Deeter/Foxtrot, based in Santa Ynez, California, first became acquainted with Petitioner Brian Colsia (“Brian”) and his girlfriend, Danielle (LeBlanc) Colsia (“Danielle”), in 2013/2014. *See Deeter/Foxtrot Interrogatories Answers and Document Production*, D/F App. Vol. II p. 9-10, 41, 57. Deeter/Foxtrot was introduced to Brian and Danielle by an acquaintance who was assisting Deeter/Foxtrot in finding safe and secure places to invest Deeter/Foxtrot’s family’s wealth. *Id.*

Thereafter, Deeter/Foxtrot made a series of small, short-term private equity loans to Brian and Danielle and/or companies owned or controlled by them (Waterway Realty, LLC and 48 North Road, LLC) to finance real estate development projects. *See Deeter/Foxtrot Interrogatories Answers and Document Production*, D/F App. Vol. II p. 9, 12, 39.

All of these dealings were completely arm’s length in nature. *See Deeter/Foxtrot Interrogatories Answers and Document Production*, D/F App. Vol. II p. 9-10, 12-14, 57 ; *Transcript* Vol II p. 84-87, 89-90.

Deeter/Foxtrot met Brian in person on only one occasion and then only briefly. *See Deeter/Foxtrot Interrogatories Answers and Document Production*, D/F App. Vol. II p. 10. Deeter/Foxtrot has never met Danielle

in person. *Id* at 14. Though it was Danielle with whom Deeter/Foxtrot typically conducted the parties' business by phone or email. *Id*.

With the exception of the project representing Deeter/Foxtrot's *only* connection to this case, all of these dealings with Brian and Danielle over the years turned out to be good, safe investments for Deeter/Foxtrot. *Id* at 49. Brian and Danielle made timely interest payments to Deeter/Foxtrot during pendency of Deeter/Foxtrot's loans and returned the principal amounts as agreed when the subject properties were sold. *Id*.

Throughout this entire time, Deeter/Foxtrot was under the impression that Brian and Danielle were husband and wife. *Id* at 9-10, 14.

In or around March 2020, Danielle informed Deeter/Foxtrot that the real property project that made up the entirety of Deeter/Foxtrot's then remaining business with Brian and Danielle (namely 138 Loudon Road in Concord and Deeter/Foxtrot's associated loans and mortgages thereon) was now subject to the Receivership in this case. *Id*. at 15. Upon inquiry thereafter, Deeter/Foxtrot learned for the first time of the divorce proceeding underlying this appeal and that Brian and Danielle were not in fact husband and wife after all. *Id* at 15, 33.

As indicated in the Receiver's brief statement of facts, Deeter/Foxtrot held two notes secured by two mortgages on Loudon Road. See also *See Deeter/Foxtrot's Motion to Confirm Priority of Third Position Mortgage over Intervening Colsia Attachment, Exhibits C and D*, D/F App. Vol. I p. 4-7 30-63, .⁷ These were both purchase money loans, made in two installments (~ \$108k in December 2015 and \$50k in February 2016, respectively). *Id.*

The main issue in this case as it relates to Deeter/Foxtrot would seem to only be that Deeter/Foxtrot and Danielle were both each experiencing significant family issues in February 2016, and Danielle failed to timely file the second mortgage at the registry of deeds as promised in February 2016 and Deeter/Foxtrot failed to catch it until late 2017/early 2018, when Deeter/Foxtrot inquired as to status. *See Deeter/Foxtrot Interrogatories Answers and Document Production* D/F App. Vol. II p. 14-19; *Transcript* [date] Vol II p. 89-90.

