

1 **NOAS**

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11 *Attorneys for St. Jude Children's*  
12 *Research Hospital*

13 **DISTRICT COURT**  
14 **CLARK COUNTY, NEVADA**

15 In the Matter of the Estate of

16 THEODORE E. SCHEIDE JR. aka  
17 THEODORE ERNEST SCHEIDE JR.,

18 Deceased.

Case No.: P-14-082619-E  
Dept No.: 26

19 **NOTICE OF APPEAL**

20 Notice is given that ST. JUDE CHILDREN'S RESEARCH HOSPITAL, INC., petitioner in  
21 the above-captioned matter, appeal to the Supreme Court of Nevada from the Decision and Order  
22 entered by the district court on August 6, 2018, and from any other order of the district court  
23 rendered final and appealable by the district court's Judgment of August 6, 2018.

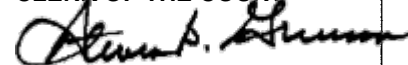
24 Dated September 5, 2018.

HUTCHISON & STEFFEN, PLLC

25 

26 Todd L. Moody (5430)  
27 Russel J. Geist (9030)  
28 10080 W. Alta Dr., Ste 200  
Las Vegas, NV 89145  
*Attorneys for St. Jude Children's*  
*Research Hospital*

Electronically Filed  
9/6/2018 10:41 AM  
Steven D. Grierson  
CLERK OF THE COURT



Electronically Filed  
Sep 12 2018 01:42 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN, and that on this 6 day of September, 2018, I caused a true and correct copy of the above and foregoing **NOTICE OF APPEAL** to be served as follows:

- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ pursuant to EDCR 7.26, to be sent **via facsimile**; and/or
- ☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the Eighth Judicial District Court's electronic filing system, with the date and time of the electronic service substituted for the date and place of deposit in the mail; and/or
- ☐ to be hand-delivered;

to the attorney(s) or parties listed below at the address and/or facsimile number indicated below:

Kim Boyer, Esq.  
Durham Jones & Pinegar  
10785 W. Twain Ave., Ste. 200  
Las Vegas, NV 89135  
*Attorney for the Administrator*

Cary Colt Payne, Esq.  
700 S. 8<sup>th</sup> Street  
Las Vegas, NV 89101  
*Attorney for Theodore "Chip" E. Scheide, III*

  
An Employee of Hutchison & Steffen, LLC

FAMILY DOMESTIC  
**CASE SUMMARY**  
CASE NO. P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

§  
§  
§  
§  
§

Location: **Family Domestic**  
Judicial Officer: **Judge Sturman, Probate**  
Hearing Master: **Yamashita, Wesley**  
Filed on: **10/02/2014**  
Cross-Reference Case Number: **P082619**

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CASE INFORMATION

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**Related Cases**

W-16-010344 (Companion Case)

Case Type: **Probate - Special Administration**

Case Flags: **Appealed to Supreme Court  
Filing Fee Balance Due**

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DATE

CASE ASSIGNMENT

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**Current Case Assignment**

Case Number	P-14-082619-E
Court	Family Domestic
Date Assigned	10/02/2014
Judicial Officer	Judge Sturman, Probate
Hearing Master	Yamashita, Wesley

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PARTY INFORMATION

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<b>Petitioner</b>	<b>Hoy, Susan</b>	<i>Lead Attorneys</i> <b>Boyer, Kim</b> <i>Retained</i> 702-255-2000(W)
<b>Decedent</b>	<b>Scheide Jr., Theodore Ernest</b>	
<b>Objector</b>	<b>St. Jude Children's Research Hospital</b>	<b>Geist, Russel J, ESQ</b> <i>Retained</i> 702-385-2500(W)
<b>Other</b>	<b>Scheide, Theodore, III</b>	<b>Payne, Cary C., ESQ</b> <i>Retained</i> 702-383-9010(W)
	<b>St. Jude Children's Research Hospital</b>	<b>Geist, Russel J, ESQ</b> <i>Retained</i> 702-385-2500(W)
<b>Special Administrator</b>	<b>Hoy, Susan</b>	<b>Boyer, Kim</b> <i>Retained</i> 702-255-2000(W)




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DATE

EVENTS & ORDERS OF THE COURT













INDEX

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10/02/2014	 Ex Parte Petition Filed by: Special Administrator Hoy, Susan <i>Ex Parte Petition for Appointment of Special Administrator</i>	
10/06/2014	 Ex Parte Order Filed by: Special Administrator Hoy, Susan <i>Ex Parte Order Appointing Special Administrator</i>	
10/13/2014	 Letters of Special Administration Filed by: Special Administrator Hoy, Susan	

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**










*Letters of Special Administration*

01/12/2015	 Notice of Entry of Order Filed by: Special Administrator Hoy, Susan <i>Notice of Entry of Order</i>
01/29/2015	 Petition for Appointment of Administrator Filed by: Special Administrator Hoy, Susan <i>Petition for Appointment of Administrator of Intestate Estate Under Full Administration</i>
01/29/2015	 Notice of Hearing for Appointment of Administrator Filed by:: Special Administrator Hoy, Susan <i>Notice of Hearing for Appointment of Administrator with Will Annexed Under Full Administration</i>
01/29/2015	 Certificate of Mailing Filed by: Special Administrator Hoy, Susan <i>Certificate of Mailing</i>
02/13/2015	<b>Petition - HM (9:30 AM)</b> (Hearing Master: Yamashita, Wesley) Events: 01/29/2015 Petition for Appointment of Administrator <i>Notice of Hearing for Appointment of Administrator with Will Annexed Under Full Administration</i>
05/06/2015	 Petition for Instruction Filed by: Special Administrator Hoy, Susan <i>Petition for Instructions</i>
05/06/2015	 Notice of Hearing Filed by: Special Administrator Hoy, Susan <i>Notice of Hearing on Petition for Instructions</i>
05/06/2015	 Certificate of Mailing Filed by: Special Administrator Hoy, Susan <i>Certificate of Mailing</i>
05/22/2015	 <b>Petition - HM (9:30 AM)</b> (Hearing Master: Yamashita, Wesley) <i>Petition for Instructions</i>
05/26/2015	 Order Appointing Administrator(trix) Filed by: Special Administrator Hoy, Susan <i>Order on Petition for Instructions</i>
05/27/2015	 Notice to Creditors Filed by: Special Administrator Hoy, Susan <i>Notice to Creditors</i>
05/27/2015	 Statement of Name and Address of Personal Representative Filed by: Special Administrator Hoy, Susan <i>Statement of Name and Permanent Address of Administrator</i>
05/28/2015	 Letters of Administration Party: Special Administrator Hoy, Susan <i>Letters of Administration</i>












FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**

06/11/2015	 Affidavit of Publication Filed by: Attorney Boyer, Kim For: Special Administrator Hoy, Susan <i>Affidavit of Publication</i>
03/28/2016	 Inventory, Appraisal and/or Record of Value Filed by: Special Administrator Hoy, Susan <i>Inventory, Appraisal and Record of Value</i>
05/18/2016	 First and Final Account/Report Filed by: Special Administrator Hoy, Susan <i>First and Final Account, Report of Administration and Petition for Final Distribution and Approval of Costs and Fees</i>
05/18/2016	 Notice of Hearing on First and Final Accounting Filed by: Special Administrator Hoy, Susan <i>Notice of Hearing on First and Final Report and Accounting and Petition for Final Distribution and Approval of Costs and Fees</i>
05/18/2016	 Certificate of Mailing Filed by: Special Administrator Hoy, Susan <i>Certificate of Mailing</i>
05/18/2016	 Certificate of Mailing Filed by: Decedent Scheide Jr., Theodore Ernest <i>Certificate of Mailing</i>
05/20/2016	 Notice of Appearance Party: Objector St. Jude Children's Research Hospital <i>Notice of Appearance</i>
05/25/2016	 Petition for Probate of Will Filed by: Special Administrator Hoy, Susan <i>Petition for Proof of Will and for Issuance of Letters Testamentary Under Full Administration, Petition to Appoint Personal Representative, and Petition to Distribute and Close Estate</i>
05/25/2016	 Notice of Hearing - Probate of Will and Issuance of Letters Filed by: Special Administrator Hoy, Susan <i>Notice of Hearing on Petition for Proof of Will and for Issuance of Letters Testamentary Under Full Administration, Petition to Appoint Personal Representative, and Petition to Distribute and Close Estate</i>
05/25/2016	 Certificate of Mailing Filed by: Special Administrator Hoy, Susan <i>Certificate of Mailing</i>
05/25/2016	 First and Final Account/Report Filed by: Special Administrator Hoy, Susan <i>Amended First and Final Account, Report of Administration and Petition for Final Distribution and Approval of Costs and Fees</i>
05/25/2016	 Notice of Hearing on First and Final Accounting Filed by: Special Administrator Hoy, Susan <i>Notice of Hearing on Amended First and Final report and Accounting and Petition for Final Distribution and Approval of Costs and Fees</i>













FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**

05/25/2016	 Certificate of Mailing Filed by: Special Administrator Hoy, Susan <i>Certificate of Mailing</i>
05/31/2016	 Last Will and Testament Party: Special Administrator Hoy, Susan <i>Last Will and Testament of Theodore E. Scheide</i>
06/03/2016	 Request Filed by: Other Scheide, Theodore, III <i>Request for Special Notice</i>
06/10/2016	<b>CANCELED Petition - HM (9:30 AM)</b> <i>Vacated - per Attorney or Pro Per</i> <i>Petition on First and Final Report and Accounting and Petition for Final Distribution and Approval of Costs and Fees</i>
06/10/2016	<b>Petition - HM (9:30 AM) (Hearing Master: Yamashita, Wesley)</b> <i>Petition for Proof of Will and for Issuance of Letters Testamentary Under Full Administration, Petition to Appoint Personal Representative, and Petition to Distribute and Close Estate</i>
06/10/2016	<b>Petition - HM (9:30 AM) (Hearing Master: Yamashita, Wesley)</b> <i>Amended First and Final Report and Accounting and Petition for Final Distribution and Approval of Costs and Fees</i>
07/13/2016	 Notice of Withdrawal Filed by: Special Administrator Hoy, Susan <i>Notice of Withdrawal of Petition for Proof of Will and for Issuance of Letters Testamentary Under Full Administration, Petition to Appoint Personal Representative, and Petition to Distribute and Close Estate</i>
07/13/2016	 Notice of Withdrawal Filed by: Special Administrator Hoy, Susan <i>Notice of Withdrawal of Amended First and Final Account, Report of Administration and Petition for Final Distribution and Approval of Costs and Fees</i>
08/29/2016	 Re-Notice Filed by: Special Administrator Hoy, Susan <i>Re-Notice of Hearing</i>
09/12/2016	 Response Filed by: Special Administrator Hoy, Susan <i>Response to Theodore E. Scheide III's Re-Notice of Hearing on the First and Final Account, Report of Administration and Petition for Final Distribution and Approval of Costs and Fees</i>
09/13/2016	 Petition for Probate of Will Filed by: Objector St. Jude Children's Research Hospital <i>Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050); Issuance of Letters Testamentary (NRS 136.090)</i>
09/13/2016	 Notice of Hearing Filed by: Objector St. Jude Children's Research Hospital <i>Notice of Hearing on Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050); Issuance of Letters Testamentary (NRS 136.090)</i>
09/13/2016	

