

ORIGINAL

IN THE SUPREME COURT OF THE STATE OF NEVADA

In the Matter of the Guardianship of the Estate of:  
JEAN RUTH ECHEVARRIA, an adult ward.

Michael A. Echevarria,  
Appellant,

vs.

Robert L. Ansara, and Angel Echevarria,  
Respondents.

Supreme Court No. 65598

**FILED**

JUN 26 2014

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Young  
DEPUTY CLERK

**CIVIL PROPER PERSON APPEAL STATEMENT**

**INSTRUCTIONS:** You must complete and file this Appeal Statement with the Nevada Supreme Court on or before **[due date]**.

**HOW TO FILL OUT THE FORM:** The form must be typed or clearly handwritten. Write only in the space allowed on the form. **Additional pages and attachments are not allowed.** The Nevada Supreme Court prefers short and direct statements. You do not need to refer to legal authority or the district court record.

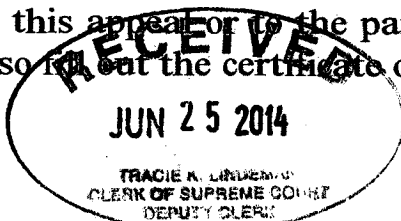
**WHERE TO FILE THE FORM:** You may file your form in person or by mail.

**To file your form in person:** Bring the form to the Clerk's Office at the Supreme Court of Nevada, 201 South Carson Street, Carson City, Nevada. You can file your form Monday through Friday, 8:00 a.m. to 4:00 p.m.

**To file your form by mail:** Mail the form to the Clerk of the Supreme Court of Nevada, 201 S. Carson St., Carson City, NV 89701. Your form must be postmarked by the due date.

You must file the original form and 1 copy with the Clerk of the Nevada Supreme Court. If you want the clerk to return a file-stamped copy of your form, you must submit the original form and 2 copies and include a self-addressed, stamped envelope. Forms cannot be faxed or e-mailed to the Nevada Supreme Court Clerk's Office.

Copies of the completed form must be mailed or delivered to the other parties to this appeal or to the parties' attorneys, if they have attorneys. You must also file out the certificate of service that is attached to the form. The Nevada



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Supreme Court may return any document that does not meet these requirements.

**Judgment or Order You Are Appealing.** List the judgment or order that you are appealing from and the date that the judgment or order was filed in the district court.

Filed Date	Name of Judgment or Order
April 8, 2014	Stipulation and Order

**Notice of Appeal.** Give the date you filed your notice of appeal in the district court: May 1, 2014

**Related Cases.** List all other court cases related to this case. Provide the case number, title of the case and name of the court where the case was filed.

Case No.	Case Title	Name of Court
A05040	Michael A. Echevarria vs. The Mill at Lebanon, LLC, The Jean R Echevarria	Chancery Court of Wilson, TN
CIV 463092	and Jean Echevarria.	Superior Court of CA, San Mateo Co

**Issues on Appeal.** Does your appeal concern any of the following issues? Check all that apply:

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> divorce  | <input type="checkbox"/> child custody/visitation       | <input type="checkbox"/> child support        |
| <input type="checkbox"/> relocation   | <input type="checkbox"/> termination of parental rights | <input type="checkbox"/> attorney fees        |
| <input type="checkbox"/> paternity  | <input type="checkbox"/> marital settlement agreement   | <input type="checkbox"/> division of property |
| <input type="checkbox"/> adoption   | <input type="checkbox"/> prenuptial agreement           | <input type="checkbox"/> spousal support      |
| <input checked="" type="checkbox"/> other—briefly explain: <u>Distribution of money from sale of real property in a guardianship matter</u> |   |   |

**Statement of Facts.** Explain the facts of your case. (Your answer must be provided in the space allowed.)

Appellant received a judgment against the person and estate of Jean R Echevarria, entered on January 2, 2007, in Case No. A05040, styled Michael E. Echevarria vs. The Mill at Lebanon, LLC, The Jean R Echevarria Trust, and Jean Echevarria, in the Chancery Court of Wilson, Tennessee. A Notice of Foreign Judgment pursuant to NRS 17.350 was filed on June 30, 2007, domesticating the Foreign Judgment in the instant matter. An Affidavit of Renewal of Judgment was filed on May 15, 2013. Said judgment was also recorded in the Official Records for Clark County, Nevada in Book 20070517,