Meanwhile in September 2016, Respondent Alana Kelly-Colsia, Brian's actual wife ("Alana"), sought and obtained from the family court an

⁷ The Motion may also be found at Exhibit 5 (p24) of the Interlocutory Appeal Statement Appendix. However, the copy of the Motion in the IAS App. Lacks the relevant exhibits (notes, mortgages, etc.). Therefore, Deeter/Foxtrot provides a copy of the Motion inclusive of all of its exhibits as part of Deeter/Foxtrot's Brief Appendix.

ex parte pre-judgment attachment on all of Waterway, LLC's and 48 North Road, LLC's New Hampshire real estate for the purpose of restraining any potential alienation of those assets from the marital estate. *See Deeter/Foxtrot's Motion to Confirm Priority of Third Position Mortgage over Intervening Colsia Attachment, Exhibit E, D/F App. Vol. I p. 64-69.*

On or around June 30, 2020, Deeter/Foxtrot filed a *Motion to Confirm Priority of Third Position Mortgage over Intervening Colsia Attachment* in the family court. *See Deeter/Foxtrot's Motion to Confirm Priority of Third Position Mortgage over Intervening Colsia Attachment D/F App. Vol. I p. 3-69.*

On or around July 8, 2020 Alana filed an objection. *See Alana's Objection to Deeter/Foxtrot's Motion to Confirm Priority D/F App. Vol. I p. 71-80.* Notably, said objection was not based on any argument that Deeter/Foxtrot lacked standing to request relief before the family court (which Alana now, in contravention of the family court's certification of the IAS, claims is at issue), but rather that Deeter/Foxtrot's claims must fail because they are rooted in Deeter/Foxtrot's (to this day completely unsubstantiated) alleged complicity in various frauds and conspiracies engineered by Brian and Danielle to deprive Alana of her fair share of the

marital estate. *Id.*; see also *Transcript* Vol II p. 78-9, (discussing lack of any evidence of wrongdoing on the part of Deeter/Foxtrot; 78-79 (“evidence free allegations” at p. 79 ¶ 5)).

On or around August 25, 2020, Alana served interrogatories and requests for documents upon Deeter/Foxtrot. See *Alana’s Discovery Requests* D/F App. Vol. I p. 81-94. In October 2020, these were followed by a compel/default judgement motion from Alana. See *Alana’s Motion to Compel/Default* D/F App. Vol. I p. 96-98.

Deeter/Foxtrot provided detailed sworn testimony (*vis á vis* interrogatory answers) regarding their course of dealing with Brian and Danielle over the years, along with available email communications, supporting attorney affidavits, applicable lending documents and wire transfer records to support Deeter/Foxtrot’s good faith and bonifides regarding the loans in question. See *Generally Deeter/Foxtrot Interrogatories Answers and Document Production* D/F App. Vol. II p. 3-57. Alana has not provided a stitch of evidence since to controvert Deeter/Foxtrot’s bonifides with respect to these loans. See *Deeter/Foxtrot’s Objection to Alana’s Motion to Stay Effectuation of Settlements* D/F App. Vol. II p. 136-140; see also *Transcript* Vol II p. 78-79 (“evidence free

allegations” at p. 79 ¶ 5), and *See Receiver’s Motion to Authorize and Approve Settlement* D/F App. Vol. II p. 58-70 (the motion) 71-134 (associated exhibits).

Deeter/Foxtrot sought through this discovery production to establish once and for all their bonifides as a legitimate, for value, arm’s length, purchase money creditor on the Loudon Road project. *See Generally Deeter/Foxtrot Interrogatories Answers and Document Production* D/F App. Vol. II p. 3-57; *See also Transcript* Vol II p.82, ¶¶ 10-11 (Alana’s counsel discussing how Deeter/Foxtrot “has been very cooperative, very gracious, with respect to providing us with documentation and information...”).

Which establishment was apparently accomplished to first the satisfaction of the Receiver, and then the satisfaction family court who approved the Receiver’s negotiated settlement with Deeter/Foxtrot. *See Receiver’s Motion to Authorize and Approve Settlement* D/F App. Vol. II p. 58-70 (the motion) 71-134 (associated exhibits); *See also Order on Receiver’s Settlement Approval Motions* IAS App (Exhibit 7) p. 39-44.