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**












	 <b>Objection</b> Filed by: Objector St. Jude Childresn's Reseach Hospital <i>Objection to First and Final Account, Report of Administration and Petition for Final Distribution and Approval of Costs and Fees</i>
09/14/2016	 <b>Notice</b> Filed by: Other Scheide, Theodore, III <i>Notice of Exercise of Right to Have Hearing Before Probate Court Judge</i>
09/16/2016	<b>Petition - HM (9:30 AM)</b> (Hearing Master: Yamashita, Wesley) <i>First and Final Account, Report of Administration and Petition for Final Distribution and Approval of Costs and Fees.</i>
09/30/2016	 <b>Petition - HM (9:30 AM)</b> (Hearing Master: Yamashita, Wesley) <i>Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050); Issuance of Letters Testamentary (NRS 136.090)</i>
10/03/2016	 <b>Order</b> Filed by: Special Administrator Hoy, Susan <i>Order Scheduling Status Check</i>
10/04/2016	 <b>Objection</b> Filed by: Other Scheide, Theodore, III <i>Objection to Petition for Proof of Lost Will (NRS 136.240), Issuance of Letters Testamentary, Etc.; Counterpetition (Response to Objection) to Distribute Intestate Estate</i>
10/12/2016	 <b>Status Check (9:30 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050); Issuance of Letters Testamentary (NRS 136.090)</i>
10/12/2016	<b>CANCELED Objection - HM (9:30 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Vacated - per Law Clerk</i> <i>Objection to Petition for Proof of Lost Will (NRS 136.240), Issuance of Letters Testamentary, Etc.; Counterpetition (Response to Objection) to Distribute Intestate Estate</i>
10/26/2016	 <b>Reply</b> Filed by: Objector St. Jude Childresn's Reseach Hospital <i>Reply in Support of Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050); Issuance of Letters Testamentary (NRS 136.090)</i>
11/02/2016	 <b>Hearing (9:30 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Hearing: Petition for Probate of Lost Will (NRS136.240); Revocation of Letters of Administration (NRS141.050); Issuance of Letters Testamentary (NRS136.090)</i>
01/25/2017	 <b>Affidavit of Service</b> Filed by: Special Administrator Hoy, Susan <i>Affidavit of Service</i>
02/01/2017	 <b>Status Check (9:30 AM)</b> (Judicial Officer: Sturman, Gloria)
02/02/2017	 <b>Order</b> Filed by: Objector St. Jude Childresn's Reseach Hospital <i>Order Granting Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050) Issuance of Letters Testamentary (NRS 136.090)</i>
02/02/2017	

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**

	 Notice of Entry of Order Filed by: Objector St. Jude Children's Research Hospital <i>Notice of Entry of Order</i>
02/13/2017	 Motion to Reconsider Filed by: Decedent Scheide Jr., Theodore Ernest <i>Notice of Motion and Motion to Reconsider/Clarify, Esq.</i>
02/24/2017	 Order Setting Civil Non-Jury Trial <i>Order Setting Civil Non-Jury Trial</i>
03/04/2017	 Opposition to Motion Filed by: Objector St. Jude Children's Research Hospital <i>Opposition to Motion to Reconsider/Clarify, Etc.</i>
03/14/2017	 Reply to Opposition Filed by: Decedent Scheide Jr., Theodore Ernest <i>Reply to Opposition to Motion to Reconsider</i>
03/16/2017	 Motion Filed by: Objector St. Jude Children's Research Hospital <i>St. Jude Children's Research Hospital's Motion to Extend Discovery and Continue Trial Date on Order Shortening Time (First Request)</i>
03/16/2017	 Receipt of Copy Filed by: Objector St. Jude Children's Research Hospital <i>Receipt of Copy</i>
03/16/2017	 Receipt of Copy Filed by: Objector St. Jude Children's Research Hospital <i>Receipt of Copy</i>
03/16/2017	<b>CANCELED Evidentiary Hearing (10:00 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Vacated - per Judge</i>
03/22/2017	<b>Motion to Reconsider (9:30 AM)</b> (Judicial Officer: Sturman, Gloria) <i>Notice of Motion and Motion to Reconsider/Clarify, Etc.</i>
03/22/2017	<b>Motion (9:30 AM)</b> (Judicial Officer: Sturman, Gloria) <i>St. Jude Children's Research Hospital's Motion to Extend Discovery and Continue Trial Date on Order Shortening Time (First Request)</i>
03/22/2017	 <b>All Pending Motions (9:30 AM)</b> (Judicial Officer: Sturman, Gloria)
03/27/2017	 Recorders Transcript of Hearing <i>Recorder's Transcript of Proceeding: Motion to Reconsider: Notice of Motion and Motion to Reconsider/Clarify, Etc. Motion: St. Jude Children's Research Hospital's Motion to Extend Discovery and Continue Trial Date on Order Shortening Time (First Request) Wednesday, March 22, 2017</i>
04/13/2017	 Notice of Taking Deposition Filed by: Objector St. Jude Children's Research Hospital <i>Notice of Taking Deposition</i>
04/17/2017	 Order



FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**

	Filed by: Other Scheide, Theodore, III <i>Order</i>
04/18/2017	 Notice of Entry Filed by: Other Scheide, Theodore, III <i>Notice of Entry</i>
04/20/2017	 Affidavit of Service Filed by: Special Administrator Hoy, Susan <i>Affidavit of Service</i>
04/21/2017	 Motion Filed by: Other Scheide, Theodore, III <i>Notice of Motion and Motion for Judgment on the Pleadings (NRCP 12(c))</i>
04/25/2017	 Motion for Partial Summary Judgment Filed by: Objector St. Jude Children's Research Hospital <i>St. Jude Children's Research Hospital's Motion for Partial Summary Judgment on Non-Revocation of Will Prior to the Decedent's Guardianship and on Decedent's Testamentary Capacity After the Establishment of a Guardianship</i>
05/02/2017	 Order Filed by: Objector St. Jude Children's Research Hospital <i>Order Regarding St. Jude Children's Research Hospital's Motion to Extend Discovery and Continue Trial Date on Order Shortening Time (First Request)</i>
05/03/2017	 Notice of Entry of Order Filed by: Objector St. Jude Children's Research Hospital <i>Notice of Entry of Order</i>
05/04/2017	 <b>Calendar Call</b> (9:00 AM) (Judicial Officer: Sturman, Gloria)
05/08/2017	 Opposition Filed by: Objector St. Jude Children's Research Hospital <i>St. Jude Children's Research Hospital's Opposition to Motion for Judgment on the Pleadings (NRCP 12(c))</i>
05/10/2017	<b>CANCELED Status Check</b> (9:30 AM) (Judicial Officer: Sturman, Gloria) <i>Vacated Status Check</i>
05/12/2017	 Opposition to Motion For Summary Judgment Filed by: Other Scheide, Theodore, III <i>Respondent's Opposition to Motion for Partial Summary Judgment</i>
05/22/2017	 Reply to Opposition Filed by: Other Scheide, Theodore, III <i>Reply to St. Jude's Opposition to Motion for Judgment on the Pleadings (NRCP 12(c)), Etc.</i>
05/23/2017	 Reply Filed by: Objector St. Jude Children's Research Hospital <i>St. Jude Children's Research Hospital's Reply in Support of Motion for Partial Summary Judgment on Non-Revocation of Will Prior to the Decedent's Guardianship and on Decedent's Testamentary Capacity After the Establishment of a Guardianship</i>
05/30/2017	<b>CANCELED Non-Jury Trial</b> (9:00 AM) (Judicial Officer: Sturman, Gloria)

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**

*Vacated*

05/30/2017



Supplemental

Filed by: Other Scheide, Theodore, III  
*Supplemental Courtesy Copy*

05/31/2017

**Motion** (9:30 AM) (Judicial Officer: Sturman, Gloria)

**05/31/2017, 11/03/2017**

*Notice of Motion and Motion for Judgment on the Pleadings (NRCP 12(c))*

05/31/2017

**Motion** (9:30 AM) (Judicial Officer: Sturman, Gloria)

**05/31/2017, 11/03/2017**

*St. Jude Children's Research Hospital's Motion for Partial Summary Judgment on Non-Revocation of Will Prior to the Decedent's Guardianship and on Decedent's Testamentary Capacity After the Establishment of a Guardianship*

05/31/2017



**All Pending Motions** (9:30 AM) (Judicial Officer: Sturman, Gloria)

06/01/2017



Supplement

Filed by: Other Scheide, Theodore, III  
*Respondent's Supplement Regarding Kristin Tyler's Testimony, Etc.*

06/02/2017



Reply

Filed by: Objector St. Jude Children's Research Hospital  
*St. Jude Children's Research Hospital's Reply to Respondent's Supplement Regarding Kristin Tyler's Testimony, Etc.*

06/06/2017



**Minute Order** (7:00 AM) (Judicial Officer: Sturman, Gloria)

06/06/2017



Demand for Jury Trial

Filed by: Other Scheide, Theodore, III  
*Demand for Jury Trial*

06/08/2017



Order Denying

Filed by: Special Administrator Hoy, Susan  
*Order Denying Demand for Jury Trial*

06/08/2017



Opposition

Filed by: Objector St. Jude Children's Research Hospital  
*St. Jude Children's Research Hospital's Opposition to Demand for Jury Trial*

06/12/2017



Acceptance of Service

Filed by: Objector St. Jude Children's Research Hospital  
*Acceptance of Service*

06/12/2017



Trial Memorandum

Filed by: Other Scheide, Theodore, III  
*Respondent's Trial Brief*

06/13/2017



Brief

Filed by: Objector St. Jude Children's Research Hospital  
*St. Jude Children's Research Hospital's Trial Brief*

06/13/2017



Affidavit of Service

Filed by: Objector St. Jude Children's Research Hospital

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**

*Affidavit of Service*

06/14/2017



Petition

Filed by: Special Administrator Hoy, Susan  
*Petition for Instructions*

06/14/2017



Affidavit of Service

Filed by: Objector St. Jude Childresn's Reseach Hospital  
*Affidavit of Service*

06/14/2017



Affidavit of Service

Filed by: Objector St. Jude Childresn's Reseach Hospital  
*Affidavit of Service*

06/15/2017



**Non-Jury Trial** (9:00 AM) (Judicial Officer: Sturman, Gloria)

06/16/2017



**Non-Jury Trial** (9:00 AM) (Judicial Officer: Sturman, Gloria)

06/26/2017



Order

Filed by: Special Administrator Hoy, Susan  
*Order Sealing Trial Exhibits*

08/15/2017

**Decision** (3:00 AM) (Judicial Officer: Sturman, Gloria)

09/29/2017

**Decision** (3:00 AM) (Judicial Officer: Sturman, Gloria)  
*Continued from 08/15/17*

11/03/2017

**Decision** (3:00 AM) (Judicial Officer: Sturman, Gloria)  
*Continued from 08/15/17*

12/08/2017

**Decision** (3:00 AM) (Judicial Officer: Sturman, Gloria)  
*Continued from 08/15/17*

01/18/2018



Accounting

Filed by: Special Administrator Hoy, Susan  
*Petition for Approval of Accounting and Report of Administration; Petition for Approval of Fees and Costs*

01/19/2018



Notice

Filed by: Special Administrator Hoy, Susan  
*Notice of Hearing on Petition for Approval of Accounting and Report of Administration; Petition for Fees and Costs*

01/23/2018



Certificate of Mailing

Filed by: Special Administrator Hoy, Susan  
*Certificate of Mailing*

01/25/2018

**Decision** (3:00 AM) (Judicial Officer: Sturman, Gloria)  
*Continued from 08/15/17*

02/09/2018



**Petition - HM** (9:30 AM) (Hearing Master: Yamashita, Wesley)




*Petition for Approval of Accounting and Report of Administration; Petition for Approval of Fees and Costs*

02/12/2018



Order Settling First and Final Account

FAMILY DOMESTIC  
**CASE SUMMARY**  
**CASE NO. P-14-082619-E**

	Filed by: Special Administrator Hoy, Susan <i>Order Approving Accounting and Report of Administration; Order Approving Fees and Costs</i>
04/13/2018	<b>Decision</b> (3:00 AM) (Judicial Officer: Sturman, Gloria) <i>From 06/16/17 Bench Trial</i>
05/25/2018	<b>Decision</b> (3:00 AM) (Judicial Officer: Sturman, Gloria) <i>Probate Remand</i>
06/29/2018	<b>Decision</b> (3:00 AM) (Judicial Officer: Sturman, Gloria) <i>From 06/16/17 Bench Trial</i>
08/06/2018	 Order <i>Decision and Order</i>
08/08/2018	 Notice of Entry Filed by: Other Scheide, Theodore, III <i>Notice of Entry</i>
08/10/2018	<b>Decision</b> (3:00 AM) (Judicial Officer: Sturman, Gloria)
09/06/2018	 Notice of Appeal Filed by: Objector St. Jude Childresn's Reseach Hospital <i>Notice of Appeal</i>
09/21/2018	<b>Decision</b> (3:00 AM) (Judicial Officer: Sturman, Gloria)

DATE	FINANCIAL INFORMATION
	<b>Objector</b> St. Jude Childresn's Reseach Hospital Total Charges 700.00 Total Payments and Credits 700.00 <b>Balance Due as of 9/10/2018 0.00</b>  <b>Special Administrator</b> Hoy, Susan Total Charges 608.00 Total Payments and Credits 608.00 <b>Balance Due as of 9/10/2018 0.00</b>  <b>Objector</b> St. Jude Childresn's Reseach Hospital Registry and Trust Account-Probate Balance as of 9/10/2018 <b>500.00</b>



**Supply the following information about any other proceeding (check all that apply):**

☐ Divorce   ☐ Temporary Protective Orders (TPO)   ☐ Custody/Child Support

☐ UIFSA/URESA   ☐ Paternity   ☐ Juvenile Court   ☐ Other


Please Print

List full name of all adult parties involved			Case number of other proceeding(s)	Approximate date of last order in other proceeding(s)
Last Name	First Name	Middle Name		
1.				
2.				
3.				
4.				
If children were involved (other than those listed on front page), please provide:				
Last Name	First Name	Middle Name	Date of Birth	Relationship
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

**Children involved in this case (continuation from front page)**

Last Name	First Name	Middle Name	Date of Birth	Relationship
4.				
5.				
6.				
7.				
8.				

