

**Superior Court of New Jersey - Appellate Division  
Letter Brief**

Appellate Division Docket Number: A-000520-24

Vincent A. Urbank  
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Attorney Bar ID #:

06/10/2025

Letter Brief on behalf of: Self

**IMO Vincent W. Urbank and Ida M. Graf Urbank,  
Revocable Living Trust Dated 07/18/1991**

Plaintiff

**V.**

**Vincent A. Urbank**

Defendant

Case Type: Civil

County/Agency: Ocean

Trial Court/Agency Docket No: 186576

Trial Court Judge/Agency Name: Therese A. Cunningham

Dear Judges:

Pursuant to R. 2:6-2(b), please accept this letter brief in support of my appeal in this matter.

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Order	10/08/2024	Pa 1 a
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<u>Judgement Approving Accountings</u>	<u>06/28/2024</u>	<u>Pa 2a</u>
<u>Interim Order</u>	<u>10/06/2016</u>	<u>Pa 5a</u>
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<u>Exhibit AD Correspondence from Davies</u>	<u>05/28/2024</u>	<u>Da 313a</u>
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<u>Exhibit O Correspondence to Davies</u>	<u>07/08/2024</u>	<u>Da 452a</u>
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<u>Exhibit T Request for New Trustee Certification</u>	<u>07/08/2024</u>	<u>Da 464a</u>
<u>Exhibit U Request for New Trustee Certification</u>	<u>07/08/2024</u>	<u>Da 466a</u>
<u>Exhibit V Request for New Trustee Certification</u>	<u>07/08/2024</u>	<u>Da 469a</u>
<u>Exhibit W Davies Response to Letter of Exceptions</u>	<u>07/08/2024</u>	<u>Da 471a</u>
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<u>Notice of Appeal</u>	<u>10/10/2024</u>	<u>Da 520a</u>
<u>Notice of Preargument Conference</u>	<u>01/03/2025</u>	<u>Pa 526a</u>
<u>Casp Questionnaire</u>	<u>01/21/2025</u>	<u>Da 528a</u>

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<u>Casp Questionnaire</u>	<u>01/22/2025</u>	<u>Pa 529a</u>

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N.J.S.A. 3B:19B-1 (1)	Statutes	Da 186a
N.J.S.A. 3B:31-55	Statutes	Da 165 a
N.J.S.A. 3B:31-59	Statutes	Da 112a
N.J.R.S. 3B:31-64	Statutes	Da 111a
N.J.R.S. 3B:31-65	Statutes	Da 112a
N.J.R.S. 3B:31-66	Statutes	Da 112
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N.J.S.A. 3B:-57	Statutes	Da 195a

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**LIST OF PARTIES**

<b>Party Name</b>	<b>Appellate Party Designation</b>	<b>Trial Court/ Agency Party Role</b>	<b>Trial Court/Agency Party Status</b>
Joel A. Davies	Respondent	Plaintiff	Other
Vincent A. Urbank	Appellant	Defendant	Other

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**TABLE OF TRANSCRIPTS**

<b>Proceeding Type</b>	<b>Proceeding Date</b>	<b>Transcript Number</b>
Motion	06/27/2024	1T
Motion	10/08/2024	2T

**PRELIMINARY STATEMENT**

Appellant further highlights a troubling procedural history: former trustee was ordered to provide an accounting, never complied. Davies submitted two deficient accountings that were not approved due to missing documentation from two prior trustees. Davies then filed an order to show cause seeking approval of his accountings without the required supporting documentation. Although the court approved Davies' accountings and directed him to compel Landers' compliance, Davies inappropriately charged the trust—rather than Landers—for legal fees incurred in the effort. This misallocation is especially egregious since Landers' noncompliance was the sole reason for the motion.

All litigation stemming from the misconduct of both past and current trustees has led to legal fees being charged to the trust rather than to the individuals responsible for the noncompliance. This depletion of trust assets not only harms the beneficiaries but also undermines the principles of fiduciary accountability and the enforcement of judicial orders.

The trial court erroneously found that all beneficiaries had been notified of the accountings, though the record clearly shows otherwise.

Appellant respectfully requests that this Court reverse the trial court's approval of trustee commissions and legal expenses and enforce the trust agreement, fiduciary duties, and prior

court orders to protect the integrity of trust administration and the rights of its beneficiaries.