As part of its order, the family court modified or otherwise dissolved Alana’s September 2016 attachment to the extent necessary to

accommodate the Receiver's settlement with Deeter/Foxtrot. *See also Order on Receiver's Settlement Approval Motions IAS App (Exhibit 7) p. 44.*

The crux of Deeter/Foxtrot's Settlement with the Receiver is that in exchange for a speedy and complete resolution of the matter, Deeter/Foxtrot would **a.** provide discharges for both its mortgages so that the Receiver could sell or otherwise liquidate Loudon Road free and clear; **b.** Deeter/Foxtrot would waive Deeter/Foxtrot's claims to penalties and default interest rates provided for in the notes and mortgages; **c.** Deeter/Foxtrot would be paid in full for all principal amounts due on the loans along with any regular outstanding interest payments due, plus reasonable attorney's fees for maintaining this matter (as provided for in the loan documents); and **d.** Deeter/Foxtrot would be reimbursed for out-of-pocket property tax payments made directly by Deeter/Foxtrot to the City of Concord in 2018 to prevent Loudon Road from being foreclosed upon by the City, *vis á vis* a tax lien. *See Receiver's Motion to Authorize and Approve Settlement D/F App. Vol. II p. 58-70 (the motion), and 71-79 (exhibit A, settlement agreement);*

Deeter/Foxtrot's concessions regarding waiver of penalties, acceleration and the application of default interests rates are very significant. *Id.* The notes and mortgages are cross-collateralized, as is standard in commercial lending transactions. A default under one loan constitutes default under the other(s). *Id.* at 80-86, (mortgage 1.), 103-111.(mortgage 2.), 124- .127 (note 1.), 130-133 (note 2).

There have been at least six separate instances of default with respect to Deeter/Foxtrot's loans regarding the Loudon Road project and associated notes: **a.** failure on Danielle's part to timely record the second mortgage in February 2016; **b.** the family court's hypothecation orders, made applicable to 48 North Road later that year; **c.** Alana's September 2016 attachment; **d.** the first day city taxes on Loudon Road went into arrears; **e.** Deeter/Foxtrot's actually tendering in excess of \$30k to the City of Concord in 2018 to prevent a tax lien foreclosure; and **f.** Waterway Realty, LLC and 48 North Road, LLC becoming subject to receivership. *See Generally Receiver's Motion to Authorize and Approve Settlement D/F App. Vol. II p. 58-70 (the motion) 71-134 (associated exhibits); and See Generally Deeter/Foxtrot Interrogatories Answers and Document Production D/F App. Vol. II p. 3-57.*

The default interest rate penalty on both of Deeter/Foxtrot's notes is 5%. That equals \$7,937.50/year on the first loan and \$2,500.00/year on the second. *Id.* Were the effectuation of the settlement between Deeter/Foxtrot and the Receiver not successfully stayed by Alana, but instead consummated on schedule, about 5 years after the earliest instance of default, the Receiver would have saved the marital estate about \$52,000.00 in claims for default interest payments alone; but that is not all: the notes also provide for an additional 5% of the amounts all interests and principal past due as a liquidated damages penalty, plus continually accruing costs and attorney's fees. *Id;* See also *Transcript* Vol II p. 156-7.

Naturally, the costs associated with Deeter/Foxtrot's loans are only growing at this point with accumulating attorney's fees and regular per diem interest – if the settlement holds *Id.*

If Deeter/Foxtrot's settlement is barred and Deeter/Foxtrot is forced take this matter back up in the family court below - or in the superior court, as Alana suggests Deeter/Foxtrot must, Deeter/Foxtrot will resume its claims for penalties and default interest, along with additional claims for new attorney's fees due and payable under the notes.

Pursuant to Supreme Court Rule 17(1), Deeter/Foxtrot is submitting their own appendix in two volumes (“DT App Vol I” and “DT App Vol II”) to include pleadings which they believe should be part of the record, but which were not included in the Appellant’s Appendix (the IAS Exhibits/Appendix).