**THIS INFORMATION IS REQUIRED BY  
NRS 3.025, NRS 3.223, NRS 3.227, NRS 3.275,  
NRS 125.130, NRS 125.230,  
And will be kept in a confidential manner by the Clerk's Office.**



1 **ORDR**

2  
3 **DISTRICT COURT**

4 **CLARK COUNTY, NEVADA**

5  
6 *In the Matter of the Estate of:*

CASE NO.: P-14-082619-E

7 THEODORE E. SCHEIDE, JR. aka  
8 THEODORE ERNEST SCHEIDE, JR.,

DEPT NO.: XXVI

9 Deceased.

10  
11 **DECISION AND ORDER**

12 The above captioned matter came on for evidentiary hearing on June 15  
13 and 16, 2017, on St. Jude Research Hospital's petition to admit Decedent's October 2,  
14 2012, Will. Susan Hoy, Special Administrator, was represented by Counsel Kim Boyer of  
15 Durham Jones & Pinegar; Respondent Theodore E. Scheide III, was represented by  
16 counsel Cary Colt Payne and Objector/Petitioner St. Jude Children's Research Hospital,  
17 was represented by counsel Todd Moody and Russel Geist of Hutchison & Steffen. After  
18 hearing the testimony of witnesses, receiving evidence introduced at the evidentiary  
19 hearing, and considering argument of the parties, the matter was taken under advisement.

20 Upon consideration of the arguments, testimony, exhibits in evidence, in addition to  
21 the pleadings and papers on file the Court finds as follows:

22  
23 **FACTS**

24 Decedent Theodore Scheide, Jr., ("Decedent" or "Theo") passed away August 17,  
25 2014. His only statutory heir is his estranged son, Theodore Scheide, III (known as  
26 "Chip"). Decedent and his first wife, the mother of his only child, Theodore III, had been  
27 divorced for some time; Decedent had only sporadic contact with his son after the  
28

1 divorce. A second marriage ended in 1999, but he remained in contact with his step-  
2 daughter Kathy Longo; although, they did not see each other on a regular basis.  
3 Decedent and Velma Shay were companions for many years and, although they were  
4 never married, they made complementary estate plans providing for one another.  
5 Decedent was not married at the time of his death.

6 In June 2012 Decedent executed a Will, disinheriting his son and leaving his  
7 estate to Velma Shay; if she predeceased him (she did), then to St. Jude Children's  
8 Hospital. In October 2012 Decedent revoked the June 2012 Will with a new October  
9 2012 Will that only changed the Executor. Velma passed away in February, 2013, at  
10 which time Theo advised Kristin Tyler, Esq., his estate planning attorney, that everything  
11 would now go to St. Jude Children's Hospital. There is no evidence that Theo prepared a  
12 new will after Velma's passing.

13 Decedent had been appointed a guardian, Susan Hoy, in February 2014 due to his  
14 dementia and strokes. See G-14-039853-A. After Decedent passed away, his guardian,  
15 Susan Hoy, was appointed as Special Administrator of his Estate. Hoy found a copy of  
16 the October 2012 Will, but was not able to find the original.

17 In May 2016 after Hoy filed her First and Final Account, Attorney Kristin Tyler,  
18 Decedent's estate planning attorney and drafter of the October 2012 Will, discovered that  
19 the Court determined in May 2015 that decedent died intestate.

20 Ms. Tyler had maintained the original June 2012 Will in her files, but Decedent  
21 took the original October 2012 Will with him after executing the document. Ms. Tyler  
22 lodged the June 2012 Will with the Court. See W-16-010344.

23 This litigation was initiated with the Petition of the Special Administrator for  
24 Proof of the Will and Issuance of Letters Testamentary; Ms. Hoy later withdrew her  
25 Petition. Subsequently St. Jude filed its Petition for Probate of the Will and Revocation  
26 of Letters of Administration, and Issuance of Letters Testamentary. The Petition for  
27 Probate of the Lost Will was granted with the burden of proof on the proponent to prove



1 the testator did not revoke the lost or destroyed will during his lifetime. See, Estate of  
2 Irvine v Doyle, 101 Nev. 698, 710 P.2d 1366 (1985). Further, since the Decedent had  
3 been appointed a guardian in February 2014, he lacked testamentary capacity to revoke  
4 his will as of the date of adjudication of the Petition for Guardianship.

5 Ms. Tyler testified to the preparation and contents of the July and October 2012  
6 Wills. In addition to the October 2012 copy, the original Will, dated June 2012, was also  
7 presented to the court. (The "June 2012 Original"). The October 2012 copy was  
8 annotated with the word "updated" written by the Decedent. Under the terms of both  
9 wills, St. Jude is listed as the beneficiary; neither Will listed Decedent's son as a  
10 beneficiary.

11 Ms. Tyler described the steps she always takes when a client comes to her office  
12 to sign a will. In October 2012 Theo confirmed that he understood the contents of his  
13 Will, and that no one was forcing him to make the will. Ms. Tyler and her assistant,  
14 Diane DeWalt, witnessed Theo sign his Will.

15 After a search of Decedent's storage facility, no one could find an original version  
16 of the October 2012 Will or the document that the guardian recalls being packed and  
17 placed in storage. There was no evidence that the Decedent ever visited his storage  
18 facility, and he was not capable of transporting himself whereby he could have obtained  
19 possession of any of the above-referenced Wills. After the appointment of Ms. Hoy as  
20 his Guardian, Decedent would have lacked capacity to have effectively revoked his Will.

## 21 22 **BACKGROUND**

23 Approximately six (6) months prior to his death, Decedent was placed under the  
24 care of a guardian as a result of a medical/mental examination. After the appointment of  
25 the guardian, Decedent was moved into a nursing home and the majority of his  
26 belongings were moved to a storage facility. Before his items were placed in storage, the  
27 guardian recalls seeing a Will with the words "updated October 2012" printed on it

1 followed by Decedent's signature, and believes that document was packed with  
2 Decedent's personal effects to be placed in storage. The Guardian, Susan Hoy, testified  
3 she believed Decedent destroyed his estate planning documents as none could be located  
4 after his death.

5 Decedent maintained his relationship with Kathy Longo, his step-daughter from a  
6 25-year marriage that ended in 1999 with death of his second wife. After Kathy moved  
7 to Las Vegas she visited Theo and at his request began assisting him with some of his  
8 needs, such as writing checks. As these activities were time consuming (four trips per  
9 week from the other side of town), Kathy charged Theo for her time. Kathy refused to  
10 take on the responsibility of guardianship as she was not in town on a full time basis.  
11 While helping Theo pack up his home office in preparation to move to assisted living,  
12 Kathy saw a will on a shelf. Kathy does not know if that document was an original or a  
13 copy. Theo originally agreed to the move to assisted living, then he changed his mind.  
14 Kathy only saw the will in the Decedent's office prior to his admission into the nursing  
15 home and before he was appointed a Guardian. Kathy did not read it, nor could she  
16 testify to the date the will she saw was executed. However, the Decedent did inform her  
17 that he intended to leave his estate to St. Jude. Theo never talked to her about his son  
18 Chip. Kathy also testified that after Theo moved into the nursing home, he told her that  
19 his important papers were in storage.

20 In December 2013 Kathy went out of town for the holidays and notified Ms. Tyler  
21 she would not be able to continue and someone else would need to assist Theo. Kathy  
22 testified that Theo's behavior the last time she saw him prompted her resignation. Theo  
23 was diabetic and refused care; when Kathy arrived at the rehab facility to pick him up, he  
24 was unkempt (wearing pajamas, no socks). Kathy testified that Theo's behavior was  
25 embarrassing; he had no bladder or bowel control and relieved himself in the bushes at  
26 the rehabilitation hospital. That was the last time Kathy saw him.

Decedent's apparent testamentary intent to leave his estate to St. Jude is further supported by the fact that he donated approximately \$130,000.00 over 20 years to the organization, with his last donation in the amount of \$10,000.00 made in 2013. Kathy recalled being asked to prepare that check for Theo's signature.

Decedent's mental condition prior to death was such that he lacked testamentary capacity. Just days before he passed, Decedent became agitated and attempted to fire those who were responsible for his care, including the guardian.

At the hearing to determine if Decedent's estate would pass by intestate succession or through a testamentary will, the Decedent's son Chip argued that the original October 2012 Will was in Decedent's possession prior to his death, and he intentionally destroyed/revoked it prior to the determination that he was in need of a guardian and lacked capacity.

## LEGAL ISSUES

### I. Alternative Theories Under Nevada Law

Under common law, a presumption exists that a missing will was revoked and/or destroyed by the testator.<sup>1</sup> NRS 136.240 provides a mechanism to overcome this presumption whereby a lost or destroyed will can be probated when the petitioner is able to provide: (1) two or more credible witnesses that provide clear and distinct testimony concerning the will's provisions, and was (a) in legal existence at the time of the testator's death, or (b) fraudulently destroyed during the testator's lifetime. But a testator's declarations "cannot be substituted for one of the witnesses required by NRS 136.240".<sup>2</sup>

In addition to NRS 136.240, the doctrine of dependent relative revocation has been recognized in Nevada to nullify a prior will's revocation if it was made "in connection

<sup>1</sup> See *Estate of Irvine v. Doyle*, 710 P.2d 1366, 1369 (1985).

<sup>2</sup> See *Howard Hughes Medical Institute v. Gavin*, 621 P.2d 489, 491 (1980).

1 with an attempt to achieve a dispositive objective that fails under applicable law” OR  
2 because of a false belief/assumption that is either recited in the revoking instrument or  
3 established by clear and convincing evidence.<sup>3</sup> The Nevada Supreme Court stated a  
4 “crucial distinction” of the dependent relative revocation doctrine is “that it does not  
5 revive a revoked will; rather, it renders a revocation ineffective.”<sup>4</sup>

## 6 7 **II. Application of Nevada Law to the Facts**

8 In order to prevail in its efforts to probate the October 2012 copy,  
9 Petitioner/Objector (St. Jude) must establish that the original Will was in legal existence  
10 at the time of Decedent’s death and produce two witnesses who can provide “clear and  
11 distinct” evidence of the Will’s provisions. NRS 136.240<sup>5</sup>

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13 <sup>3</sup> See In re Melton, 272 P.3d 668, 671 (2012) where the Nevada Supreme Court formally adopted the  
14 doctrine of dependent relative revocation and distinguished it from the doctrine of revival that is expressly  
15 prohibited under NRS 133.130. The statute provides that revocation of a subsequent will does not revive  
the prior will unless there is an express term provision of the testator’s intention to revise the prior will  
within the revoking document.

16 <sup>4</sup> See In re Melton at 679, citing to Restatement (Third) of Prop.: Wills and Other Donative Transfers §4.3.