Instrument No. 0004538 on May 7, 2007. Appellant's judgment from Tennessee was also recorded in The Superior Court of California, County of San Mateo, in Case No. CIV 463092 and a lien was placed against the ward's interest in and to the certain real property located in the State of California. In or about May 21, 2008 the District Court corrected its previous Order and recorded in its minutes noting "Mr. Echevarria's agreement not to foreclose on the Ward's property as long as the property is providing income for the care of the ward." On August 15, 2012, the district court ordered pro rata distribution of fees to be paid out of estate funds in order to pay the guardian, his counsel, Elyse Tyrell, and Elizabeth Brickfield of Lionel Sawyer & Collins, attorney for Angel Echevarria, and Michael Echevarria, the Judgment Creditor. Mr. Echevarria continued to abide by his agreement not to foreclose on the ward's property even while the guardian notified the district court of the intent to sell the ward's property in California. Subsequent to a hearing on December 18, 2013, the court approved the sale of the real property in California with the clear understanding that Mr. Echevarria would receive all of the proceeds from the sale due to his lien against the property and interests of the ward. On or about February 6, 2014, the property in California was sold and Mr. Echevarria's lien was recognized to the extent of approximately \$225,000.00. Prior to the sale and at this same time, the guardian of Jean R Echevarria's estate, Robert L. Ansara, was less than forthright with the appellant on numbers and accountings associated with the sale of this property. Due to the circumstances and the possibility of this sale falling through upon any further delay, and the possibility of the estate having to enter into additional litigation to possibly include bankruptcy, the appellant agreed to move forward with the sale, resulting in a partial satisfaction of his judgment and the release of his lien against the property. The appellant then filed an additional action and levy by way of Writ of Execution against The Jean R Echevarria Trust and Jean Echevarria, with the Superior Court of California, County of San Mateo. The guardian filed a notice of this levy with the district court on February 24, 2014. Finally, on March 12, 2014, the district court ordered the guardian to take possession of the remaining proceeds from the sale of the real property in California which was held in an "operating account" outside of escrow, and conditionally granted distribution of these funds, "subject to the review and agreement by Counsel of the specific amounts to be paid." Subsequent to the March 12, 2014 hearing, the Stipulation and Order, being now appealed, was entered on April 8, 2014.

This Court has jurisdiction pursuant to NRS 159.325 to review the Stipulation and Order entered by the district court.

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**Statement of District Court Error.** Explain why you believe the district court was wrong. Also state what action you want the Nevada Supreme Court to take. (Your answer must be provided in the space allowed).

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NRS 159.1365 outlines the application of money from sale of real property of ward that is subject to mortgage or other lien, and states that "money from the sale must be applied in the following order: 1) To pay the necessary expenses of the sale 2) To satisfy the mortgage or other lien, including, without limitation, payment of interest and any other lawful costs and charges. If the mortgagee or other lienholder cannot be found, the money from the sale may be paid as ordered by the court and the mortgage or other lien shall be deemed to be satisfied 3) To the estate of the ward, unless the court orders otherwise."

Appellant contends the District Court abused its discretion in ordering the guardian to take possession of the remaining proceeds of the sale of the ward's interest in and to real property that was subject to a lien. The guardian's attempts to conceal or otherwise hold this money outside of escrow by way of an "operating account" does not change the fact that these monies were and are subject to lien. Appellant also contends that the District Court abused its discretion through an exercise in excess or lack of its jurisdiction by approving the guardian's action in ignoring a notice of levy and Writ of Execution issued by the Superior Court of California, County of San Mateo, especially after it was necessary for the guardian to gain the approval for ancillary administration of the property in California through this same California Court. In addition, appellant contends the District Court abused its discretion in ordering funds to be paid out of the proceeds of this sale, in direct conflict with the statutory application of such funds pursuant to NRS 159.1365. Appellant respectfully requests this Honorable Court for an Order reversing the District Court's Order, and for an Order directing the District Court to apply the proceeds of the "operating account" to be paid to the Appellant as Judgment Creditor and lienholder pursuant to NRS 159.1365, and such other and further relief as may be deemed just and proper by the Court.

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**CERTIFICATE OF SERVICE**

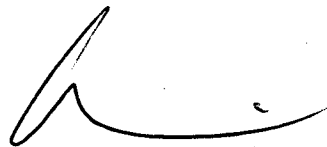
I certify that on the date indicated below, I served a copy of this completed appeal statement upon all parties to the appeal as follows:

- ☐ By personally serving it upon him/her; or
- ☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es) (list names and address(es) of parties served by mail):

Elyse M. Tyrell, Esq.  
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**Attorney for Guardian of the Ward**

Elizabeth Brickfield, Esq.  
Lionel Sawyer & Collins  
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Las Vegas, NV 89128  
**Attorney for Angel Echevarria**

DATED this 23rd day of June, 2014.



\_\_\_\_\_  
Signature of Appellant

Michael Echevarria

\_\_\_\_\_  
Print Name of Appellant

10632 Penrose St.

\_\_\_\_\_  
Address

Sun Valley, CA 91352

\_\_\_\_\_  
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615-579-0671

\_\_\_\_\_  
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