

1                                   **SUPREME COURT OF THE STATE OF NEVADA**

2       In the Matter of the Guardianship of the  
3       Person and Estate of

4                   KATHLEEN JUNE JONES,  
5                   Adult Protected Person.

6       RODNEY GERALD YEOMAN,  
7                   Appellant,

8       vs.

9       KIMBERLY JONES; AND  
10      KATHLEEN JUNE JONES, A  
11      PROTECTED PERSON,  
12                   Respondents.

**Supreme Court No. 81414**

District Court Case No. : G-19-052263-  
A                                   Electronically Filed

Feb 08 2021 04:26 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

13                   **MOTION TO SUBSTITUTE SPECIAL ADMINISTRATOR OF THE**  
14                   **ESTATE OF RODNEY GERALD YEOMAN IN PLACE AND STEAD OF**  
15                   **APPELLANT RODNEY GERALD YEOMAN AND TO AMEND CAPTION**

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10 **MOTION TO SUBSTITUTE SPECIAL ADMINISTRATOR OF THE**  
11 **ESTATE OF RODNEY GERALD YEOMAN IN PLACE AND STEAD OF**  
12 **APPELLANT RODNEY GERALD YEOMAN AND TO AMEND CAPTION**

13 COMES NOW, Richard Powell, in his capacity as Special Administrator of  
14 the Estate of Rodney Gerald Yeoman, Appellant, and submits his Motion to  
15 Substitute the Special Administrator of the Estate of Rodney Gerald Yeoman in Place  
16 and Stead of Appellant Rodney Gerald Yeoman and to Amend Caption.

17 **MEMORANDUM OF POINTS AND AUTHORITIES**

18 **I.**

19 **STATEMENT OF FACTS**

20 Appellant Rodney Gerald Yeoman (“Gerry” or “Appellant”) died on August  
21 14, 2020, after the Notice of Appeal was filed on July 1, 2020. Richard Powell filed  
22 a Petition to Appoint Special Administrator and for Issuance of Letters of Special  
23 Administration in Clark County Nevada Case # P-20-104853-E. Letters of Special  
24 Administration were issued to Richard Powell on January 11, 2021.  
25

1 This Motion seeks to substitute the Special Administrator of the Estate of  
2 Rodney Gerald Yeoman in place and stead of Rodney Gerald Yeoman, Appellant,  
3 who is now deceased.  
4

## 5 II.

### 6 ARGUMENT

#### 7 A. It is Necessary to Substitute the Proper Appellant.

8 Due to Gerry's death, it is necessary to substitute his Estate as the proper  
9 Appellant.

10 NRCP 25(a) addresses the substitution of parties due to death and states:

#### 11 **Rule 25. Substitution of Parties**

##### 12 (a) **Death.**

13 (1) **Substitution if the Claim Is Not Extinguished.** If a party dies  
14 and the claim is not extinguished, the court may order substitution of the proper  
15 party. A motion for substitution may be made by any party or by the decedent's  
16 successor or representative. If the motion is not made within 180 days after  
17 service of a statement noting the death, the claims by or against the decedent  
18 must be dismissed.

19 (2) **Continuation Among the Remaining Parties.** After a party's  
20 death, if the right sought to be enforced survives only to or against the remaining  
21 parties, the action does not abate, but proceeds in favor of or against the  
22 remaining parties. The death should be noted on the record.

23 (3) **Service.** A motion to substitute must be served on the parties as  
24 provided in Rule 5 and on nonparties as provided in Rule 4. A statement noting  
25 death must be served in the same manner.

21 NRS 7.075 also addresses the substitution of parties and states:

22 **NRS 7.075 Duties of attorney upon death of client being represented in**  
23 **pending action; sanctions.**

1           1. An attorney at law who represents any person who is a party to an  
2 action pending before any court shall, within 90 days after the death of that  
3 person, file a notice of death and a motion for substitution of a party with the  
4 court and cause a copy of that notice and motion to be served upon every other  
5 party to the action.

6           2. The court may, upon motion, impose any sanctions it considers  
7 appropriate, including costs and attorney's fees, against an attorney who fails  
8 to comply with the provisions of subsection 1.

9           NRAP 43(a)(1) also address the substitution of parties and states:

10           (a) Death of a Party.

11                   (1) After Notice of Appeal Is Filed. If a party dies after a notice  
12 of appeal has been filed or while a proceeding is pending in the  
13 Supreme Court or Court of Appeals, the decedent's personal  
14 representative may be substituted as a party on motion filed by  
15 the representative or by any party with the clerk of the Supreme  
16 Court. A party's motion shall be served on the representative in  
17 accordance with Rule 25. If the decedent has no representative,  
18 any party may suggest the death on the record, and the court may  
19 then direct appropriate proceedings.

20           This Motion is timely brought by Richard Powell pursuant to the appeal court  
21 setting February 8, 2021 as the deadline to file the same. It is necessary to substitute  
22 the Estate of Rodney Gerald Yeoman in the place and stead of the deceased Appellant  
23 to ensure that Gerry's Estate can properly administer this appeal as necessary.

24                   **III.**

25                   **CONCLUSION**

          Due to the passing of Rodney Gerald Yeoman he can no longer be a proper  
Appellant in this matter. This Court should order the Special Administrator of the

1 Estate of Rodney Gerald Yeoman to be substituted in the place and stead of Rodney  
2 Gerald Yeoman. It is also requested that the caption be amended to reflect the new  
3 Appellant.  
4

5 Dated this 8<sup>th</sup> day of February, 2021. KEHOE & ASSOCIATES

6 /s/ Ty Kehoe  
7 Ty E. Kehoe, Esq.  
8 871 Coronado Center Drive, Suite 200  
Henderson, Nevada 89052

9 **CERTIFICATE OF SERVICE**

10 I HEREBY CERTIFY that on the 8<sup>th</sup> day of February, 2021, I served a true and  
11 correct copy of the Motion to Substitute Special Administrator of the Estate of  
12 Rodney Gerald Yeoman in Place and Stead of Appellant Rodney Gerald Yeoman and  
13 to Amend Caption, via electronic service to the following, or via US First Class Mail  
14 postage pre-paid to the addresses listed:  
15

16 All parties on Court e-service system.

17 /s/ Ty Kehoe  
18 Ty E. Kehoe  
19  
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24  
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