17 <sup>5</sup> **NRS 136.240 Petition for probate; same requirement of proof as other wills; testimony of  
witnesses; rebuttable presumption concerning certain wills; prima facie showing that will was not  
revoked; order.**

18 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy  
is available state, or be accompanied by a written statement of, the testamentary words, or the substance  
thereof.

19 2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are  
proved under this chapter.

20 3. In addition, no will may be proved as a lost or destroyed will unless it is proved to have been in  
existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently  
21 destroyed in the lifetime of that person, nor unless its provisions are clearly and distinctly proved by at least  
two credible witnesses.

22 4. The testimony of each witness must be reduced to writing, signed by the witness and filed, and is  
admissible in evidence in any contest of the will if the witness has died or permanently moved from the  
23 State.

24 5. Notwithstanding any provision of this section to the contrary:

25 (a) The production of a person’s lost or destroyed will, whose primary beneficiary is a nontestamentary  
trust established by the person and in existence at his or her death, creates a rebuttable presumption that the  
will had not been revoked.

26 (b) If the proponent of a lost or destroyed will makes a prima facie showing that it was more likely than  
not left unrevoked by the person whose will it is claimed to be before his or her death, then the will must be  
admitted to probate in absence of an objection. If such prima facie showing has been made, the court shall  
27 accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence in  
the absence of any objection.

1 The record is clear that after moving to the nursing home Decedent was not in  
2 physical possession of the October 2012 Will such that he could have "revoked" it by  
3 destroying or otherwise tearing it up. The evidence supports a finding that the original  
4 version of the October 2012 Will was in his home office and at some point was lost.  
5 What is less clear is whether Decedent destroyed the Will before leaving his home, or if it  
6 was misplaced in the process of packing the contents of Decedent's home and placing his  
7 belongings into storage. No evidence was introduced to establish Decedent visited his  
8 storage facility or that he instructed anyone to bring him the original version of the  
9 October 2012 Will.

10 Even if Theo did manage to retrieve the original Will, he lacked the mental  
11 capacity to "revoke" the October 2012 Will after February 2014 until his death in August.  
12 No evidence was introduced to establish that Theo lacked capacity prior to the date he  
13 was appointed a guardian. There is no evidence to establish Theo had possession of the  
14 original October 201 Will after moving to assisted living. These facts provide a basis to  
15 examine the remaining evidence introduced to prove the October 2012 Will was in legal  
16 existence at the time of Decedent's death.<sup>6</sup>

17 Petitioners were required to offer the testimony of two witnesses who could  
18 provide "clear and distinct" evidence of the provisions of the October 2012 Will.<sup>7</sup> The  
19 drafting attorney had a clear recollection of drafting the Will and was in possession of a  
20 copy of the Will. The second witness to the Will, Diane DeWalt, the legal assistant to the  
21 drafting attorney, recalled she prepared the Will and served as a witness, but she did not

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22 <sup>6</sup> NRS 136.240 states in part: "(t)he petition for the probate of a lost or destroyed will must include a copy  
23 of the will ... [and] ... no will may be proved as a lost or destroyed will unless it is proved to have been in  
24 existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently  
destroyed in the lifetime of that person, nor unless its provisions are clearly and distinctly proved by at least  
two credible witnesses..."

25 <sup>7</sup> Estate of Irvine v. Doyle, 710 P.2d 1366 (1985). The Nevada Supreme Court held that a proponent of a  
26 lost or destroyed will is required to prove that testator did not revoke the lost or destroyed will, but such  
27 proof is not that the will was in "actual" existence at the time of testator's death, only that it was in "legal"  
28 existence. To combat "spurious wills", the Court also noted that a proponent must prove the provisions of  
the will by at least two credible witnesses that can provide clear and distinct testimony as to its provisions.

1 recall the specific terms of the Will. The remaining witness, Decedent's stepdaughter  
2 Kathy Longo, testified that the decedent told her about his testamentary intent, which was  
3 to leave his estate to St. Jude's. She also confirmed seeing the Will in the decedent's  
4 home office; but she did not read the Will and thus could not confirm the provisions, nor  
5 did she know the date the Will she saw was executed.

6 Under Nevada law the testator's declarations cannot be substituted for one of the  
7 witnesses required under NRS 136.240. See, In re Duffill's Estate, 61 P.2d 985 (1936)  
8 and Howard Hughes Medical Inst. v. Gavin, 621 P.2d 489 (1980).

9 In re Duffill's Estate, 61 P.2d 985 (1936) is the case establishing the requirements  
10 for proving a lost will. The Nevada Supreme Court upheld the lower court's judgment  
11 that decedent's mother failed to prove the existence of a lost will leaving her  
12 \$200,000.00. The mother produced four witnesses to support the lost will. The first  
13 witness actually signed the will as a subscribing witness but testified his only knowledge  
14 of its terms was based on the decedent's statements, which the court noted was not  
15 sufficient as decedent could not be substituted as one of the two witnesses required to  
16 probate a lost will. The other three witnesses all testified to the contents of the will and  
17 that their knowledge was gained during separate conversations with the decedent about  
18 his failing health and that decedent prompted them to read the will. The trial court  
19 rejected the testimony of these three witnesses as not being trustworthy.

20 In Howard Hughes Medical Inst. v. Gavin, 621 P.2d 489 (1980) the Nevada  
21 Supreme Court again noted that a testator's declarations cannot be substituted for one of  
22 the witnesses required by the Lost Will Statute, NRS 136.240. The Court found that  
23 strict compliance with NRS 136.240 "precludes proof of the contents of a lost will by  
24 hearsay declarations of deceased people, unless the declarant's testimony is written and  
25 signed by the declarant." *Id.* at 491. Therefore, Theo's statements to Kathy cannot  
26 overcome the statutory requirements.

1 In the instant matter Decedent's long time estate planning attorney Kristin Tyler  
2 has a very distinct recollection of the terms of Theo's final October 2012 Will. The Will  
3 was consistent with Theo's historical estate plans, his beneficiary designations did not  
4 vary over time, nor did he ever leave anything to his son Chip. Therefore, it can be  
5 assumed Theo understood the need to specifically disinherit his only child, as well as the  
6 outcome if he failed to leave a Will that did so.

7 While the testimony of the other witnesses about Theo's stated testamentary  
8 intention is credible and consistent, this Court cannot accept the hearsay declarations of  
9 the decedent. The Hughes case provides a possible exception if the declarant's testimony  
10 is signed. Here Decedent did hand write and sign the words "October 2, 2012 Up-dated."  
11 The handwritten statement on the copy of the October 2012 Will does not clarify what  
12 provisions were "up-dated"; the statement appears simply to reference the date the Will  
13 was executed. This is not sufficient to satisfy the Hughes exception. The Hughes case  
14 stands for the principal that strict compliance with the requirements of the statute is  
15 necessary. Here, only one witness, the drafting attorney, provided testimony sufficient to  
16 satisfy the statute.

### 17 **III. Dependent Relative Revocation**

18 An alternative theory presented by these facts is whether the June 2012 original  
19 Will can be revived, or its revocation under the October 2012 copy deemed ineffective.  
20 NRS 133.130 limits the revival of a prior will to only those instances where the  
21 revocation occurred with intent to revive or the prior will is reexecuted.<sup>8</sup> Nothing within  
22 the above factual background supports either of these situations. In re Melton, 272 P.3d

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23 <sup>8</sup> **NRS 133.130 Effect of revocation of subsequent will.**

24 If, after the making of any will, the testator executes a valid second will that includes provisions revoking  
the first will, the destruction, cancellation or revocation of the second will does not revive the first will  
unless:

25 1. It appears by the terms of the revocation or the manner in which the revocation occurred that it was  
the intention to revive and give effect to the first will; or

26 2. After the destruction, cancellation or revocation, the first will is reexecuted;

27 6. If the will is established, its provisions must be set forth specifically in the order admitting it to  
probate, or a copy of the will must be attached to the order.

1 668 (2012) dependent relative revocation does not revive a revoked will, but only applies  
2 where a revocation was ineffective. As with revival, the above factual background does  
3 not include any basis upon which the October 2012 copy and its revocation of the June  
4 2012 Original was ineffective.

5 In Melton the Nevada Supreme Court distinguished NRS 133.130 and its  
6 restriction against a revoked will's revival from the doctrine of *dependent relative*  
7 *revocation*. The court found that the "doctrine of dependent relative revocation ... 'does  
8 not revive a revoked will; rather, it renders a revocation ineffective.'" Therefore, the  
9 Nevada Supreme Court expressly adopted the doctrine of dependent relative revocation,  
10 but declined to apply it because the revocation of a prior will, and its disinheritance  
11 provision, was not impacted or made conditional by a subsequent holographic will that  
12 involved a different dispositive scheme.

13 The Melton decision is consistent with the longstanding California rule. See, In  
14 re Lopes, 152 Cal.App.3d 302 (1984). The fact pattern in Lopes is very similar to the  
15 background outlined above and petitioner attempts to argue that all provisions of a lost  
16 will, including revocation of a prior will, should be nullified. The appellate court held  
17 that a copy of a 1979 will could not be probated because it could not be shown to be in  
18 existence on the date of death. Petitioner therefore argued that all provisions found  
19 within the 1979 will failed, including the provision that revoked a prior will executed in  
20 1977. The court noted that a will can be revoked by any writing and does not need to  
21 meet the standards for proving a lost will and also noted that dependent relative  
22 revocation offered an appropriate method to address revocations based upon a false  
23 assumption of the effectiveness of a subsequently executed will.

24 Here the June 2012 Will was expressly revoked by the October 2012 Will, and  
25 there is no evidence that revocation was ineffective in its express terms. Subsequently  
26 the October 2012 Will was either lost or destroyed, however, there is no evidence it was  
27 revoked in writing. Lacking sufficient evidence to prove the October 2012 "lost" will, the  
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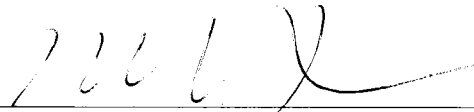
1 Court finds it is presumed to have been destroyed. Given the absence of a writing to  
2 establish the October 2012 Will was revoked with the intent to revive the June 2012  
3 Will, the doctrine of dependent relative revocation cannot revive the June 2012 Will.

4  
5 **CONCLUSION**

6 St. Jude's failed to meet its burden of proof that the Will was not revoked during  
7 Decedent's lifetime (while Decedent was competent). The lost will statute must be  
8 strictly construed, and here only one witness provided clear and distinct testimony about  
9 the contents of the October 2012 Will. None of the witnesses who saw a will in  
10 Decedent's home prior to him entering assisted living could testify that the will they saw  
11 was the Original of the October 2012 Will. While Decedent was not determined to lack  
12 capacity until February 2014, his behavior during the time he was preparing to move to  
13 assisted living was increasingly erratic. Decedent had been a careful planner and seems  
14 to have understood the need to specifically disinherit his son, and alternatively, the fact  
15 that without a will his son would inherit. Although he did not make a formal change to  
16 his estate planning documents, he could simply have changed his mind and destroyed the  
17 original will in his possession.

18 WHEREFOR, based on of testimony at trial, the exhibits, and the law that applies  
19 in this case as set forth above, the Petitioner/Objector St. Jude Children's Hospital  
20 Petition to admit Decedent's lost will dated October 2, 2012, is hereby DENIED.

21  
22 DATED: This 3<sup>rd</sup> day of August, 2018

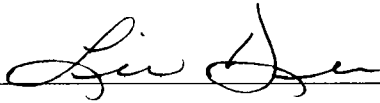
23  
24   
25 GLORIA J. STURMAN  
26 District Court Judge, Dept. XXVI

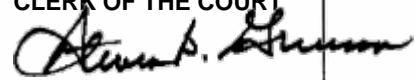
27 Counsel for Respondent is directed to prepare a Notice of Entry of Decision and  
28 Order.

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**CERTIFICATE OF SERVICE**

I hereby certify that on the date signed, a copy of the Foregoing Order was electronically served on all parties registered in P-14-082619.