SUMMARY OF ARGUMENT

Here, Deeter/Foxtrot adopts and incorporates the summary of the argument as presented by the Receiver, in the corresponding SUMMARY OF THE ARGUMENT section of the Receiver’s brief and adds the following specific to Deeter/Foxtrot’s involvement in the case:

The settlement that the Receiver negotiated with Deeter Foxtrot is a very good deal for the marital estate because it would eliminate well over \$50,000.00 worth of claims available to Deeter/Foxtrot for default interest alone along with penalties and ever-growing claims for costs and fees, head off further litigation, eliminate risk and delay, provide certainty, and cap further litigation costs associated with Deeter/Foxtrot’s continued pursuit of their rights to payment.

The Receiver should be applauded for negotiating the settlement and the family court was wise and correct to approve it.

The Receiver's settlement with Deeter/Foxtrot is not the product of a final adjudication of claims, but rather a sober and reasoned assessment and weighing on the part of the Receiver and the family court as to how those claims would play out if litigated to finality, and the likely associated costs for the marital estate.

Deeter/Foxtrot has demonstrated a high likelihood of success on the merits in any action to establish its bonifides as a good faith, for value creditor of 48 North Road, LLC who needs to be paid on its notes before the remaining equity in 48 North Road, LLC is added to the marital estate.

Alana's prejudgment attachment was granted to act as a restraint on fraudulent transfers, not as license for unjust enrichment at the expense of previous, innocent, third party, for-value creditors such as Deeter/Foxtrot. The family court was correct and acted within its authority when it modified or dissolved Alana's attachment to allow for Deeter/Foxtrot's settlement with the Receiver.

ARGUMENT

I. **THE FAMILY DIVISION HAS AUTHORITY TO AUTHORIZE AND APPROVE TRANSACTIONS, INCLUDING SETTLEMENTS, PROPOSED BY ITS RECEIVER RELATING TO ASSETS (INCLUDING LITIGATION CLAIMS) OF THE MARITAL ESTATE.**

Here, Deeter/Foxtrot adopts and incorporates the points of fact and law, and the arguments set forth by the Receiver, in the corresponding ARGUMENT I section of the Receiver's brief.

Deeter/Foxtrot would only further emphasize two points that are important from Deeter/Foxtrot's perspective:

First, it was Alana who requested that the Receiver be appointed fiduciary in this case. The Receiver acts as fiduciary for all interested parties, not simply as Alana's personal collections agent.

Second, it is not just the real estate involved in this case that is subject to the Receivership. The Receivership Estate also explicitly includes the record owners of the real estate, Waterway Realty, LLC and 48 North Road LLC, as going concerns. These entities are not simply piggy banks or real estate portfolios. They are the sum of their assets and their liabilities. The equity for the Receiver to deliver to the marital estate is not

just the naked equity in the various real properties, but rather it is the equity that is left over after these two entities have paid all of their legitimate, bonifide creditors – of which Deeter/Foxtrot is one. Deeter/Foxtrot is entitled to payment on its notes from 48 North Road, LLC just as government entities are entitled to tax payments, utilities for their provision of services (water, sewer, electricity, and gas, etc.), condo/housing associations for their dues and fees, trades people and professionals for their services, realtors and title companies for their commissions etc.

Notwithstanding the allegations that these entities may have been deployed to secrete away assets from Alana, their underlying real estate development business from Deeter/Foxtrot's perspective would appear to have been otherwise perfectly normal and legitimate. What's left for the marital estate is what is left after all of these business' bonifide, good faith, for value creditors are paid. Otherwise, the Receivership would function as a vehicle for Alana – and Brian, for that matter, to unjustly enrich themselves at the expense of the innocent third parties that contributed to the value of these enterprises and in turn the marital estate.

II. PERMITTING PARTIES WITH WHOM THE RECEIVER PROPOSED AGREEMENTS TO PARTICIPATE IN THE HEARING ON THE MOTION TO APPROVE THOSE AGREEMENTS WAS NOT AN ABUSE OF DISCRETION AND WAS HARMLESS.