**TABLE OF PROCEDURAL HISTORY**

<b>Date</b>	<b>Event/ Proceeding</b>	<b>Filed By</b>	<b>Result</b>	<b>Appendix Page Number/ Transcript</b>
10/27/2014	Settlement Agreement	Court	Filed	Pa 157a
10/27/2014	Order Approving Settlement	Court	Filed	Da 175a
10/17/2016	Interim Order	Court	Filed	Da 226a
01/13/2017	Corrective Interim Order	Court	Filed	Pa 153a
07/07/2022	Appellate Court	Court	Other	Pa 20a
08/24/2022	Order to Show Cause	Plaintiff	Filed	Pa 36a
12/12/2023	Order	Court	Filed	Pa 105a
01/19/2024	Letter of Exceptions	Defendant	Filed	Da 108a
02/07/2024	Interim Order	Court	Filed	Pa 153 a
05/15/2024	Order	Court	Filed	Pa 154 a
05/28/2024	Letter of Exceptions	Defendant	Filed	Da 1 a
06/28/2024	Judgement	Court	Filed	Pa 2a
07/08/2024	Notice of Motion	Defendant	Filed	Da 335a
10/08/2024	Order	Court	Filed	Pa 1a
10/10/2024	Notice of Appeal	Defendant	Filed	Da 520a

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Date	Event/ Proceeding	Filed By	Result	Appendix Page Number/ Transcript
05/05/2025	Preargument Hearing	Court	Other	Pa 526a

#### STATEMENT OF FACTS

October 27, 2014 Settlement Agreement Vincent W. Urbank and Ida M. Graf Urbank Revocable Living Trust, dated 07/18/1991 (Pa 157a)..."6. A new trust titled as the Vincent W. Urbank Testamentary Trust..."(Pa 160a)"...balance...allocated to Vincent A. Urbank in trust..."(Pa 162a-163a)"14...real property...3017 McGee Ave, Philadelphia...611 Elizabeth Ave.,...613 Elizabeth Ave.,...18 Downing St...Vincent W. Urbank Testamentary Trust and Vincent A. Urbank...partners..."(Pa 162a-165a)"20.Accounting: The trustee(s) shall provide a comprehensive accounting to the contingent beneficiaries annually...The trustee shall provide a copy of any accounting...to Vincent A. Urbank on an annual..."(Pa 172a)

October 27, 2014 Order Approving Settlement Agreement (Pa 175a)"10...trustee(s)shall thereafter accept the responsibility...retitling...real property and liquid assets..." (Pa 181a)

October 17, 2016 Interim Order filed(Pa 224a)"...Landers...discharged...Final Accounting("Pa 224a)"1...Davies...appointed..."4 ORDERED...Van Dyke...Landers...ordered to cooperate...include...providing..exact copies...account information, background information...and any and all information as to the said Trust and/or properties, titled in the name of said Trust, or remaining..."(Pa 224a-225a)"6 ORDERED that prior Orders of this

Court with respect to this matter, including but not limited to the most Orders of October 6, 2016, shall remain in full force and effect..."(Pa 226a)

January 13, 2017 Corrective Interim Order(Pa 153a)... ..  
Landers...shall file with the Court a Certified  
Accounting...forty-five (45) days..."(Pa 154a)"6 ORDERED that  
prior Orders...shall remain in full force and effect..."(Pa 155a)

February 28, 2017 correspondence Davies to...Landers."...Upon  
your completion of the Certified Accounting..."(Pa 152a)Landers  
filed a Certified Accounting to the court in 2023.(Pa 96a)  
Accounting was due to the court by February 27, 2017,..(Pa 153a)

May 11, 2017 Davies correspondence to Landers"...provide a  
Certified Accounting to the Court..."(Pa 150a)

July 30, 2019 correspondence to Davies (Da 142a) "...two(2)  
matter/investments...by August 19, 2019..monies...State's  
Unclaimed Property Administration...Second...that needs to be  
claimed by the Trustee..."(Da 142a)""...# 20 Accountings, states:  
"The Trustee shall provide a copy of any accounting...annual  
basis as well..."(Da 143a) Davies response (Pa 407a)"3.You are  
correct that accountings...filed annually. I have not done so...I  
am filing two (2) accountings..."(Pa 407a)

January 6, 2020 Judgment Approving Formal Accounting(Pa 8a)

January 31, 2020 Davies filed Order to Show Cause "A.  
Compelling...Landers...formal accounting."(Da 436a)"B. Allowing  
payment of attorney's fees and costs of suit..."(Pa 437a)"

February 12, 2024 Request for new trustee Vincent J.

Urbank. (Pa 465a)

February 15, 2024 Request for a new trustee Albert Urbank  
(Pa 470a)

March 7, 2024 Request for new trustee Anna L. Stulz (Pa 467a)

April 27, 2021 Vincent A. Urbank filed an Order to Show  
Cause (Da 131a) "...B...court to immediately replace the...Davies...'