  
\_\_\_\_\_  
Linda Denman,  
Judicial Executive Assistant



NOE  
CARY COLT PAYNE, ESQ.  
Nevada Bar No. 4357  
CARY COLT PAYNE, CHTD.  
700 South Eighth Street  
Las Vegas, Nevada 89101  
(702) 383-9010  
carycoltpaynechtd@yahoo.com  
Attorney for Theodore E. Scheide III

DISTRICT COURT  
CLARK COUNTY, NEVADA


In the Matter of the Estate of	)	Case No.:	P-14-082619-E
	)	Dept. No.:	26
THEODORE E. SCHEIDE JR. a/k/a	)		
THEODORE ERNEST SCHEIDE JR.	)		
	)		
Deceased.	)		
~~~~~	)		

NOTICE OF ENTRY

TO: ALL PERSONS INTERESTED IN THE WITHIN MATTER;

YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that a Decision and Order, a copy of which is attached hereto and incorporated herein by reference, was entered by the court on August 6, 2018.

Dated: August 8, 2017

  
\_\_\_\_\_  
CARY COLT PAYNE, ESQ.  
Nevada Bar No.: 4357  
CARY COLT PAYNE, CHTD.  
700 South Eighth Street  
Las Vegas, Nevada 89101  
(702) 383-9010

CARY COLT PAYNE, CHTD.

700 South Eighth Street

Las Vegas, Nevada 89101

Tel: 702. 383.9010 • Fax 702. 383.9049



## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on August 8, 2018, a true and correct copy of the foregoing was served to the following at the their last known address(es), facsimile numbers and/or e-mail/other electronic means, pursuant to:

— **BY MAIL:** N.R.C.P 5(b), I deposited for first class United States mailing, postage prepaid at Las Vegas, Nevada;


☒ **BY E-MAIL AND/OR ELECTRONIC MEANS:** Pursuant to Eighth Judicial District Court Administrative Order 14-2, Effective June 1, 2014, as identified in Rule 9 of the N.E.F.C.R. as having consented to electronic service, I served via e-mail or other electronic means (Wiznet) to the e-mail address(es) of the addressee(s).

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Todd L. Moody, Esq.  
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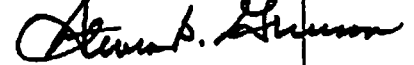
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10080 W. Alta Drive, Suite 200  
Las Vegas, NB 89145



An employee of CARY COLT PAYNE, CHTD.





1 **ORDR**

2  
3 **DISTRICT COURT**

4 **CLARK COUNTY, NEVADA**

5  
6 *In the Matter of the Estate of:*

CASE NO.: P-14-082619-E

7 THEODORE E. SCHEIDE, JR. aka  
8 THEODORE ERNEST SCHEIDE, JR.,

DEPT NO.: XXVI

9 Deceased.

10  
11 **DECISION AND ORDER**

12 The above captioned matter came on for evidentiary hearing on June 15  
13 and 16, 2017, on St. Jude Research Hospital's petition to admit Decedent's October 2,  
14 2012, Will. Susan Hoy, Special Administrator, was represented by Counsel Kim Boyer of  
15 Durham Jones & Pinegar; Respondent Theodore E. Scheide III, was represented by  
16 counsel Cary Colt Payne and Objector/Petitioner St. Jude Children's Research Hospital,  
17 was represented by counsel Todd Moody and Russel Geist of Hutchison & Steffen. After  
18 hearing the testimony of witnesses, receiving evidence introduced at the evidentiary  
19 hearing, and considering argument of the parties, the matter was taken under advisement.

20 Upon consideration of the arguments, testimony, exhibits in evidence, in addition to  
21 the pleadings and papers on file the Court finds as follows:

22  
23 **FACTS**

24 Decedent Theodore Scheide, Jr.. ("Decedent" or "Theo") passed away August 17,  
25 2014. His only statutory heir is his estranged son, Theodore Scheide, III (known as  
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5 Decedent was not married at the time of his death.

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17 In May 2016 after Hoy filed her First and Final Account, Attorney Kristin Tyler,  
18 Decedent's estate planning attorney and drafter of the October 2012 Will, discovered that  
19 the Court determined in May 2015 that decedent died intestate.

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28

1 the testator did not revoke the lost or destroyed will during his lifetime. See, Estate of  
2 Irvine v Doyle, 101 Nev. 698. 710 P.2d 1366 (1985). Further, since the Decedent had  
3 been appointed a guardian in February 2014, he lacked testamentary capacity to revoke  
4 his will as of the date of adjudication of the Petition for Guardianship.

5 Ms. Tyler testified to the preparation and contents of the July and October 2012  
6 Wills. In addition to the October 2012 copy, the original Will, dated June 2012, was also  
7 presented to the court. (The "June 2012 Original"). The October 2012 copy was  
8 annotated with the word "updated" written by the Decedent. Under the terms of both  
9 wills, St. Jude is listed as the beneficiary; neither Will listed Decedent's son as a  
10 beneficiary.

11 Ms. Tyler described the steps she always takes when a client comes to her office  
12 to sign a will. In October 2012 Theo confirmed that he understood the contents of his  
13 Will, and that no one was forcing him to make the will. Ms. Tyler and her assistant,  
14 Diane DeWalt, witnessed Theo sign his Will.

15 After a search of Decedent's storage facility, no one could find an original version  
16 of the October 2012 Will or the document that the guardian recalls being packed and  
17 placed in storage. There was no evidence that the Decedent ever visited his storage  
18 facility, and he was not capable of transporting himself whereby he could have obtained  
19 possession of any of the above-referenced Wills. After the appointment of Ms. Hoy as  
20 his Guardian, Decedent would have lacked capacity to have effectively revoked his Will.

## 21 22 BACKGROUND

23 Approximately six (6) months prior to his death, Decedent was placed under the  
24 care of a guardian as a result of a medical/mental examination. After the appointment of  
25 the guardian, Decedent was moved into a nursing home and the majority of his  
26 belongings were moved to a storage facility. Before his items were placed in storage, the  
27 guardian recalls seeing a Will with the words "updated October 2012" printed on it  
28

1 followed by Decedent's signature, and believes that document was packed with  
2 Decedent's personal effects to be placed in storage. The Guardian, Susan Hoy, testified  
3 she believed Decedent destroyed his estate planning documents as none could be located  
4 after his death.

5 Decedent maintained his relationship with Kathy Longo, his step-daughter from a  
6 25-year marriage that ended in 1999 with death of his second wife. After Kathy moved  
7 to Las Vegas she visited Theo and at his request began assisting him with some of his  
8 needs, such as writing checks. As these activities were time consuming (four trips per  
9 week from the other side of town), Kathy charged Theo for her time. Kathy refused to  
10 take on the responsibility of guardianship as she was not in town on a full time basis.  
11 While helping Theo pack up his home office in preparation to move to assisted living,  
12 Kathy saw a will on a shelf. Kathy does not know if that document was an original or a  
13 copy. Theo originally agreed to the move to assisted living, then he changed his mind.  
14 Kathy only saw the will in the Decedent's office prior to his admission into the nursing  
15 home and before he was appointed a Guardian. Kathy did not read it, nor could she  
16 testify to the date the will she saw was executed. However, the Decedent did inform her  
17 that he intended to leave his estate to St. Jude. Theo never talked to her about his son  
18 Chip. Kathy also testified that after Theo moved into the nursing home, he told her that  
19 his important papers were in storage.

20 In December 2013 Kathy went out of town for the holidays and notified Ms. Tyler  
21 she would not be able to continue and someone else would need to assist Theo. Kathy  
22 testified that Theo's behavior the last time she saw him prompted her resignation. Theo  
23 was diabetic and refused care; when Kathy arrived at the rehab facility to pick him up, he  
24 was unkempt (wearing pajamas, no socks). Kathy testified that Theo's behavior was  
25 embarrassing; he had no bladder or bowel control and relieved himself in the bushes at  
26 the rehabilitation hospital. That was the last time Kathy saw him.



1 Decedent's apparent testamentary intent to leave his estate to St. Jude is further  
2 supported by the fact that he donated approximately \$130,000.00 over 20 years to the  
3 organization, with his last donation in the amount of \$10,000.00 made in 2013. Kathy  
4 recalled being asked to prepare that check for Theo's signature.

5 Decedent's mental condition prior to death was such that he lacked testamentary  
6 capacity. Just days before he passed, Decedent became agitated and attempted to fire  
7 those who were responsible for his care, including the guardian.

8 At the hearing to determine if Decedent's estate would pass by intestate  
9 succession or through a testamentary will, the Decedent's son Chip argued that the  
10 original October 2012 Will was in Decedent's possession prior to his death, and he  
11 intentionally destroyed/revoked it prior to the determination that he was in need of a  
12 guardian and lacked capacity.

## 13 14 **LEGAL ISSUES**

### 15 **I. Alternative Theories Under Nevada Law**

16 Under common law, a presumption exists that a missing will was revoked and/or  
17 destroyed by the testator.<sup>1</sup> NRS 136.240 provides a mechanism to overcome this  
18 presumption whereby a lost or destroyed will can be probated when the petitioner is able  
19 to provide: (1) two or more credible witnesses that provide clear and distinct testimony  
20 concerning the will's provisions, and was (a) in legal existence at the time of the  
21 testator's death, or (b) fraudulently destroyed during the testator's lifetime. But a  
22 testator's declarations "cannot be substituted for one of the witnesses required by NRS  
23 136.240".<sup>2</sup>

24 In addition to NRS 136.240, the doctrine of dependent relative revocation has been  
25 recognized in Nevada to nullify a prior will's revocation if it was made "in connection  
26

27 <sup>1</sup> See Estate of Irvine v. Doyle, 710 P.2d 1366, 1369 (1985).

28 <sup>2</sup> See Howard Hughes Medical Institute v. Gavin, 621 P.2d 489, 491 (1980).

1 with an attempt to achieve a dispositive objective that fails under applicable law" OR  
2 because of a false belief/assumption that is either recited in the revoking instrument or  
3 established by clear and convincing evidence.<sup>3</sup> The Nevada Supreme Court stated a  
4 "crucial distinction" of the dependent relative revocation doctrine is "that it does not  
5 revive a revoked will; rather, it renders a revocation ineffective."<sup>4</sup>

## 7 II. Application of Nevada Law to the Facts

8 In order to prevail in its efforts to probate the October 2012 copy,  
9 Petitioner/Objector (St. Jude) must establish that the original Will was in legal existence  
10 at the time of Decedent's death and produce two witnesses who can provide "clear and  
11 distinct" evidence of the Will's provisions. NRS 136.240<sup>5</sup>

12  
13 <sup>3</sup> See *In re Melton*, 272 P.3d 668, 671 (2012) where the Nevada Supreme Court formally adopted the  
14 doctrine of dependent relative revocation and distinguished it from the doctrine of revival that is expressly  
15 prohibited under NRS 133.130. The statute provides that revocation of a subsequent will does not revive  
the prior will unless there is an express term/provision of the testator's intention to revise the prior will  
within the revoking document.

16 <sup>4</sup> See *In re Melton* at 679, citing to Restatement (Third) of Prop.: Wills and Other Donative Transfers §4.3.

17 <sup>5</sup> NRS 136.240 Petition for probate; same requirement of proof as other wills; testimony of  
witnesses; rebuttable presumption concerning certain wills; prima facie showing that will was not  
revoked; order.

18 1. The petition for the probate of a lost or destroyed will must include a copy of the will, or if no copy  
is available state, or be accompanied by a written statement of, the testamentary words, or the substance  
thereof.

19 2. If offered for probate, a lost or destroyed will must be proved in the same manner as other wills are  
proved under this chapter.

20 3. In addition, no will may be proved as a lost or destroyed will unless it is proved to have been in  
existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently  
21 destroyed in the lifetime of that person, nor unless its provisions are clearly and distinctly proved by at least  
two credible witnesses.

22 4. The testimony of each witness must be reduced to writing, signed by the witness and filed, and is  
admissible in evidence in any contest of the will if the witness has died or permanently moved from the  
23 State.

24 5. Notwithstanding any provision of this section to the contrary:

25 (a) The production of a person's lost or destroyed will, whose primary beneficiary is a nontestamentary  
trust established by the person and in existence at his or her death, creates a rebuttable presumption that the  
will had not been revoked.

26 (b) If the proponent of a lost or destroyed will makes a prima facie showing that it was more likely than  
not left unrevoked by the person whose will it is claimed to be before his or her death, then the will must be  
admitted to probate in absence of an objection. If such prima facie showing has been made, the court shall  
27 accept a copy of such a will as sufficient proof of the terms thereof without requiring further evidence in  