Here, Deeter/Foxtrot adopts and incorporates the points of fact and law, and the arguments set forth by the Receiver, in the corresponding ARGUMENT II section of the Receiver’s brief, and further adds:

For all intents and purposes, Deeter/Foxtrot’s *Motion to Confirm Priority of Third Position Mortgage over Intervening Colsia Attachment* fits the bill for a Motion to Intervene under NH Family Court Rule 2.7 in every aspect but name.

The Motion clearly identified Deeter/Foxtrot, its relationship to the case, the reason for intervention and the relief sought.

That it wasn’t explicitly fashioned as a “motion to intervene” is irrelevant.

The family court, like all of the trial courts, has the discretion to waive draconian application of its rules “as justice may require.” *See* NH Family Court Rule 1.2. Justice was served here by the court not requiring

the parties to incur the costs of preparing and responding to redundant, duplicative pleadings.

Alana seems to suggest that Deeter/Foxtrot's status as an intervenor has yet to be established. This is not true and it is not an open question on appeal here. *See Judge Derby's initialed strike through edits to the IAS made prior to his certification of the same at page 2, footnotes 1-3; page 3, footnote 4; page 4, first paragraph; page 10, last paragraph; page 11, last paragraph; page 12 at section 3.*

Deeter/Foxtrot was treated as an intervening party to the case by the family court from their first appearance.

More importantly, Deeter/Foxtrot was treated as an intervening party to the case by Alana from Deeter/Foxtrot's first appearance. To wit, Alana's objection to Deeter/Foxtrot's initial *Motion to Confirm Priority of Third Position Mortgage over Intervening Colsia Attachment* was not on the basis of whether or not Deeter/Foxtrot had a right to intervene, but rather on substantive grounds (demonstrably false and/or unsubstantiated, evidence-free allegations that Deeter/Foxtrot had acted in collusion and conspiracy with Brian and Danielle).

Furthermore, Alana propounded interrogatories and requests for production of documents on Deeter/Foxtrot pursuant NH Family Court Rule 1.25. Per the rule, those are vehicles used to get discovery from case *parties*. Eliciting the same information from *non-parties* is done by deposition and subpoenas duces tecum. Alana also sought a default judgment against Deeter/Foxtrot below. Judgments, whether default or otherwise, are typically reserved for *actual parties to the case*. Therefore, it is highly disingenuous for Alana to claim Deeter/Foxtrot was never properly in this case and Alana should accordingly be estopped from claiming so now. See *Alward v. Johnston*, 171 N.H. 574 (2018).

III. THE FAMILY DIVISION HAS AUTHORITY TO ENTER THE ORDER BELOW WITHOUT AN ORDER BY ANY SUPERIOR COURT.

It is unclear whether or not this question has anything to do with Deeter/Foxtrot as it seems to apply primarily to Wayne Colsia and Wayne's associated superior cases.

However, to the extent that it might apply to Deeter/Foxtrot:

Here, Deeter/Foxtrot adopts and incorporates the points of fact and law, and the arguments set forth by the Receiver, in the corresponding ARGUMENT III section of the Receiver's brief, and further adds:

Deeter/Foxtrot is not involved in any ancillary superior court action involving fraud, fraudulent transfer, conspiracy, actions to avoid mortgages and/or quiet title, etc.

Alana's modus operandi since the beginning of Deeter/Foxtrot's entry into this case has been to plead a litany of fraud and deceit with respect to Brian and Danielle and Brian's brother, Wayne Colsia related to associated superior court actions – often going on for many, many pages regarding the same, only to then toss in mention in a sentence or two of Deeter/Foxtrot as a kind of afterthought, and state that Deeter/Foxtrot and their requests for relief also belong in the superior court. This is a disingenuous attempt at guilt by association at best.

This matter is not about the validity and priorities of mortgages as between Alana and Deeter/Foxtrot.

First, it was Alana who sought attachment (encumbering title to Waterway and 48 North Road real estate) in the family court – as opposed

to the superior court, where she now claims all things title need to be adjudicated.

It was the family court that granted Alana's prejudgment attachment and the family court retains jurisdiction to dissolve it at the family court's discretion. *See* NH RSA 458:16-a; *See also State v. Goding*, 128 N.H. 267, 270-71, 513 A.2d 325, 328 (1986); *Redlon Co. v. Corporation*, 91 N.H. 502, 505, 23 A.2d 370, 373 (1941); *State v. Wilkinson*, 136 N.H. 170, 177, 612 A.2d 926, 930 (1992); *State v. Poirier*, 136 N.H. 477, 479-80, 617 A.2d 653, 655 (1992) (all relative to the trial court's authority to modify, change or dissolve preliminary/interlocutory orders).

Second, Alana's prejudgment attachment is not a mortgage. Alana has not provided any value at all to support her attachment. Alana is not a bonifide purchaser for value. Alana is not a lien creditor. Alana's attachment is beyond inchoate. Alana's attachment is really at best in the nature of a *Lis Pendens* granted to act as a restraint on alienation of Waterway Realty and 48 North Road's real estate. *See* NH RSA 511-A:8 (III).

A *Lis Pendens* cannot be deployed to supplant a bonifide creditor who provided value well previously. A *Lis pendens* is not a license for

unjust enrichment at the expense of previous, innocent third-party creditors. *See Gust v. Gust*, 78 Wash. 414 (1914).

The superior court does not and should not have any review or veto authority with respect to the settlement between the Receiver and Deeter/Foxtrot.

Per all of the foregoing, Alana has already picked her court/venue with respect to Deeter/Foxtrot. Deeter/Foxtrot has honored this selection in good faith and sought negotiation with the Receiver who was appointed and authorized by the family court at Alana's request and Deeter/Foxtrot shouldn't be required to start from scratch in the superior court. It would be unjust and in violation of the basic principles of res judicata and collateral estoppel/issue preclusion; and judicial estoppel generally. *See above*.

IV. THE FAMILY DIVISION DID NOT ERR IN APPROVING THE SETTLEMENT OVER A SPOUSE'S OBJECTIONS.

Here, Deeter/Foxtrot adopts and incorporates the points of fact and law, and the arguments set forth by the Receiver, in the corresponding ARGUMENT IV section of the Receiver's brief. Deeter/Foxtrot has nothing add here beyond what Deeter/Foxtrot has stated above.

V. **THE DOCTRINE OF JUDICIAL ESTOPPEL BARS A PARTY FROM ADVOCATING FOR AND PREVAILING WITH THE APPOINTMENT OF A RECEIVER AND THEREAFTER CHALLENGING THE COURT'S AUTHORITY TO APPOINT THAT SAME RECEIVER.**

Here, Deeter/Foxtrot adopts and incorporates the points of fact and law, and the arguments set forth by the Receiver, in the corresponding ARGUMENT V section of the Receiver's brief. Deeter/Foxtrot has nothing add here beyond what Deeter/Foxtrot has stated above.

CONCLUSION

For the foregoing reasons, this Court should answer the questions presented in the Interlocutory Appeal Statement as follows:

1. Yes, the Family Division has authority to enter the Order Below.
2. Yes, the Family Division did not abuse its discretion when it allowed Foxtrot Delta and Wayne Colsia to intervene for the

purpose of advocating for approval of the receiver's settlements with them.

3. No, Superior Court review of the Family Division's approval of the settlement is not required.
4. No, the Family Division did not commit reversible error in approving receiver's proposed settlement over the objection of a spouse.
5. No, a party is not permitted to contest the power of the Family Division to appoint a receiver to sell property and sue and settle litigation where the elements of judicial estoppel are met

REQUEST FOR ORAL ARGUMENT

The undersigned, respectfully request oral argument in this matter. The oral argument will be presented by Jonathan T. McPhee, esq.

FAITH DEETER-MACOMBER and
FOXTROT DELTA, INC.

By and Through Counsel,

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