July 7, 2022 Appellate Court opinion (Pa 20a) "...it is that  
court that should ensure each of those fiduciaries are held to  
account." (Pa 31-32a) "...remand for the probate judge to take  
responsibility to ensure that each of the three successive  
trustees the court has appointed..." (Pa 34a) "We expect that the  
trial court will act to enforce its own orders...The court  
should not hesitate to order the disgorgement of commissions and  
fees the court has previously awarded...The court must ensure  
that all records, information and documents relating to trust  
and estate assets are promptly turned over to the current  
trustee." (Pa 34-35a) "The beneficiaries should come to an  
agreement...thereby ending the court's appointment of any more  
trustees..." (Pa 35a)

August 24, 2022 Court filed Order to show Cause (Pa  
36a) "...ORDERED...A. Urbank...VanDyke...Landers...Davies..." (Pa 36a)

December 12, 2023 Order Davies filed  
"1. Service...accomplished as to all interested parties..." (Pa 105a)

December 18, 2023 Correspondence to Davies (Da 107a) "...all  
bills from ACH withdrawals..."

January 19, 2024 Letter of Exceptions filed Vincent A.

Urbank(Da 108a)

February 5, 2024 Davies response to the Letter of Exceptions(Pa 502a)"..H...July 14,,2022

"...requesting...bookkeeping records..."(Da 109a)The Court: "...Urbank, you've never asked for a discovery period...I've signed orders...Davies' office to look at whatever you want to look at..."(1T73-4-7)

February 9, 2024 Correspondence Davies to Urbank (Pa 314a)"...the undersigned has never received a paper or electronic bill for any of the auto draft utility bills that are paid by the Trust."(Pa 315a)

May 15, 2024 Final Accounting Hearing Order filed. (Pa 184a)

May 28, 2024 Vincent A. Urbank. Delivered a Letter of Exceptions to the Ocean County Surrogate Court.(Da 185a)

June 27, 2024 Court Motion Hearing(1T)MR. DAVIES: "...settlement agreement...predates my appointment..."(1T 3011-23)The Court: "...order appointing him...do not reference the settlement agreement...all prior orders are in effect...no reference to the re-titling...there was a consent order...spell out in the Motion order any additional duties...or incorporate the settlement agreement..."(1T32-5-25) (1T33-1-3) (1T41-12-19)MR. Davies: I had no ability to file such an accounting within 45 days..."(1T43-13-25)Mr. Davies: "There was no homeowner's insurance payments made..."(1T63-25) (1T641-2) Mr. Davies "...Whatever bills we received, we paid..."(1T 7722-25, 781-4)Mr. Davies:"...he wants to micromanage everything. 1T78-10-14)

(1T86-13-16)MR. URBANK: "...fiduciary fee in the amount of \$5,087... on..."(1T 12025-1211-6)MR. URBANK: "...I'm showing that there's a fee...not shown on...Davies' accounting...(1T121-20-25) "Only two... 611 and the 18 Downey Street are listed on the income tax returns...there's four properties..."(1T125-23-25) (1T126-1-6)

THE COURT: "...status of the Philadelphia taxes now?"(1T 13622-24)MR. DAVIES: "Oh, paid."(1T 13624)MR. DAVIES: "...to reflect payment of taxes."(1T137-1-2) MR. DAVIES: "...I wasn't aware of that obligation..."(1T139-4-6) MR. URBANK: "...Davies... trustee, is required to do an accounting once a year. He has failed that...Davies'...eight years old...we're talking about '16-'17, '17-'18...we have no idea what's there now..."(1T150-19-25) (1T15-11-18)THE COURT: "None of that is before me..."(1T151-20-21)MR. URBANK:"...neglect...he wants a commission...when he didn't do his job..."(1T151-24-25) (1T15-21-7)MR. DAVIES:"... I've done my job. It may not be perfect..."(1T152-9-25) (1T153-1-25) (1T 154-1-4)The Court:...I am satisfied that each of the successor trustees, that is...Van Dyke... Landers...Davies, have all appeared in response to the order to show cause...notice to the beneficiaries."(1T170-12-18)

Judgment Approving Accountings June 28, 2024. (Pa 2a)

October 8, 2024 Motion for Reconsideration hearing; THE COURT: "...I have not heard from...any of the beneficiaries...I have...Van Dyke's...looks like all the beneficiaries...were served with his accounting...dated June 12, 2023."(2T7-5-12) Van Dyke Certification of Service Dated June 12, 2024 (Pa 48a) "cc: to ..."