the absence of any objection.

1 The record is clear that after moving to the nursing home Decedent was not in  
2 physical possession of the October 2012 Will such that he could have "revoked" it by  
3 destroying or otherwise tearing it up. The evidence supports a finding that the original  
4 version of the October 2012 Will was in his home office and at some point was lost.  
5 What is less clear is whether Decedent destroyed the Will before leaving his home, or if it  
6 was misplaced in the process of packing the contents of Decedent's home and placing his  
7 belongings into storage. No evidence was introduced to establish Decedent visited his  
8 storage facility or that he instructed anyone to bring him the original version of the  
9 October 2012 Will.

10 Even if Theo did manage to retrieve the original Will, he lacked the mental  
11 capacity to "revoke" the October 2012 Will after February 2014 until his death in August.  
12 No evidence was introduced to establish that Theo lacked capacity prior to the date he  
13 was appointed a guardian. There is no evidence to establish Theo had possession of the  
14 original October 201 Will after moving to assisted living. These facts provide a basis to  
15 examine the remaining evidence introduced to prove the October 2012 Will was in legal  
16 existence at the time of Decedent's death. <sup>6</sup>

17 Petitioners were required to offer the testimony of two witnesses who could  
18 provide "clear and distinct" evidence of the provisions of the October 2012 Will.<sup>7</sup> The  
19 drafting attorney had a clear recollection of drafting the Will and was in possession of a  
20 copy of the Will. The second witness to the Will, Diane DeWalt, the legal assistant to the  
21 drafting attorney, recalled she prepared the Will and served as a witness, but she did not

22 <sup>6</sup> NRS 136.240 states in part: "(t)he petition for the probate of a lost or destroyed will must include a copy  
23 of the will ... [and] ... no will may be proved as a lost or destroyed will unless it is proved to have been in  
24 existence at the death of the person whose will it is claimed to be, or is shown to have been fraudulently  
destroyed in the lifetime of that person, nor unless its provisions are clearly and distinctly proved by at least  
two credible witnesses..."

25 <sup>7</sup> Estate of Irvine v. Doyle, 710 P.2d 1366 (1985) – The Nevada Supreme Court held that a proponent of a  
26 lost or destroyed will is required to prove that testator did not revoke the lost or destroyed will, but such  
27 proof is not that the will was in "actual" existence at the time of testator's death, only that it was in "legal"  
existence. To combat "spurious wills", the Court also noted that a proponent must prove the provisions of  
the will by at least two credible witnesses that can provide clear and distinct testimony as to its provisions.

1 recall the specific terms of the Will. The remaining witness, Decedent's stepdaughter  
2 Kathy Longo, testified that the decedent told her about his testamentary intent, which was  
3 to leave his estate to St. Jude's. She also confirmed seeing the Will in the decedent's  
4 home office; but she did not read the Will and thus could not confirm the provisions, nor  
5 did she know the date the Will she saw was executed.

6 Under Nevada law the testator's declarations cannot be substituted for one of the  
7 witnesses required under NRS 136.240. See, In re Duffill's Estate, 61 P.2d 985 (1936)  
8 and Howard Hughes Medical Inst. v. Gavin, 621 P.2d 489 (1980).

9 In re Duffill's Estate, 61 P.2d 985 (1936) is the case establishing the requirements  
10 for proving a lost will. The Nevada Supreme Court upheld the lower court's judgment  
11 that decedent's mother failed to prove the existence of a lost will leaving her  
12 \$200,000.00. The mother produced four witnesses to support the lost will. The first  
13 witness actually signed the will as a subscribing witness but testified his only knowledge  
14 of its terms was based on the decedent's statements, which the court noted was not  
15 sufficient as decedent could not be substituted as one of the two witnesses required to  
16 probate a lost will. The other three witnesses all testified to the contents of the will and  
17 that their knowledge was gained during separate conversations with the decedent about  
18 his failing health and that decedent prompted them to read the will. The trial court  
19 rejected the testimony of these three witnesses as not being trustworthy.

20 In Howard Hughes Medical Inst. v. Gavin, 621 P.2d 489 (1980) the Nevada  
21 Supreme Court again noted that a testator's declarations cannot be substituted for one of  
22 the witnesses required by the Lost Will Statute, NRS 136.240. The Court found that  
23 strict compliance with NRS 136.240 "precludes proof of the contents of a lost will by  
24 hearsay declarations of deceased people, unless the declarant's testimony is written and  
25 signed by the declarant." *Id.* at 491. Therefore, Theo's statements to Kathy cannot  
26 overcome the statutory requirements.

1 In the instant matter Decedent's long time estate planning attorney Kristin Tyler  
2 has a very distinct recollection of the terms of Theo's final October 2012 Will. The Will  
3 was consistent with Theo's historical estate plans. his beneficiary designations did not  
4 vary over time, nor did he ever leave anything to his son Chip. Therefore, it can be  
5 assumed Theo understood the need to specifically disinherit his only child, as well as the  
6 outcome if he failed to leave a Will that did so.

7 While the testimony of the other witnesses about Theo's stated testamentary  
8 intention is credible and consistent, this Court cannot accept the hearsay declarations of  
9 the decedent. The Hughes case provides a possible exception if the declarant's testimony  
10 is signed. Here Decedent did hand write and sign the words "October 2, 2012 Up-dated."  
11 The handwritten statement on the copy of the October 2012 Will does not clarify what  
12 provisions were "up-dated": the statement appears simply to reference the date the Will  
13 was executed. This is not sufficient to satisfy the Hughes exception. The Hughes case  
14 stands for the principal that strict compliance with the requirements of the statute is  
15 necessary. Here, only one witness, the drafting attorney, provided testimony sufficient to  
16 satisfy the statute.

### 17 III. Dependent Relative Revocation

18 An alternative theory presented by these facts is whether the June 2012 original  
19 Will can be revived, or its revocation under the October 2012 copy deemed ineffective.  
20 NRS 133.130 limits the revival of a prior will to only those instances where the  
21 revocation occurred with intent to revive or the prior will is reexecuted.<sup>8</sup> Nothing within  
22 the above factual background supports either of these situations. In re Melton, 272 P.3d

23 <sup>8</sup> NRS 133.130 Effect of revocation of subsequent will.

24 If, after the making of any will, the testator executes a valid second will that includes provisions revoking  
25 the first will, the destruction, cancellation or revocation of the second will does not revive the first will  
26 unless:

27 1. It appears by the terms of the revocation or the manner in which the revocation occurred that it was  
28 the intention to revive and give effect to the first will; or

2. After the destruction, cancellation or revocation, the first will is reexecuted;

....  
6. If the will is established, its provisions must be set forth specifically in the order admitting it to  
probate, or a copy of the will must be attached to the order.

1 668 (2012) dependent relative revocation does not revive a revoked will, but only applies  
2 where a revocation was ineffective. As with revival, the above factual background does  
3 not include any basis upon which the October 2012 copy and its revocation of the June  
4 2012 Original was ineffective.

5 In Melton the Nevada Supreme Court distinguished NRS 133.130 and its  
6 restriction against a revoked will's revival from the doctrine of *dependent relative*  
7 *revocation*. The court found that the "doctrine of dependent relative revocation ... 'does  
8 not revive a revoked will; rather, it renders a revocation ineffective.'" Therefore, the  
9 Nevada Supreme Court expressly adopted the doctrine of dependent relative revocation,  
10 but declined to apply it because the revocation of a prior will, and its disinheritance  
11 provision, was not impacted or made conditional by a subsequent holographic will that  
12 involved a different dispositive scheme.

13 The Melton decision is consistent with the longstanding California rule. See, In  
14 re Lopes, 152 Cal.App.3d 302 (1984). The fact pattern in Lopes is very similar to the  
15 background outlined above and petitioner attempts to argue that all provisions of a lost  
16 will, including revocation of a prior will, should be nullified. The appellate court held  
17 that a copy of a 1979 will could not be probated because it could not be shown to be in  
18 existence on the date of death. Petitioner therefore argued that all provisions found  
19 within the 1979 will failed, including the provision that revoked a prior will executed in  
20 1977. The court noted that a will can be revoked by any writing and does not need to  
21 meet the standards for proving a lost will and also noted that dependent relative  
22 revocation offered an appropriate method to address revocations based upon a false  
23 assumption of the effectiveness of a subsequently executed will.

24 Here the June 2012 Will was expressly revoked by the October 2012 Will, and  
25 there is no evidence that revocation was ineffective in its express terms. Subsequently  
26 the October 2012 Will was either lost or destroyed, however, there is no evidence it was  
27 revoked in writing. Lacking sufficient evidence to prove the October 2012 "lost" will, the

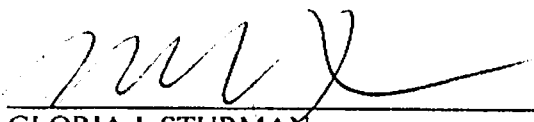
1 Court finds it is presumed to have been destroyed. Given the absence of a writing to  
2 establish the October 2012 Will was revoked with the intent to revive the June 2012  
3 Will, the doctrine of dependent relative revocation cannot revive the June 2012 Will.

4  
5 **CONCLUSION**

6 St. Jude's failed to meet its burden of proof that the Will was not revoked during  
7 Decedent's lifetime (while Decedent was competent). The lost will statute must be  
8 strictly construed, and here only one witness provided clear and distinct testimony about  
9 the contents of the October 2012 Will. None of the witnesses who saw a will in  
10 Decedent's home prior to him entering assisted living could testify that the will they saw  
11 was the Original of the October 2012 Will. While Decedent was not determined to lack  
12 capacity until February 2014, his behavior during the time he was preparing to move to  
13 assisted living was increasingly erratic. Decedent had been a careful planner and seems  
14 to have understood the need to specifically disinherit his son, and alternatively, the fact  
15 that without a will his son would inherit. Although he did not make a formal change to  
16 his estate planning documents, he could simply have changed his mind and destroyed the  
17 original will in his possession.

18 WHEREFOR, based on of testimony at trial, the exhibits, and the law that applies  
19 in this case as set forth above, the Petitioner/Objector St. Jude Children's Hospital  
20 Petition to admit Decedent's lost will dated October 2, 2012, is hereby DENIED.

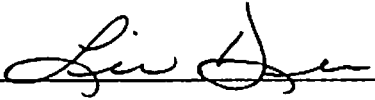
21  
22 DATED: This 3<sup>rd</sup> day of August, 2018

23  
24   
25 GLORIA J. STURMAN  
26 District Court Judge, Dept. XXVI

27 Counsel for Respondent is directed to prepare a Notice of Entry of Decision and  
28 Order.

CERTIFICATE OF SERVICE

I hereby certify that on the date signed, a copy of the Foregoing Order was electronically served on all parties registered in P-14-082619.

  
Linda Denman,  
Judicial Executive Assistant



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

February 13, 2015

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P-14-082619-E      In the Matter of:  
Theodore Scheide Jr., Deceased

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**February 13, 2015      9:30 AM      Petition - HM**

**HEARD BY:** Yamashita, Wesley      **COURTROOM:** Courtroom 09

**COURT CLERK:** Carol Foley

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, not present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, not present
Theodore Scheide, Other, not present	Cary Payne, Attorney, not present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
------------------------

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter taken OFF CALENDAR.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

PRINT DATE:	09/10/2018	Page 1 of 26	Minutes Date:	February 13, 2015
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**Notice:** Journal entries are prepared by the courtroom clerk and are not the official record of the Court.

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

May 22, 2015

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P-14-082619-E	In the Matter of: Theodore Scheide Jr., Deceased
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May 22, 2015	9:30 AM	Petition - HM
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HEARD BY: Yamashita, Wesley	COURTROOM: RJC Courtroom 03F
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COURT CLERK: Sharon Chun

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, not present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, not present
Theodore Scheide, Other, not present	Cary Payne, Attorney, not present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
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**- PETITION FOR INSTRUCTIONS**

COMMISSIONER STATED this matter had been left open to see if anyone came forward to produce a will or indicated they wanted to pursue it, but nothing came forward. Further, it was the opinion of the Personal Representative that the will had been destroyed.

Mr. VanAlstyne stated that is correct and confirmed this will is to proceed based upon the basis of an intestate situation.

COMMISSIONER RECOMMENDED, Petition GRANTED. The signed Order was provided to Mr. VanAlstyne.

**INTERIM CONDITIONS:**

PRINT DATE:	09/10/2018	Page 2 of 26	Minutes Date:	February 13, 2015
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**FUTURE HEARINGS:**

PRINT DATE:	09/10/2018	Page 3 of 26	Minutes Date:	February 13, 2015
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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

June 10, 2016

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P-14-082619-E      In the Matter of:  
Theodore Scheide Jr., Deceased

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**June 10, 2016      9:30 AM      Petition - HM**

**HEARD BY:** Yamashita, Wesley      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, not present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, not present
Theodore Scheide, Other, not present	Cary Payne, Attorney, not present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter taken OFF CALENDAR; subject to renote.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

June 10, 2016

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P-14-082619-E      In the Matter of:  
Theodore Scheide Jr., Deceased

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**June 10, 2016      9:30 AM      Petition - HM**

**HEARD BY:** Yamashita, Wesley      **COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Shelley Boyle

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, not present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, not present
Theodore Scheide, Other, not present	Cary Payne, Attorney, not present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
------------------------

- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter taken OFF CALENDAR; subject to renote.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

September 16, 2016

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P-14-082619-E      In the Matter of:  
Theodore Scheide Jr., Deceased

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**September 16,      9:30 AM      Petition - HM  
2016**

**HEARD BY:** Yamashita, Wesley

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Sharon Chun

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, not present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, not present
Theodore Scheide, Other, not present	Cary Payne, Attorney, not present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
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- Prior to the time set for hearing, COMMISSIONER RECOMMENDED, matter taken OFF CALENDAR; subject to renote.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

September 30, 2016

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P-14-082619-E	In the Matter of: Theodore Scheide Jr., Deceased
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<b>September 30, 2016</b>	<b>9:30 AM</b>	<b>Petition - HM</b>
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**HEARD BY:** Yamashita, Wesley

**COURTROOM:** RJC Courtroom 03F

**COURT CLERK:** Sharon Chun

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, not present
Theodore Scheide, Other, not present	Cary Payne, Attorney, not present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
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- PETITION FOR PROBATE OF LOST WILL (NRS 136.240); REVOCATION OF LETTERS OF ADMINISTRATION (NRS 141.050); ISSUANCE OF LETTERS TESTAMENTARY (NRS 136.090)

Cary Payne, Esq. appeared on behalf of Petitioner Theodore Scheide III.

COMMISSIONER NOTED he had received the Notice of Exercise of Right to Have Hearing Before Probate Court Judge.

Mr. Geist advised he has seen no written objection to the petition. Following colloquy between the Court and both counsel, Mr. Payne advised that he has his written objection ready to file.

Pursuant to the Request, COMMISSIONER REFERRED this matter to Probate Judge Gloria Sturman, for hearing.

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CLERK'S NOTE: The "Referral To District Court Judge" has been distributed to the Dept 26 Judicial Executive Assistant for scheduling and notification to the following counsel: Kim Boyer, Russell Geist, Cary C. Payne.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

October 12, 2016

P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

**October 12, 2016      9:30 AM      Status Check**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Melissa Murphy

**PARTIES:**

St. Jude Children's Research Hospital, Other,	Russel Geist, Attorney, present
Objector, not present	
Susan Hoy, Petitioner, Special Administrator,	Kim Boyer, Attorney, not present
not present	
Theodore Scheide, Other, not present	Cary Payne, Attorney, present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
------------------------

- Court stated confusion as to what was actually going forward with the case. Mr. Payne summarized a procedural overview of the case and noted everything was before this court. Further noted St. Jude brought a Petition to probate a lost will and an objection was filed. Additionally noted they did not have two witnesses and therefore the court can rule as a matter of law. Mr. Geist noted there were factual issues that need to be established and disagreed the issue could be dismissed as a matter of law. Further noted he needed to file a reply to the objection. COURT ORDERED, Petition set for hearing; Evidentiary hearing RESERVED if testimony and evidence will need to be presented. Court directed counsel to provide courtesy copies of briefing by Friday before the hearing. Mr. Payne inquired whether the administrator would turn over the father's personal property. Mr. Geist disagreed. Court advised the matter can be discussed on November 2nd.

11/02/16 9:30 AM - HEARING: PETITION FOR PROBATE OF LOST WILL (NRS136.240); REVOCATION OF LETTERS OF ADMINISTRATION (NRS141.050); ISSUANCE OF LETTERS TESTIMONY (NRS 136.090)

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02/06/17-02/07/17 - EVIDENTIARY HEARING

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

November 02, 2016

P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

**November 02,  
2016**

**9:30 AM**

**Hearing**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 03H

**COURT CLERK:** Melissa Murphy

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, not present
Theodore Scheide, Other, present	Cary Payne, Attorney, present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
------------------------

- Mr. Geist summarized a procedural overview of the case and argued in support of Petition to have the will proved. The special administrator found a copy of the October 2012 will; however was not able to find the original. The estate planning attorney (Kristen Tyler) discovered the decedent died intestate. Mr. Payne argued in opposition and noted the will was intentionally destroyed by decedent. St. Jude could not prove the will was in existence at the time of decedent's death. Attorney Tyler only attests that the last time she saw the original will was on the day it was executed. Arguments whether the October 2012 will revoked all prior wills. Following further arguments and representations, COURT stated FINDINGS and ORDERED, Petition to Approve Will GRANTED; Evidentiary hearing RESET to prove whether the will was destroyed during Mr. Scheide's lifetime. COURT FURTHER ORDERED, Counterpetition for distribution DEFERRED; Status Check SET. Mr. Geist to prepare the Order.

02/01/17 9:30 AM - STATUS CHECK: READINESS FOR EVIDENTIARY HEARING

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03/16/17 - 03/17/17 - EVIDENTIARY HEARING

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:** Nov 02, 2016 9:30AM Hearing  
Hearing: Petition for Probate of Lost Will (NRS136.240); Revocation of Letters of Administration (NRS141.050); Issuance of Letters Testamentary (NRS136.090)  
RJC Courtroom 03H Sturman, Gloria

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

February 01, 2017

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P-14-082619-E      In the Matter of:  
Theodore Scheide Jr., Deceased

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**February 01, 2017      9:30 AM      Status Check**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Kory Schlitz

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, present
Theodore Scheide, Other, not present	Cary Payne, Attorney, present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
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- Upon Court's inquiry, Mr. Geist indicated not ready for an Evidentiary Hearing, stating parties are in the process of Discovery, however there is an issue with Kristin Tyler being subpoenaed to testify in a criminal trial. Colloquy regarding trial dates. COURT ORDERED, Evidentiary Hearing VACATED, matter SET for Calendar CALL. Court advised a trial date will be set at calendar call.

5/4/17 9:00 A.M. CALENDAR CALL

JURY TRIAL SET BETWEEN 5/30/17 THRU 6/23/17

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**      Feb 01, 2017 9:30AM Status Check  
RJC Courtroom 10D Sturman, Gloria

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

March 22, 2017

P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

**March 22, 2017**

**9:30 AM**

**All Pending Motions**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Brynn Griffiths

**PARTIES:**

St. Jude Children's Research Hospital, Other,	Russel Geist, Attorney, present
Objector, not present	
Susan Hoy, Petitioner, Special Administrator,	Kim Boyer, Attorney, present
not present	
Theodore Scheide, Other, not present	Cary Payne, Attorney, present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
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- MOTION TO RECONSIDER: NOTICE OF MOTION AND MOTION TO RECONSIDER/CLARIFY, ETC...MOTION: ST. JUDE CHILDREN'S RESEARCH HOSPITAL'S MOTION TO EXTEND DISCOVERY AND CONTINUE TRIAL DATE ON ORDER SHORTENING TIME (FIRST REQUEST)

Upon Court's inquiry, Mr. Pane objected to an extension as this issue has been pending for two years. Court noted Ms. Boyer has no position either way as to an extension; Ms. Boyer concurred. Argument by Mr. Geist regarding him not receiving the full medical records. Court inquired as to why an extension is needed. Mr. Geist informed it is Mr. Scheide's position there is more discovery that is needed. COURT ORDERED, Motion to Extend Discovery GRANTED, for 60 days. COURT FURTHER ORDERED, Motion to Continue Trial Date on Order Shortening Time, DENIED. COURT ORDERED, HIPAA release be provided as to the names in the papers. Ms. Boyer has no objection to release the papers. Argument by Mr. Pane as to the language in the order being confusing. Argument by Mr. Geist stating the order is clear and correct. COURT FURTHER ORDERED, Motion to Reconsider DENIED. Mr. Geist renewed his motion for extending discovery as 60 days will not be enough time. COURT ORDERED, request to extend discovery more than 60 days, DENIED; Status

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Check SET.

05/10/17 9:30 AM STATUS CHECK

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

## Probate - Special Administration

# COURT MINUTES

May 04, 2017

P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

**May 04, 2017**

9:00 AM

## Calendar Call

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Denise Duron

**PARTIES:**

St. Jude Children's Research Hospital, Other, Russel Geist, Attorney, present  
Objector, not present

Susan Hoy, Petitioner, Special Administrator,      Kim Boyer, Attorney, not present  
not present

Theodore Scheide, Other, not present                      Cary Payne, Attorney, present

Theodore Scheide Jr., Decedent, not present

## JOURNAL ENTRIES

- Colloquy regarding date availability and the setting of a new trial date. COURT ORDERED, status check VACATED; and FURTHER ORDERED trial date VACATED and RESET.

06/15/17 9:00 AM NON-JURY TRIAL

**INTERIM CONDITIONS:**

## FUTURE HEARINGS:

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

May 31, 2017

P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

**May 31, 2017**

**9:30 AM**

**All Pending Motions**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Lorna Shell

**PARTIES:**

St. Jude Children's Research Hospital, Other,	Russel Geist, Attorney, present
Objector, not present	
Susan Hoy, Petitioner, Special Administrator,	Kim Boyer, Attorney, present
not present	
Theodore Scheide, Other, not present	Cary Payne, Attorney, present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
------------------------

- NOTICE OF MOTION AND MOTION FOR JUDGMENT ON THE PLEADINGS (NRCP 12(C)) ..  
ST. JUDE CHILDREN'S RESEARCH HOSPITAL'S MOTION FOR PARTIAL SUMMARY  