Beneficiary Vincent J. is missing.(Pa 49a) Peter Van Dyke letter on June 12, 2023 (Pa 58a) "cc: "Beneficiary Vincent J. is missing(Pa 59a)Van Dyke response to Letter of Exceptions August 7, 2023 (Pa 68a) "cc: ...Beneficiary Vincent J. (Pa 84a)Davies proof of mailing (Pa 10a)"...Filed Verified Complaint and Order to Show Cause (Pa 10a)"... Beneficiary Vincent J. is missing(Pa 10a)Davies Proof of Service (Pa 505a) certified on 10/7/24 (Pa 506a)"On March 22, 2024...On April 24, 2024..."Beneficiary Vincent J. Urbank is missing .(Pa 505a-506a) THE COURT: "...who are your children?"(2T 3116)MR. URBANK: "Vincent J. Urbank, okay, Hannah(Anna)Urbank, Albert Urbank, and Tessa Urbank."(2T 3117)THE COURT: "...you submitted certifications...then they should appear and let the court know. I'm not making any other determination."(2T 321-9)

Order Denying Motion for Reconsideration October 8, 2024.  
(Pa 1a)

Notice of appeal filed October 10, 2024. (Da 478a)

Notice of Preargument Conference dated January 3, 2025.

Casp Questionnaire from Appellant January 21, 2025 (Da 528a)

Casp Questionnaire from Respondent January 22, 2025 (Pa 529a)

## LEGAL ARGUMENT

### POINT 1

THE COURT ERRED BY NOT FULLY  
ADDRESSING THE DELIVERLY OF TRUST  
PROPERTY BY ALL FORMER TRUSTTE(S)

(1T)

Davies states that the trust property was not turned over to him in a timely manner and that it took nearly three years to compile two accountings. Despite a court order requiring the prior trustees to cooperate, they failed to inform Davies of the settlement agreement or the order approving it. The court accepted Davies' claim that he was unaware of the settlement and, without taking testimony from the former trustees, found he was not bound by it—despite prior orders requiring the trustees to provide him with all trust-related information.

POINT 2

THE TRIAL COURT ERRES WHEN THE  
TRUSTEE HAS NOT BEEN PERFORMING HIS  
DUTY TO ADMINISTER

(1T)

Davies claims the order appointing him Substitute and

Successor Trustee never stated "Settlement Agreement", yet the order states all orders are in full force and effect. The Court never enforced its own orders, the settlement agreement also has a order to it. There are numerous duties in the Settlement Agreement specifically for the Trustee. Davies has not performed any of them to date.

**POINT 3**

THE TRIAL COURT ERRED APPROVING THE  
ACCOUNTING WITHOUT REQUIRING THE  
TRUSTEE TO FRUNISH ALL RECEPITES FOR  
PAYMENTS MADE

(1T)

I had asked for receipts, including ACH transactions, Davies claims he has never received any bills or statements from the ACH transactions, he just pays them.

**POINT 4**

REMEDIES FOR BREACH OF TRUST

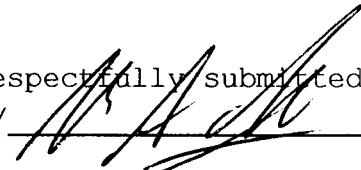
(1T)

A Trustee in violation of his duties as a trustee, such a

breach need not be intentional or with malice, but can be due to negligence.

**CONCLUSION**

For the reasons stated, the defendant respectfully requests that the Court (1) require the accountings to be supported by bills and receipts for each transaction; (2) hold a hearing to determine whether the prior trustee failed to comply with court orders to transfer trust documents; and (3) enforce the settlement agreement and prior court orders as the governing authority over the trust. The Court should not award commissions to any trustee who has failed to follow the trust instrument or their fiduciary duties. The beneficiaries have the right to enforce the trust and seek relief for any breaches. The trustees must be held accountable.

Respectfully submitted,  
S/ 

Dated: June 10, 2025

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**Superior Court of New Jersey**  
**Appellate Division**

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Docket No. A-000520-24

IN THE MATTER OF THE	:	CIVIL ACTION
VINCENT W. URBANK AND IDA M. GRAF	:	
URBANK REVOCABLE LIVING TRUST	:	ON APPEAL FROM
DATED 07/18/1991	:	SUPERIOR COURT OF NEW JERSEY
	:	CHANCERY DIVISION OCEAN COUNTY
	:	DOCKET NO. 18-6576
	:	
	:	Sat Below:
	:	HON. THERESE A. CUNNINGHAM, J.S.C.

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BRIEF ON BEHALF OF RESPONDENT

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Law Offices of TAFF, DAVIES & KALWINSKY  
Respondent  
143 Route 70  
Toms River, New Jersey 08755  
(732) 901-5797  
[jdavies@taffanddavies.com](mailto:jdavies@taffanddavies.com)

Joel A. Davies, Esq.  
Attorney ID# 030311990  
Of counsel & on the brief

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**Taff, Davies  
& Kalwinsky, LLC**

**ROBERT H. TAFF, ESQ.+**  
**JOEL A. DAVIES, ESQ.+**  
**MATTHEW K. KALWINSKY, ESQ.\***  
**ZOE M. YAFFE, ESQ.^**  
+MEMBER, NAELA  
\* ADMITTED IN NJ AND PA  
^ADMITTED IN NJ AND OH

---

Attorneys at Law

July 10, 2025

Clerk, Appellate Division  
Richard J. Hughes Justice Complex  
Trenton, New Jersey

Re: In the matter of the Vincent W. Urbank and Ida M. Graf  
Urbank Revocable Living Trust dated 07/18/1991  
Docket No. A-000520-24 T1

Dear Sir/Madam:

With regard to the above captioned matter, in which the undersigned is the Respondent, as the third successor trustee of the trust, I respectfully request that the Court accept this letter brief, pursuant to New Jersey Court Rule 2:8-1(a), in opposition to the Appellant's brief.

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Nextel of N.Y. v. Englewood Cliffs Bd. Of Adj., 361 N.J. Super. 22, 45 (App. Div. 2003).....5

Spinks v. Township of Clinton, 402 N.J. Super. 465, 474 (App. Div. 2008).....4, 5

State v. Hild, 184 N.J. Super. 294, 296 (App. Div. 1977).....4, 5

### **Counter-statement of Facts and Procedural History**

While the Appellant has chosen to provide hundreds of pages of documents in his Appendix, the bulk of these documents are illegible and irrelevant to the proceedings before this Court.

The Appellant's disjointed Appendix detracts from the simplicity of the actual procedural history pertinent to this Appeal.

The Respondent submits the following counter-statement of facts and procedural history referencing documents in the Appellant's Appendix which actually, and more accurately, relate to the case under appeal.

This appeal is from the trial court's October 8, 2024 denial of the Appellant's motion for reconsideration (Pa1) of the trial court's June 28, 2024 judgment (Pa2) approving the Respondent's initial two accountings (Da244) following the June 27, 2024 hearing (1T) on the Appellant's thirty-plus exceptions to said accountings. (Da185)

The Appellant's June 10, 2025 brief fails to address the fact, or acknowledge in any manner, that the Appellant himself was the original trustee of the Vincent W. Urbank and Ida M. Graf Urbank Revocable Living Trust dated 07/18/1991 Trust and that the Appellant himself has failed to account for his tenure as trustee despite repeated Court Orders. (1T58:4-5).

## LEGAL ARGUMENT

### **The Appellant’s June 10, 2025 brief is devoid of any statutory or case law in support of Appellant’s “legal arguments.”**

Pursuant to R. 2:6-2(a)(6), an appellant’s brief must include legal argument. Providing a properly constructed legal argument in the brief affords the court “an orderly and considered presentation of the matter on appeal so that the court ‘may have before it such parts of the record and such legal authorities as will be of help in arriving at a proper determination.’” Hayling v. Hayling, 197 N.J. Super. 484, 448-489 (App. Div. 1984).

Proper presentation of law is critical to the appellate process. In State v. Hild, 184 N.J. Super. 294, 296 (App. Div. 1977), prior to suppressing a non-conforming brief, the Appellate Division lamented “despite the fact that independent research by the court is, to a great extent, the invariable rule, the parties may not escape their initial obligation to justify their positions by specific reference to legal authority.”

The Appellants brief is similar to the one referenced in Spinks v. Township of Clinton, 402 N.J. Super. 465, 474 (App. Div. 2008), wherein the plaintiffs presented a sixty-one page appendix, seven computer disks, and one CD recording of the “GPS” tracking for the court’s review. “The plaintiffs ignore the fact that it is their responsibility to refer us to specific parts of the record to support their argument.

They may not discharge that duty by inviting us to search through the record ourselves.” Spinks v. Township of Clinton, 402 N.J. Super. 465, 474 (App. Div. 2008) citing State v. Hild, 184 N.J. Super. 294, 296 (App. Div. 1977). Here, Appellant fails to specifically cite to the record in support of his arguments but rather presents a voluminous appendix forcing the Court to scour through the record itself in search of arguments.

It is not the duty of an appellate court to scour the record for facts that support a legal argument, and the court will not be persuaded by an argument based on conclusory statements. See generally, Nextel of N.Y. v. Englewood Cliffs Bd. Of Adj., 361 N.J. Super. 22, 45 (App. Div. 2003). The Appellant’s brief is entirely devoid of any citation to legal authority for his conclusory assertions of the alleged errors of the Trial Court.

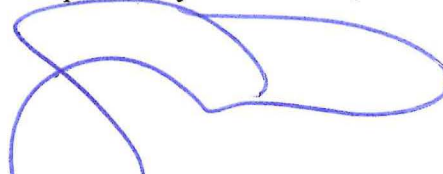
It is incredibly difficult, if not impossible, for the Respondent to reasonably discern the Appellant’s arguments as suggested by the point headings followed by an “argument” which contain a couple of sentences without citing to the record nor any supporting authority.

Without Appellant providing any coherent identifiable legal argument, the Respondent has nothing to respond or oppose.

CONCLUSION

For the reasons and arguments set forth above, the June 28, 2025 Judgment approving the initial two accountings, should be affirmed.

Respectfully submitted,

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

JOEL A. DAVIES, ESQ.  
Attorney ID #: 030311990

dsl

cc: Mr. Vincent A. Urbank, pro se

TJ KKK

<p><b>Superior Court of New Jersey - Appellate Division</b>  <i>Reply</i> Letter Brief          Appellate Division Docket Number: A-000520-24</p>
---

Vincent A. Urbank  
 609 Elizabeth Avenue, Toms River NJ 08753  
 732-261-8788  
 vunj@yahoo.com  
 Attorney Bar ID #:

07/24/2025

Letter Brief on behalf of: Self

RECEIVED  
APPELLATE DIVISION

KK JUL 24 2025

SUPERIOR COURT  
OF NEW JERSEY

**IMO Vincent W. Urbank and Ida M. Graf Urbank Revocable Living Trust Dated 0**  
 Plaintiff

V.

**Vincent A. Urbank**

Defendant

Case Type: Civil

County/Agency: Ocean

Trial Court/Agency Docket No: SUPERIOR COURT OF NEW JERSEY

Trial Court Judge/Agency Name: Hon. Therese A. Cunningham, J.S.C.

Dear Judges:

Pursuant to R. 2:6-2(b), please accept this letter brief in  
 support of my appeal in this matter.

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Not raised below

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Not raised below

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Not raised below

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## TABLE OF AUTHORITIES

<b>Case/Other Authority</b>	<b>Category</b>	<b>Brief Page Number</b>
<u>In re Trust of Hall, 343 N.J. Super. 292 (Ch. Div. 2001)</u>	<u>Case Law</u>	<u>5</u>
<u>In re Estate of Lash, N.J. Super. 558 (App. Div. 1979)</u>	<u>Case Law</u>	<u>5</u>
<u>N.J.S.A. 3B:14-23</u>	<u>Statutes</u>	<u>5</u>
<u>N.J.S.A. 3B:31-54</u>	<u>Statutes</u>	<u>5</u>
<u>N.J.S.A. 3B:31-55</u>	<u>Statutes</u>	<u>5</u>
<u>N.J.S.A. 3B:31-56</u>	<u>Statutes</u>	<u>5</u>
<u>N.J.S.A. 3B:31-68</u>	<u>Statutes</u>	<u>5</u>

Appellate Division Docket Number: A-000520-24

Appellate Letter Brief

**LIST OF PARTIES**

<b>Party Name</b>	<b>Appellate Party Designation</b>	<b>Trial Court/ Agency Party Role</b>	<b>Trial Court/Agency Party Status</b>
Joel A. Davies	Respondent	Plaintiff	Other
Vincent A Urbank	Appellant	Defendant	Other

**PRELIMINARY STATEMENT**

The Respondent's response brief focuses less on the merits of the appeal and more on attacking the form and formatting of the Appellant's submissions. While the Respondent critiques the size and scope of the Appellant's appendix, the material included was intended to provide the Court with a comprehensive view of the case and the pattern of conduct by the Respondent and the trial court's handling of the matter. It is respectfully submitted that the Appellant's presentation, though perhaps broad in scope, was an earnest effort to ensure that the record was complete and transparent. The Respondent's reliance on form over substance serves to obscure the core issues of fiduciary misconduct and procedural unfairness.

**STATEMENT OF FACTS**

On October 27, 2014, the Appellant and Elizabeth Fox were discharged as Successor and Co-Successor trustees. (Pa 181a) The Respondent asserts that he is the third trustee of the trust. While this is technically correct, Respondent's authority is derived from and limited by the Settlement Agreement (Pa 157a) and Court Order (pa 175a) that created the Vincent W. Urbank Testamentary Trust. Pursuant to that order, all assets then held by the interim trustee in the Estate of Vincent W. Urbank and the Vincent W. Urbank and Ida M. Graf Urbank Revocable Living

thereafter. Despite these transitions, Respondent has continued to operate under the original Vincent W. Urbank and Ida M. Graf Urbank Revocable Living Trust, rather than in accordance with the court-mandated Vincent W. Urbank Testamentary Trust. This continued operation under an outdated trust structure is inconsistent with the governing court order and has contributed to improper trust administration. Appellant has never served as trustee of the Vincent W. Urbank Testamentary and has no fiduciary control over the assets even though the Settlement Agreement states, "The trustee shall title these properties in a new partnership...Vincent A. Urbank as the named partners." (Pa 164a) "All income received from these investment annuities shall be paid over to Vincent A. Urbank..." (Pa 167a) Moreover, the Trial court has also not directed Respondent to take such actions, despite his continuing obligation under the settlement agreement.

Respondent's failure to implement the settlement agreement has materially affected the administration of the trust. Had Respondent complied with the terms of the settlement, the composition and values of the trust in the 2016-2017 and 2017-2018 fiduciary accountings would have been substantially different. This ongoing neglect had prejudiced Appellant and undermined the terms of the trust and the court's prior directives.

#### **LEGAL ARGUMENT**

##### **POINT 1**

**THE RESPONDENT MISCHARACTERIZES THE APPELLANT'S  
BRIEF AND THE SUPPORTING APPENDIX**

Not raised below

The Respondent accuses the Appellant of filing an "illegible and irrelevant" appendix and a disjointed brief. This is an overstatement. The documents submitted were original court filings, communications, and financial records related to the trust at issue. While voluminous, their purpose was to illustrate a consistent failure of oversight regarding the trust administration and to provide context for the Appellant's objections. Additionally, the Appellant's point headings and arguments do indeed reflect legitimate grievances with the trial courts findings, including the approval of the Respondent's accounting without adequate scrutiny of numerous contested transactions.

**POINT 2**

**APPELLANT'S ROLE AS PRIOR TRUSTEE DOES NOT EXCUSE  
RESPONDENT'S MISMANAGEMENT.**

Not raised below

The Respondent repeatedly points out that Appellant was formerly a trustee and alleges a failure to account for his own tenure. However, this does not negate the Respondent's

independent obligation to render accurate and complete accountings during his own fiduciary administration. The trial court erred by dismissing the Appellant's exceptions to the accountings without sufficient analysis and without requiring detailed responses to specific concerns raised, including but not limited to missing receipts and unexplained withdrawals. Moreover, the Appellant's prior role has already been addressed in prior proceedings, which Vincent A. Urbank and Elizabeth Fox were discharged as Successor Co-Trustee. (Pa 181a) This does not absolve the current fiduciary from legal responsibility. Two wrongs do not make a right, and the Respondent cannot shield his own performance by pointing fingers backwards.

**POINT 3**

**THE RESPONDENT'S BRIEF FAILS TO ENGAGE THE  
SUBSTANCE OF APPELLANT'S OBJECTIONS**

Not raised below

Instead of substantively addressing the specific exceptions and concerns raised by the appellant in relation to the June 28, 2024 judgement and the October 8, 2024 denial of reconsideration, the Respondent dismisses them wholesome, relying on procedural technicalities. The core of the appeal concerns whether the trial court adequately considered the Appellant's exceptions, whether the Respondent met his fiduciary duties, and whether due process was afforded in the manner in

which these accountings were reviewed and accepted.

**POINT 4**

**THE LACK OF LEGAL CITATIONS IN APPELLANT'S  
OPENING BRIEF WAS NOT A WAIVER OF LEGAL  
ARGUMENTS.**

Not raised below

While the Appellant acknowledges that his initial brief may not have contained extensive citations to case law, this was not a waiver of legal argument, the statutes stand on their own. The essence of the Appellant's appeal remains rooted in core legal principles of fiduciary duty, procedural fairness, and judicial oversight, which the Appellate Division is fully empowered to consider, even if not precisely cited in formal legal terms. The Respondent's reliance on a case involving GPS tracking and multimedia submissions is inapposite, and not case law that limits the enforcement of the statutes. The Appellant's appendix consists solely of written materials related directly to the trust administration and proceedings. While N.J.S.A. 3B:18-1 et seq. provides for fiduciary commissions, longstanding New Jersey case law makes it clear that a fiduciary who fails to comply with statutory obligations violates a court order, or acts contrary to the terms of the settlement agreement may be denied such compensation as a matter of equity and judicial discretion. See *In re Estate of Lash*, 169 N.J. Super. 558 (App. Div. 1979);

In re Trust of Hall, 343 N.J. Super. 292 (Ch. Div. 2001)

**POINT 5**

**THE RESPONDENT RELIES SOLELY ON CASE LAW WITHOUT  
ADDRESSING STATUTORY FIDUCIARY DUTIES.**

not raised below

The Respondent's brief repeatedly cites case law to distract from the binding statutory obligations imposed upon a fiduciary. While case law provides interpretive guidance, it cannot and does not override the statutory duties imposed by the legislature. Unless a statute has been held unconstitutional or expressly limited by controlling authority, the statutes remain in full force and effect. The fiduciary duties that govern trustees - including the duty of loyalty, duty of care, and duty to account - are clearly set forth in applicable statutes, including but not limited to: N.J.S.A. 3b:31-54 Duty to Administer the Trust Prudently; "A Trustee shall administer the trust as a prudent person would, by considering the purpose, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution." N.J.S.A. 3B:31-56 Duty to loyalty. "A trustee shall administer the trust solely in the interests of the beneficiaries." N.J.S.A. 3B:14-23 Duty to account. "A trustee shall keep adequate records of the administration of the trust and shall make those records

available to any qualified beneficiary upon request." N.J.S.A. 3B:31-55 Uniform Trust Code. N.J.S.A. 3B:31-68 Duty to inform and report. "The trustee must keep beneficiaries "reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests." The Respondent has failed to demonstrate compliance with these statutes. Instead, the Respondent attempts to sidestep his statutory obligations by invoking case law that is either distinguishable or irrelevant to the present matter. No amount of case law can excuse noncompliance with the statutory duties of a trustee. In the absence of any controlling case law that invalidates or limits the relevant statutes, the statutory obligations must govern, and it is the Respondent, not the Appellant, who has failed to adhere to them. The trial court's failure to enforce these statutes was legal error and should be corrected on appeal. Courts in New Jersey are bound to enforce statutory law unless overturned by superior legal authority. In the absence of controlling case law that negates these statutes, they must be enforced in full. The Respondent has not, and cannot cite any such case law because it does not exist. No case law can excuse the Respondent's statutory breaches.

#### CONCLUSION

The Respondent's brief fails to address or rebut the most fundamental issues at the heart of this this appeal, the failure to comply with statutory fiduciary duties, the mismanagement of trust assets, and the repeated violations of

both court orders and the Settlement Agreement. Since the Respondent's appointment in 2016, there has been a pattern of neglect and mismanagement. No homeowners' or renters' insurance policies have been maintained on the trust properties, placing trust assets at significant risk. Real estate taxes have not been paid, further endangering trust property and potentially incurring penalties and legal exposure. The Respondent has allowed automatic ACH withdrawals from the trust checking account over which he exercises full control, but he has never accounted for these payments, nor provided supporting documentation. The Respondent has not requested paper bills or electronic bills from these companies receiving these payments, which represents meaningful oversight and transparency. The Respondent has failed to distribute dividend payments to the Appellant as required under the Settlement Agreement, which would have changed the Respondent's commission the court awarded him greatly. Critically, the Respondent has not transitioned the old trust into the trust structure established by the court-approved Settlement Agreement and Court Order, nor has he implemented the partnership with Vincent A. Urbank, nor has the Respondent ever adhered to the seventeen (17) pages of the settlement agreement. The Appellate decision July 7, 2022, "As the the trustee and the court continue to refer to the Vincent W. Urbank and Ida M. Graf (Urbank) Revocable Living Trust instead of the Vincent W. Urbank Testamentary Trust, it would appear the assets have not been retitled as agreed and

ordered." The Respondent's excuse, that he was never appointed to administer the Vincent W. Urbank Testamentary Trust because the original trust name was not properly updated, is entirely insufficient. As a fiduciary, he had an affirmative obligation to review all court orders and Settlement Agreements. The burden was not on the prior trustee's to inform him of binding court directives. These actions and omissions are not just administrative oversights. They represent clear violations of the Respondent's statutory obligations under the New Jersey Uniform Trust Code. The trial court erred in awarding fiduciary commissions to the Respondent, who failed to comply with fundamental fiduciary duties, applicable statutes, the governing court court, and the settlement agreement that established the frameowrk for trust administartion. A fiduciary who has not adhered to the statutory obligations, court dircetives, or settlement agreement should not be entitled to compensation.

For these reasons, the Appellant respectfully request that the court, reverse the rial court's approval of the respondent's accountings; vacate the June 28, 2024 judgment and the October 8, 2024 denial of reconsideration; 3. remand the matter for a full evidential hearing on the Respondent's administration of the trust, including the issues non-payment of taxes, unaccounted ACH withdrawals, failure to provide dividends, and failure to implement the Settlement Agreement, all of which would have affected his commissions.

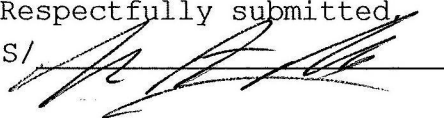
Appellate Division Docket Number: A-000520-24

Appellate Letter Brief

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Respectfully submitted,

S/

A handwritten signature in black ink, appearing to be "S. J. [unclear]", written over a horizontal line.

Dated: July 24, 2025