JUDGMENT ON NON-REVOCATION OF WILL PRIOR TO THE DECEDENT'S GUARDIANSHIP  
AND ON DECEDENT'S TESTAMENTARY CAPACITY AFTER THE ESTABLISHMENT OF A  
GUARDIANSHIP

Mr. Geist argued pursuant to Estate of Irvine v. Doyle the party must prove the lost will was in legal existence at the time of death. Mr. Geist further argued the Supreme Court said the statute must mean a proponent of the lost will was required to prove the testator did not revoke the lost or destroyed will during his lifetime, not that the will was in physical existence at the time of the testator's death. Mr. Geist argued pursuant to NRS 136.040(1) it must be proven that a will was in existence or proven destroyed or provide two credible witnesses. Mr. Geist further argued that there was no clear and convincing evidence standard of proof required under NRS 136.240. Mr. Payne argued pursuant to NRS 136.240(3) they must prove the testator had not revoked the lost or destroyed will, the proof must be two individuals who physically saw the original will at the time of

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the decedent's death, and that if the will was fraudulently destroyed it was through some intervening act. Mr Payne further argued the facts in the Irvine case did not match as that case referred to a house fire. Mr. Payne argued during the decedent's guardianship a full inventory was taken and no will was found. Upon inquiry by the Court regarding whether it was his position that because they didn't have the original will at the time of filing of the petition it fails, Mr. Payne stated as a matter of law they must have two credible witnesses and at best they only have one; therefore the court can affirm he died intestate. Following further arguments by counsel, COURT ORDERED, Motion CONTINUED TO CHAMBERS for a decision; Court noted she did not have a complete copy of Kristen Tyler, Esq.'s deposition and requested counsel provide it to the court.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

June 06, 2017

P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

**June 06, 2017**

**7:00 AM**

**Minute Order**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Lorna Shell

**PARTIES:**

St. Jude Children's Research Hospital, Other,	Russel Geist, Attorney, not present
Objector, not present	
Susan Hoy, Petitioner, Special Administrator,	Kim Boyer, Attorney, not present
not present	
Theodore Scheide, Other, not present	Cary Payne, Attorney, not present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
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- This matter came for hearing May 31, 2017 on competing Motions (Petitioner filed a Motion for Summary Judgment while Respondent couched his Motion as seeking relief under NRCP 12 (C)). The Court took the matter under advisement in order to review the entire transcript of attorney Kristen Tyler, and the Howard Hughes Medical Center case (Respondent's Supplement filed May 30, 2017). It was not the Court's intent to accept any additional exhibits or briefing. After the hearing Petitioner provided a complete transcript, however, Respondent Theodore Schiede III provided additional exhibits and argument concerning conflicting testimony. Counsel for Petitioner objected to Respondent's second supplement and requested the material be stricken, or in the alternative that Petitioner be given an opportunity to prepare a substantial reply.

The parties have thus answered the issue under consideration by the Court, i.e. in light of the competing Motions are any questions of material fact remaining, and is either party entitled to judgment as a matter of law. It appears that the witness testimony does not answer all of the questions to be considered in analyzing NRS 136.240.

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herefore, the Court will reserve ruling on the pending motions, which may be appropriate for consideration after presentation of evidence at the evidentiary hearing currently scheduled for June 15, 2017 and June 16, 2017.

CLERK'S NOTE: A copy of this minute order was electronically served to all Wiznet registered parties by the Judicial Executive Assistant./ls 06-06-17

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

June 15, 2017

P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

**June 15, 2017**

**9:00 AM**

**Non-Jury Trial**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Lorna Shell

**PARTIES:**

St. Jude Children's Research Hospital, Other,	Russel Geist, Attorney, present
Objector, not present	
Susan Hoy, Petitioner, Special Administrator,	Kim Boyer, Attorney, present
not present	
Theodore Scheide, Other, not present	Cary Payne, Attorney, present
Theodore Scheide Jr., Decedent, present	

<b>JOURNAL ENTRIES</b>
------------------------

- Also present was Ian Christopherson assisting Mr. Payne, Marge Arena, Assistant to Mr. Payne, Heather Risa, Paralegal for Mr. Geist, and Jennifer Maffeo-Morrissey from St. Jude's.

Opening Statements by Mr. Geist and Mr. Payne.

Ms. Boyer stated Mr. Alstyne had written a letter stating Ms. Boyd couldn't be advised to waive any attorney client privileges. Mr. Geist argued that pursuant to NRS 149.115(2) this was a communication relevant to an issue between parties who claim through the same deceased client and as such there was no privilege. Mr. Payne argued it was a limited waiver. COURT FINDS there was a standing objection and that this testimony falls within a waiver and Ms. Tyler could make the decision.

Testimony and Exhibits presented (see worksheets).

Ms. Tyler ADMONISHED and EXCUSED for lunch with instructions to return at 1:00 PM.

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**TRIAL RESUMED:**

Testimony continued.

Following arguments by counsel regarding medical records included in Exhibit 7(a) and 7(b), COURT ORDERED, Mr. Geist to prepare an order sealing all confidential documents in Exhibit 7(a) and 7(b). Upon request by Mr. Geist to enter Exhibit 6, COURT ORDERED, Exhibit 6 COMES IN with the understanding that Ms. Hoy kept these records in the ordinary course; however due to the confidential nature they would be SEALED. COURT FURTHER ORDERED, Trial CONTINUED.

CONTINUED TO: 06/15/17 10:00 AM

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

June 16, 2017

P-14-082619-E

In the Matter of:  
Theodore Scheide Jr., Deceased

**June 16, 2017**

**9:00 AM**

**Non-Jury Trial**

**HEARD BY:** Sturman, Gloria

**COURTROOM:** RJC Courtroom 10D

**COURT CLERK:** Lorna Shell

**PARTIES:**

St. Jude Children's Research Hospital, Other,	Russel Geist, Attorney, present
Objector, not present	
Susan Hoy, Petitioner, Special Administrator,	Kim Boyer, Attorney, not present
not present	
Theodore Scheide, Other, present	Cary Payne, Attorney, present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
------------------------

- Also present was Ian Christopherson assisting Mr. Payne, Marge Arena, Assistant to Mr. Payne, Heather Risa, Paralegal for Mr. Geist, and Jennifer Maffeo-Morrissey from St. Jude's.

Mr. Geist stated he believed they had met their burden and therefore moved for a directed verdict. Mr. Payne renewed his own motion for directed verdict and further argued they had not complied with the statute, that they did not meet the requirement for adequate notice, that there was no evidence of a lost or accidentally destroyed will, and that they didn't state a claim. Mr. Payne argued they were provided additional time and when the parties came back to court with depositions by K. Tyler and D. DeWitt, neither of the depositions state the will was lost or accidentally destroyed. Mr. Payne argued there was no evidence regarding how the will was lost, they had the bare bones and it doesn't meet the standard set by NRS 136.230, they must lay a foundation, they must rely on affidavits, they must prove allegations before going forward, and they must prove the will was in existence at the time of his death. COURT STATED CONCERNS with the timing and the lack of notice. Court further stated she wanted to consider all evidence and hear both sides intent before making a decision and therefore DENIED both motions for directed verdict. Court then instructed

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Mr. Payne to put on his defense. Mr. Payne stated he would not be calling any witnesses. Mr. Payne moved to strike the testimony of Ms. Maffeo-Morrissey as she was not noticed as a discovery witness. Mr. Moody argued she was properly disclosed. COURT ORDERED, Oral Motion to Strike DENIED.

Closing statements by Mr. Geist and Mr. Payne.

COURT ORDERED, Decision CONTINUED FOR CHAMBERS DECISION by August 15, 2017.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Probate - Special  
Administration**

**COURT MINUTES**

February 09, 2018

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P-14-082619-E      In the Matter of:  
Theodore Scheide Jr., Deceased

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**February 09, 2018      9:30 AM      Petition - HM**

**HEARD BY:** Yamashita, Wesley      **COURTROOM:** RJC Courtroom 11D

**COURT CLERK:** Sharon Chun

**PARTIES:**

St. Jude Children's Research Hospital, Other, Objector, not present	Russel Geist, Attorney, not present
Susan Hoy, Petitioner, Special Administrator, not present	Kim Boyer, Attorney, not present
Theodore Scheide, Other, not present	Cary Payne, Attorney, not present
Theodore Scheide Jr., Decedent, not present	

<b>JOURNAL ENTRIES</b>
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- Matter being on Approved List and there being no objection, COMMISSIONER RECOMMENDED, Petition APPROVED.

**INTERIM CONDITIONS:**

**FUTURE HEARINGS:**

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## EXHIBIT LIST

Case No: **P082619**

Dept. No.: **XXVI**

Petitioner: **ST JUDE'S CHILDRENS HOSPITAL**

vs.

Respondant: **THEODORE E SCHEIDE III**

Trial Date: 6/15/17

Judge: Judge Gloria Sturman

Court Clerk: LORNA Shell

Recorder: KERRI ESPARZA

Reporter: \_\_\_\_\_

Counsel for Petitioner: Russel Geist, Esq.; Todd Moody

Counsel for Respondent: \_\_\_\_\_

Cary Payne, Esq.

### TRIAL BEFORE THE COURT

#### RESP.'S EXHIBITS

Exhibit Number	Exhibit Description	Bates No	Date Offered	Objection	Date Admitted
A	FINAL ACCOUNTING DOCUMENTS Guardianship Petition filed 1/22/15	Tyler #'s 13-66			
B	TYLER RECEIPT Guardianship Proceeding Filed 4/14/15	Public Document			
C	KRISTIN TYLER & RUSSELL GEIST - EMAILS & TYLER AFFIDAVIT	Tyler #'s 38-49			
D	KRISTIN TYLER EMAILS WITH SUSAN HOY RE: PROBATE MATTER; DATED 5/19/16	Tyler #'s 71,72,41			
E	KRISTIN TYLER EMAILS WITH RUSSELL GEIST RE: PROBATE MATTER, DATED 5/19-20/16	Tyler #70			
F	KRISTIN TYLER EMAILS WITH RUSSELL GEIST RE: PROBATE MATTER, DATED 6/3/16	Tyler #'s 68,69,73			
G	TYLER'S CORRESPONDENCE TO DECEDENT DATED 1/29/14	(provided via Tyler Discovery) No Bates No.			
H	TYLER'S CORRESPONDENCE TO DECEDENT DATED 1/15/14	Boyer 465			
I	LETTER FROM PHILIP VAN ALSTNE TO TYLER DATED 8/2/16	Tyler #44			
J	REGISTER OF ACTIONS ESTATE RIGAZZI/ P-11-072050-E	Public Document			

Exhibit List Case P082619 St Jude's Hospital v. Theodore Scheide, III  
RESP.'S EXHIBITS

Exhibit Number	Exhibit Description	Bates No	Date Offered	Objection	Date Admitted
K	TYLER EMAIL TO BOYER DATED 2/26/14 RE: GUARDIANSHIP & DOCUMENT TRANSMITTAL	Provided via Tyler Discovery, No Bates #			
L	BOYER TO TYLER CORRES DATED 2/24/14	Boyer #76-82			
M	REQUEST FOR SPECIAL NOTICE (FILED 2/27/14) BY TYLER RE: GUARDIANSHIP MATTER	Pages 1-3			
N	TYLER'S EMAIL WITH HOY DATED 2/11/14	Provided via Tyler Discovery, No Bates No.			
O	KRISTIN TYLER EMAILS WITH RUSSELL GEIST RE: PROBATE MATTER, DATED 7/22/16	Tyler #'s 52-54			
P	FEE AGREEMENT BETWEEN DECEDENT & GORDON SILVER FIRM DATED 6/6/12	Tyler #'s 1-8			
Q					
R					
S					
T					
U					
V					
W					
X					

## EXHIBIT(S) LIST

**Case No.: P082619**

**Trial Date:**

611517

Dept. No.: **XXVI.**

**Judge:**

GLORIA STURMAN

**Court Clerk:**

LORNA Shell

Plaintiff: **St Judes Children's Hospital**

Recorder:

Kenny Esparza

**Counsel for Plaintiff:**

Russel Geist, Esq,

**VS.**

Defendant: **Theodore Scheide Jr**

Todo Moody, Esq

Counsel for Defendant:

Cary Payne, Esq

## TRIAL BEFORE THE COURT

## COURT'S EXHIBITS

[illegible]



**EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE**  
**NOTICE OF DEFICIENCY**  
**ON APPEAL TO NEVADA SUPREME COURT**

**TODD L. MOODY**  
**10080 W. ALTA DR., SUITE 200**  
**LAS VEGAS, NV 89145**

**DATE: September 10, 2018**  
**CASE: P-14-082619-E**

**RE CASE:** In the Matter of the Estate of THEODORE E. SCHEIDE JR.  
aka THEODORE ERNEST SCHEIDE JR.

**NOTICE OF APPEAL FILED:** September 6, 2018

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

**PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:**

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☐ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☒ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. The district court clerk shall apprise appellant of the deficiencies in writing, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

---

***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; DECISION AND ORDER; NOTICE OF ENTRY; DISTRICT COURT MINUTES; EXHIBITS LIST; NOTICE OF DEFICIENCY

In the Matter of the Estate of

THEODORE E. SCHEIDE JR.  
aka THEODORE ERNEST SCHEIDE JR.,

Deceased.

Case No: P-14-082619-E

Dept No: FAMILY DOMESTIC

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 10 day of September 2018.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk