

LEO P. FLANGAS, ESQ.
Nevada Bar No. 5637
FLANGAS CIVIL LAW FIRM, LTD.
600 S. 3rd Street
Las Vegas, Nevada 89101
VOX: (702) 384-1990
FAX: (702) 384-1009
e-mail: leo@flangaslawfirm.com
*Attorney for Petitioner Colonial Real
Estate Partnership, Ltd. and John
Houlihan*

Electronically Filed
Jul 09 2020 03:34 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Case No.: P-18-095892-E

In re the Matter of the Estate of

Dept. No.: 8

Dennis John Carver

Deceased

NOTICE OF APPEAL

Notice is hereby given that JOHN HOULIHAN and COLONIAL REAL ESTATE PARTNERSHIP, LTD., Petitioners by and through their attorney, LEO P. FLANGAS, ESQ., of the FLANGAS CIVIL LAW FIRM, LTD., hereby appeals to the Supreme Court of Nevada from the ORDER entered in this action on the 23rd day of June, 2020.

DATED this 2nd of July, 2020

/s/ Leo P. Flangas
LEO P. FLANGAS, ESQ.
Nevada Bar No. 5637
leo@flangaslawfirm.com
*Attorney for Petitioners
JOHN HOULIHAN and
COLONIAL REAL ESTATE PARTNERSHIP, LTD.*

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that on this 2nd day of July, 2020, service of the a
NOTICE OF APPEAL made by submission to the electronic filing service for the Clark County
Nevada Eighth Judicial Court upon all the parties registered to the District Court Electronic Filing
Program.

/s/ Natasha Smith
An employee of FLANGAS CIVIL LAW FIRM





CASE SUMMARY**CASE NO. P-18-095892-E****In the matter of:
Dennis Carver, Deceased**§
§
§
§
§Location: **Department 8**
Judicial Officer: **Atkin, Trevor**
Filed on: **06/28/2018**
Case Number History:
Cross-Reference Case **P095892**
Number:**CASE INFORMATION****Statistical Closures**

05/10/2019 Summary Judgment

Case Type: **Probate - General
Administration**Case Flags: **Appealed to Supreme Court
Filing Fee Balance Due****DATE****CASE ASSIGNMENT****Current Case Assignment**Case Number P-18-095892-E
Court Department 8
Date Assigned 11/25/2019
Judicial Officer Atkin, Trevor**PARTY INFORMATION**

		<i>Lead Attorneys</i>
Decedent	Carver, Dennis John	
Petitioner	Colonial Real Estate Partnership, LTD.	Flangas, Leonidas P, ESQ <i>Retained</i> 702-384-1990(W)
	Houlihan, John	
	Morgan, Rhonda L	Blake Esq, David T. <i>Retained</i> 702-476-5900(W)
Personal Representative	Morgan, Rhonda L	Blake Esq, David T. <i>Retained</i> 702-476-5900(W)

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

06/28/2018	 Petition for Probate of Will Filed by: Personal Representative Morgan, Rhonda L <i>Petition for Probate of Will and Issuance of Letters</i>
06/28/2018	 Notice of Hearing - Probate of Will and Issuance of Letters Filed by: Personal Representative Morgan, Rhonda L <i>Notice of Hearing on Petition for Probate of Will and Issuance of Letters</i>
07/03/2018	 Addendum Filed By: Personal Representative Morgan, Rhonda L <i>Addendum to Petition for Probate of Will ad Issuance of Letters</i>
07/03/2018	 Certificate of Mailing Filed By: Personal Representative Morgan, Rhonda L

CASE SUMMARY
CASE NO. P-18-095892-E

Certificate of Mailing Petition for Probate of Will and Issuance of Letters, Addendum to Petition for Probate of Will and Issuance of Letters, and Notice of Hearing

07/16/2018	 Affidavit of Publication Filed By: Personal Representative Morgan, Rhonda L <i>Affidavit of Publication</i>
07/18/2018	 Addendum Filed By: Personal Representative Morgan, Rhonda L <i>Addendum to Petition for Probate of Will and Issuance of Letters</i>
07/20/2018	 Order Admitting Will to Probate and For Issuance of Letters Filed By: Personal Representative Morgan, Rhonda L <i>Order Granting Petition for Probate of Will and Issuance of Letters</i>
07/25/2018	 Letters Testamentary Filed By: Attorney Stidham, Donna <i>Letters Testamentary</i>
07/25/2018	 Notice to Creditors Filed By: Personal Representative Morgan, Rhonda L <i>Notice to Creditors - Nintey (90 Day Notice</i>
08/10/2018	 Affidavit of Publication Filed By: Personal Representative Morgan, Rhonda L <i>Affidavit of Publication</i>
03/04/2019	Administrative Reassignment to Department B <i>Judicial Reassignment - From Judge Vincent Ochoa to Judge Linda Marquis</i>
04/08/2019	 Petition for Final Distribution Filed by: Personal Representative Morgan, Rhonda L <i>Petition for Waiver of Accounting, for Payment of Attorney s Fees, and Petition for Distribution</i>
04/08/2019	 Notice of Hearing Filed By: Personal Representative Morgan, Rhonda L <i>Notice of Hearing on Petition for Waiver of Accounting, for Payment of Attorney s Fees, and Petition for Distribution</i>
04/10/2019	 Certificate of Mailing Filed By: Personal Representative Morgan, Rhonda L <i>Certificate of Mailing Petition for Waiver of Accounting, for Payment of Attorney s Fees, and Petition for Distribution, for the Estate, and Notice of Hearing</i>
04/23/2019	 Affidavit of Publication Filed By: Personal Representative Morgan, Rhonda L <i>Affidavit of Publication</i>
05/10/2019	 Order Granting Filed By: Personal Representative Morgan, Rhonda L <i>Order Granting Petition for Waiver of Accounting, for Payment of Attorney's Fees, and Petition for Distribution</i>
11/25/2019	Case Reassigned to Department 8

CASE SUMMARY

CASE NO. P-18-095892-E

Reassigned to Judge Trevor L. Atkin

02/02/2020



Petition

Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD.
Petition for an Order to Show Cause Why Estate Should not be Re-opened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets

02/04/2020



Notice of Hearing

Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD.
Notice of Hearing

02/05/2020



Clerk's Notice of Hearing

Notice of Hearing

02/06/2020



Certificate of Service

Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD.
Certificate of Service

02/06/2020



Amended Certificate of Mailing

Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD.
Amended Certificate of Service

02/11/2020



Certificate of Service

Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD.
Certificate of Service

02/18/2020



Objection

Filed By: Personal Representative Morgan, Rhonda L
Objection to Petition for an Order to Show Cause Why Estate Should Not be Reopened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets

03/06/2020



Notice

Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD.
NOTICE OF EXERCISE OF RIGHT TO HAVE HEARING BEFORE PROBATE COURT JUDGE

03/06/2020



Response

Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD.
Petitioner's Response to Defendant's Objection to Petition Order to Show Cause Why Estate Should Not Be Reopened for Creditors to Submit Proof of Claims and Accounting of The Estate Assets

03/12/2020



Objection

Filed By: Personal Representative Morgan, Rhonda L
Objection to Notice of Right to Have Hearing Before Probate Court Judge

03/16/2020



Notice of Hearing

Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD.
Re-Notice of Hearing

03/17/2020



Clerk's Notice of Hearing

Notice of Hearing

03/17/2020



Notice

CASE SUMMARY

CASE NO. P-18-095892-E

	<p>Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>NOITCE OF INTERESTED PARTIES</i></p>
03/21/2020	<p> Affidavit of Mailing Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>Affidavit of Mailing Notice of Interested Parties</i></p>
03/22/2020	<p> Certificate of Service Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>CERTIFICATE OF SERVICE</i></p>
03/22/2020	<p> Certificate of Service Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>CERTIFICATE OF SERVICE</i></p>
03/31/2020	<p> Affidavit of Mailing Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>Affidavit of Mailing Notice of Interested Parties</i></p>
03/31/2020	<p> Affidavit of Mailing Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>Affidavit of Mailing Notice of Interested Parties</i></p>
03/31/2020	<p> Certificate of Service Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>Certificate of Service</i></p>
03/31/2020	<p> Certificate of Service Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>Certificate of Service</i></p>
03/31/2020	<p> Certificate of Service Filed by: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>Amended Certificate of Service</i></p>
04/28/2020	<p> Order <i>Order Scheduling Status Check</i></p>
04/30/2020	<p> Order <i>Order Scheduling Status Check</i></p>
05/08/2020	<p> Substitution of Attorney Filed by: Personal Representative Morgan, Rhonda L <i>Substitution of Attorney</i></p>
05/08/2020	<p> Reply Filed by: Personal Representative Morgan, Rhonda L <i>Sur Reply in Support of Objection to Petition for an Order to Show Cause Why Estate Should Not be Reopened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets</i></p>
06/23/2020	<p> Order Filed By: Personal Representative Morgan, Rhonda L <i>Order</i></p>

CASE SUMMARY

CASE NO. P-18-095892-E

06/23/2020	 Notice of Entry of Order Filed By: Personal Representative Morgan, Rhonda L <i>Notice of Entry of Order</i>
07/02/2020	 Notice of Appeal Filed By: Petitioner Houlihan, John; Petitioner Colonial Real Estate Partnership, LTD. <i>Notice of Appeal</i>
<u>HEARINGS</u>	
07/20/2018	 Petition - HM (9:30 AM) (Hearing Master: Yamashita, Wesley) <i>Petition for Probate of Will and Issuance of Letters</i>
05/03/2019	 Petition - HM (9:30 AM) (Hearing Master: Yamashita, Wesley) Events: 04/08/2019 Notice of Hearing <i>Petition for Waiver of Accounting, for Payment of Attorney s Fees, and Petition for Distribution</i>
03/13/2020	 Petition - HM (9:30 AM) (Hearing Master: Yamashita, Wesley) <i>Petition for an Order to Show Cause Why Estate SShould not be ReOpened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets</i>
04/24/2020	 Petition - HM (3:00 AM) (Hearing Master: Yamashita, Wesley) <i>Petition for an Order to Show Cause Why Estate Should not be Re-opened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets</i>
05/11/2020	 Minute Order (3:00 PM) (Judicial Officer: Atkin, Trevor) <i>May 14, 2020 BlueJeans Hearing Notice</i>
05/14/2020	 Status Check (10:30 AM) (Judicial Officer: Atkin, Trevor) <i>Status Check - Re: Petition for Order to Show Cause Why Estate Should not be Re-opened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets</i>
05/15/2020	 Minute Order (3:00 AM) (Judicial Officer: Atkin, Trevor) <i>Decision - Petition for Order to Show Cause Why Estate Should not be Re-opened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets</i>
DATE	FINANCIAL INFORMATION

Petitioner Houlihan, John
Total Charges
Total Payments and Credits
Balance Due as of 7/7/2020

500.00
24.00
476.00

Personal Representative Morgan, Rhonda L
Total Charges
Total Payments and Credits
Balance Due as of 7/7/2020

542.50
542.50
0.00

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA
FAMILY COURT COVER SHEET**

P-18-095892-E

CASE NO. _____ (To be assigned by the Clerk's Office)

Do you or any other party in this case (including any minor child) have any other current case(s) or past case(s) in the Family Court or Juvenile Court in Clark County?

☐ YES ☐ NO

If yes, complete the other side of this form

PARTY INFORMATION (Please Print)

Plaintiff/Petitioner		Defendant/Respondent/Co-Petitioner/Ward/Decedent	
Last Name: Morgan		Last Name: Carver	
First Name: Rhonda	Middle Name: L.	First Name: Dennis	Middle Name: John
Home Address: 31630 Railroad Canyon Road, Ste 10		Home Address: 38368 Via Calorin	
City, State, Zip: Canyon Lake, CA 92587		City, State, Zip: Murrieta, CA 92562	
Mailing Address: 31630 Railroad Canyon Road, Ste 10		Mailing Address: 38368 Via Calorin	
City, State, Zip: Canyon Lake, CA 92587		City, State, Zip: Murrieta, CA 92562	
Phone #: (702) 444-3713	Date of Birth: 03/21/1974	Phone #:	Date of Birth: 08/19/1965
Attorney Information		Attorney Information	
Name: Donna Stidham, Esq.	Bar No. 9663	Name:	Bar No:
Address: 2551 S. Fort Apache Road #103		Address:	
City, State, Zip: Las Vegas, NV 89117		City, State, Zip:	
Phone #: (702) 444-3713		Phone #:	

(Check one box only for the type of case being filed with this cover sheet)

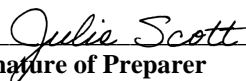
DOMESTIC	MISC. DOMESTIC RELATIONS PETITIONS	GUARDIANSHIP	PROBATE
Marriage Dissolution <input type="checkbox"/> Annulment <input type="checkbox"/> Divorce –No minor child(ren) <input type="checkbox"/> Divorce –With minor child(ren) <input type="checkbox"/> Foreign Decree <input type="checkbox"/> Joint Petition –No minor child(ren) <input type="checkbox"/> Joint Petition – With minor child(ren) <input type="checkbox"/> Separate Maintenance	<input type="checkbox"/> Adoption –Minor <input type="checkbox"/> Adoption –Adult <input type="checkbox"/> Mental Health <input type="checkbox"/> Name Change <input type="checkbox"/> Paternity <input type="checkbox"/> Permission to Marry <input type="checkbox"/> Temporary Protective Order (TPO) <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Child Support/Custody <input type="checkbox"/> Other (identify) _____	Guardianship of an Adult <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Person and Estate Guardianship of a Minor <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Person and Estate <input type="checkbox"/> Guardianship Trust	<input type="checkbox"/> Summary Administration <input checked="" type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate
MISC. JUVENILE PETITIONS	DA CHILD SUPPORT PETITIONS		
<input type="checkbox"/> Emancipation	<input type="checkbox"/> DA – UIFSA <input type="checkbox"/> DA - Child Support In State		

List children involved in this case (If more than 3 children, please enter the information on the reverse side)

Last Name	First Name	Middle Name	Date of Birth	Relationship
1.				
2.				
3.				

Julie Scott

Printed Name of Preparer


Signature of Preparer

06/28/2018

Date

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

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

☐ UIFSA/URES A ☐ 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.**

Heather S. Lavin
CLERK OF THE COURT

David T. Blake (# 11059)
Clear Counsel Law Group
1671 W. Horizon Ridge Pkwy., Suite 200
Henderson, Nevada 89012
Telephone: (702) 476-5900
Facsimile: (702) 924-0709
dave@clearcounsel.com
Attorneys for the Estate of Rhonda Morgan
Personal Representative of the Estate

DISTRICT COURT

DISTRICT OF NEVADA

In the Matter of the Estate of:

Dennis John Carver

Deceased

CASE NO.: P-18-095892-E

DEPT NO.: 8

Order

The Petition for Order to Show Cause Why Estate should not be Reopened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets of John Houlihan and Colonial Real Estate Partnership, Ltd. (collectively "Colonial") came before the Court for hearing on May 15, 2020. David Blake, Esq., of the law firm of Clear Counsel Law Group, appeared on behalf of the Estate and Leo P. Flangas, Esq. of Flangas Law Firm, Ltd. appeared on behalf of Petitioners.

After considering the Petition, Objection, Reply, Sur-Reply, and the arguments of counsel, the Court finds and orders:

1. Dennis John Carver ("Decedent") died on October 16, 2017. Nicholas Alfano was originally appointed as special administrator for Decedent's estate in California and Letters Testamentary were thereafter issued on January 10, 2018. On May 29, 2018, Alfano resigned as executor of the California estate after the estate beneficiaries alleged that he engaged in financial misconduct. Thereafter, Rhonda Morgan, Esq. became the successor administrator of the California Estate. The Estate and beneficiaries are still engaged in litigation over Alfano's misconduct in California.

2. Alfano administered probate in Decedent's home state of California and did not commence probate proceedings in Nevada. The principal assets of the carver Estate were in Decedent's home state of California. Colonial has not introduced any evidence that Alfano's fraud affected assets that were administered in Nevada.

1 3. Colonial did not file a creditor's claim in the California proceeding until April 12,
2 2019. The Claim was untimely and rejected. Colonial did not file a petition or take any other
3 action to challenge rejection of the Creditor's claim in California.

4 4. This ancillary probate proceeding commenced on June 28, 2018, with Morgan
5 appointed as Nevada Estate's Administrator. Notice to creditors was electronically filed on July
6 25, 2018. The creditor's claim period ended on or around October 25, 2018. The only property
7 subject to administration in Nevada was real estate.

8 5. Colonial became aware of Decedent's passing in September of 2018. Under
9 Nevada law, this knowledge of Decedent's death constitutes actual notice of estate
10 administration and charges Colonial with a duty of further inquiry. See Monette v. Estate of
11 Murphy, No. 61212, 2014 WL 5173723, at *1 (Nev. 2014); Bell Brand Ranches, Inc. v. First
12 Nat'l Bank of Nev., 91 Nev. 88, 91 n. 3. (1975).

13 6. Colonial did not file a creditor's claim in a reasonable time after learning of
14 Decedent's death in September of 2018.

15 7. Colonial initially sent letters to Robert McKenchnie, who was not involved in the
16 estate administration, requesting information regarding completion of the alleged contract and
17 contact information for the attorney and administrator of the estate.

18 8. Colonial then sent a letter to the Estate dated October 26, 2018 demanding
19 payment. The letter was received after the claims filing period had expired in this probate
20 proceeding. Colonial sent a follow-up letter on November 15, 2018.

21 9. Colonial also admits that it knew the identity of the Estate administrator and made
22 several efforts to contact the Estate between September and November of 2018. In spite of this,
23 Colonial did not file a creditor's claim in the Nevada Estate proceedings.

24 10. This Nevada estate administration ended on May 10, 2019.

25 11. Without first filing a creditor's claim, Colonial filed a complaint against
26 Administrator Morgan on June 7, 2019. By this time, at least 250 days had passed since Colonial
27 learned of Decedent's death.

28 12. On November 1, 2019, Colonial voluntarily dismissed its Complaint without

1 prejudice after demand by the Estate.

2 13. Thereafter, Colonial did not file or seek leave to file a creditor's claim until it
3 filed its Petition seeking to reopen the Estate on February 2, 2020. By the time Colonial had filed
4 its Petition, more than 465 days had passed since Colonial learned of Decedent's death.

5 14. The Nevada Supreme Court has repeatedly insisted that Nevada's district courts
6 follow the plain terms of Nevada's probate statutes. See, e.g., Jacobson v. Estate of Clayton, 121
7 Nev. 518, 521 (2005); Bell Brand Ranches, Inc. v. First Nat. Bank of Nevada, 91 Nev. 88, 92,
8 (1975); Monette v. Estate of Murphy, 2014 WL 5173723, at *1 (Nev. 2014).

9 15. Regarding the timeliness of creditor's claim, NRS 147.040(3) provides:

10 If a claim is not filed with the clerk within the time allowed by subsection 1 or 2,
11 the claim is forever barred, but if it is made to appear, by the affidavit of the
12 claimant or by other proof to the satisfaction of the court, that the claimant did not
13 have notice as provided in NRS 155.020 or actual notice of the administration of
14 the estate, the claim may be filed at any time before the filing of the final account.

15 16. Under this provision, a creditor can only file a late claim if (a) it seeks leave to do
16 so "before the filing of the final account" and (b) the creditor did not have "actual notice of the
17 administration of the estate."

18 17. As noted above, Colonial attempted to communicate with Morgan, the Estate
19 administrator, for the express purpose of resolving its creditor's claim but did not file a creditor's
20 claim. Accordingly, Colonial had actual notice of the estate administration. Additionally,
21 Colonial did not seek leave to file a creditor's claim before the estate was closed and distributed.

22 18. Thus, the plain terms of NRS 147.040(3) prevent Colonial from filing a late
23 creditor's claim.

24 19. Colonial argues that Morgan committed fraud on the court by failing to disclose
25 Alfano's misconduct in connection with the California probate.

26 20. Fraud on the court is

27 that species of fraud which does, or attempts to, subvert the integrity of the court
28 itself, or is a fraud perpetrated by officers of the court so that the judicial
machinery cannot perform in the usual manner its impartial task of adjudging
cases ... and relief should be denied in the absence of such conduct.

NC-DSH, Inc. v. Garner, 125 Nev. 647, 654 (2009).

1 21. Colonial does not identify any statement or instance of nondisclosure by Morgan
2 that was misleading, material, or prevented this Court from performing in the usual manner.
3 Colonial's contention that Morgan committed fraud on the court is rejected.

4 22. Colonial also argues that its due process rights were violated because the Nevada
5 Estate did not receive a creditor's notice from the Nevada estate, relying on Cont'l Ins. Co. v.
6 Moseley, 98 Nev. 476, 477 (1982). Moseley involved an issue where the only form of notice that
7 the estate administrator gave to creditors was by publication. The Creditor eventually learned of
8 the decedent's death and filed a creditor's claim two days after the claims period expired (and 3
9 days after learning of the death).

10 23. The ruling in Moseley did not create a loophole to be exploited that would permit
11 creditors who have actual notice of the estate to delay excessively, as Colonial did here, and then
12 file a late creditor's claim.

13 24. The facts at bar are distinguishable from those in Moseley. The creditor there
14 acted promptly upon learning of the decedent's passing and filed a creditor's claim before the
15 estate closed. Here, colonial had actual knowledge of the estate administration and did not act in
16 a timely manner to file a creditor's claim. Colonial's due process rights were not violated
17 because Colonial had actual notice of the Estate administration.

18 25. Finally, Colonial argues that the Court is authorized to reopen an estate under
19 NRS 151.240. However, none of the bases to reopen the estate set forth in that statute are
20 applicable here. Colonial is not asking to administer newly discovered property, correct errors in
21 property descriptions, and has not requested new letters be issued.

22 26. To the extent that the Court would have discretion to reopen the estate and allow
23 Colonial to file a late creditor's claim, the Court declines to do so.

24 27. Based on the foregoing and for the addition reasons set forth in the Sur-Reply
25 filed by Morgan on May 8, 2020, Petitioners' Petition for Order to Show Cause Why Estate
26 should not be Reopened for Creditors to Submit Proof of Claims and Accounting of the Estate

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Assets is DENIED as set forth above.

Dated this 23rd day of June, 2020

Dated this ____ day of _____, 2020.


DISTRICT COURT JUDGE

DBB 544 505A 24A8
Trevor Atkin

Prepared and submitted by:
CLEAR COUNSEL LAW GROUP

/s/David T. Blake

David T. Blake, Esq. (#11059)

Attorneys for the Estate

DISTRICT COURT
CLARK COUNTY, NEVADA

In the matter of:

CASE NO: P-18-095892-E

Dennis Carver, Deceased

DEPT. NO. Department 8

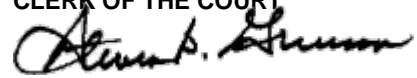
AUTOMATED CERTIFICATE OF SERVICE

This automated certificate of service was generated by the Eighth Judicial District Court. The foregoing Order Denying was served via the court's electronic eFile system to all recipients registered for e-Service on the above entitled case as listed below:

Envelope ID: 6221437

Service Date: 6/23/2020

David Blake	dave@clearcounsel.com
Kathy Gentile	kathy@clearcounsel.com
Natasha Smith	natasha@flangaslawfirm.com
Leo Flangas	leo@flangaslawfirm.com
Flangas Documents	documents@flangaslawfirm.com
Donna Stidham	donna@stidhamlawoffice.com
Donna Stidham	donna@stidhamlawoffice.com



David T. Blake (# 11059)
Clear Counsel Law Group
1671 W. Horizon Ridge Pkwy., Suite 200
Henderson, Nevada 89012
Telephone: (702) 476-5900
Facsimile: (702) 924-0709
dave@clearcounsel.com
Attorneys for the Estate of Rhonda Morgan
Personal Representative of the Estate

DISTRICT COURT

DISTRICT OF NEVADA

In the Matter of the Estate of:

Dennis John Carver

Deceased

CASE NO.: P-18-095892-E

DEPT NO.: 8

Notice of Entry of Order

PLEASE TAKE NOTICE that an Order Denying Petition for Order to Show Cause Why Estate should not be Reopened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets of John Houlihan and Colonial Real Estate Partnership, Ltd., was entered by the Court and filed on June 23, 2020, a true and correct copy of which is attached hereto.

Dated: June 23, 2020.

CLEAR COUNSEL LAW GROUP

/s/David T. Blake

David T. Blake, Esq. (#11059)

Attorneys for the Estate

1 **CERTIFICATE OF SERVICE**

2 Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that on the 23rd day of
3 June, 2020, I caused the foregoing **Notice of Entry of Order** to be served as follows:

4
5 ☐ by placing a true and correct copy of the same to be deposited for mailing in the
6 U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first
class postage was fully prepaid addressed to the parties below; and/or

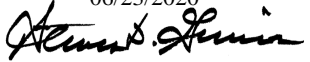
7 ☐ pursuant to EDCR 7.26, by sending it via facsimile; and/or

8 ☐ by hand delivery; and/or

9 ☒ E-Service to all registered parties

10
11 /s/K.A/Gentile

12 An employee of Clear Counsel Law Group
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CLERK OF THE COURT

David T. Blake (# 11059)
Clear Counsel Law Group
1671 W. Horizon Ridge Pkwy., Suite 200
Henderson, Nevada 89012
Telephone: (702) 476-5900
Facsimile: (702) 924-0709
dave@clearcounsel.com
Attorneys for the Estate of Rhonda Morgan
Personal Representative of the Estate

DISTRICT COURT

DISTRICT OF NEVADA

In the Matter of the Estate of:

Dennis John Carver

Deceased

CASE NO.: P-18-095892-E

DEPT NO.: 8

Order

The Petition for Order to Show Cause Why Estate should not be Reopened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets of John Houlihan and Colonial Real Estate Partnership, Ltd. (collectively "Colonial") came before the Court for hearing on May 15, 2020. David Blake, Esq., of the law firm of Clear Counsel Law Group, appeared on behalf of the Estate and Leo P. Flangas, Esq. of Flangas Law Firm, Ltd. appeared on behalf of Petitioners.

After considering the Petition, Objection, Reply, Sur-Reply, and the arguments of counsel, the Court finds and orders:

1. Dennis John Carver ("Decedent") died on October 16, 2017. Nicholas Alfano was originally appointed as special administrator for Decedent's estate in California and Letters Testamentary were thereafter issued on January 10, 2018. On May 29, 2018, Alfano resigned as executor of the California estate after the estate beneficiaries alleged that he engaged in financial misconduct. Thereafter, Rhonda Morgan, Esq. became the successor administrator of the California Estate. The Estate and beneficiaries are still engaged in litigation over Alfano's misconduct in California.

2. Alfano administered probate in Decedent's home state of California and did not commence probate proceedings in Nevada. The principal assets of the carver Estate were in Decedent's home state of California. Colonial has not introduced any evidence that Alfano's fraud affected assets that were administered in Nevada.

1 3. Colonial did not file a creditor's claim in the California proceeding until April 12,
2 2019. The Claim was untimely and rejected. Colonial did not file a petition or take any other
3 action to challenge rejection of the Creditor's claim in California.

4 4. This ancillary probate proceeding commenced on June 28, 2018, with Morgan
5 appointed as Nevada Estate's Administrator. Notice to creditors was electronically filed on July
6 25, 2018. The creditor's claim period ended on or around October 25, 2018. The only property
7 subject to administration in Nevada was real estate.

8 5. Colonial became aware of Decedent's passing in September of 2018. Under
9 Nevada law, this knowledge of Decedent's death constitutes actual notice of estate
10 administration and charges Colonial with a duty of further inquiry. See Monette v. Estate of
11 Murphy, No. 61212, 2014 WL 5173723, at *1 (Nev. 2014); Bell Brand Ranches, Inc. v. First
12 Nat'l Bank of Nev., 91 Nev. 88, 91 n. 3. (1975).

13 6. Colonial did not file a creditor's claim in a reasonable time after learning of
14 Decedent's death in September of 2018.

15 7. Colonial initially sent letters to Robert McKenchnie, who was not involved in the
16 estate administration, requesting information regarding completion of the alleged contract and
17 contact information for the attorney and administrator of the estate.

18 8. Colonial then sent a letter to the Estate dated October 26, 2018 demanding
19 payment. The letter was received after the claims filing period had expired in this probate
20 proceeding. Colonial sent a follow-up letter on November 15, 2018.

21 9. Colonial also admits that it knew the identity of the Estate administrator and made
22 several efforts to contact the Estate between September and November of 2018. In spite of this,
23 Colonial did not file a creditor's claim in the Nevada Estate proceedings.

24 10. This Nevada estate administration ended on May 10, 2019.

25 11. Without first filing a creditor's claim, Colonial filed a complaint against
26 Administrator Morgan on June 7, 2019. By this time, at least 250 days had passed since Colonial
27 learned of Decedent's death.

28 12. On November 1, 2019, Colonial voluntarily dismissed its Complaint without

1 prejudice after demand by the Estate.

2 13. Thereafter, Colonial did not file or seek leave to file a creditor's claim until it
3 filed its Petition seeking to reopen the Estate on February 2, 2020. By the time Colonial had filed
4 its Petition, more than 465 days had passed since Colonial learned of Decedent's death.

5 14. The Nevada Supreme Court has repeatedly insisted that Nevada's district courts
6 follow the plain terms of Nevada's probate statutes. See, e.g., Jacobson v. Estate of Clayton, 121
7 Nev. 518, 521 (2005); Bell Brand Ranches, Inc. v. First Nat. Bank of Nevada, 91 Nev. 88, 92,
8 (1975); Monette v. Estate of Murphy, 2014 WL 5173723, at *1 (Nev. 2014).

9 15. Regarding the timeliness of creditor's claim, NRS 147.040(3) provides:

10 If a claim is not filed with the clerk within the time allowed by subsection 1 or 2,
11 the claim is forever barred, but if it is made to appear, by the affidavit of the
12 claimant or by other proof to the satisfaction of the court, that the claimant did not
13 have notice as provided in NRS 155.020 or actual notice of the administration of
14 the estate, the claim may be filed at any time before the filing of the final account.

15 16. Under this provision, a creditor can only file a late claim if (a) it seeks leave to do
16 so "before the filing of the final account" and (b) the creditor did not have "actual notice of the
17 administration of the estate."

18 17. As noted above, Colonial attempted to communicate with Morgan, the Estate
19 administrator, for the express purpose of resolving its creditor's claim but did not file a creditor's
20 claim. Accordingly, Colonial had actual notice of the estate administration. Additionally,
21 Colonial did not seek leave to file a creditor's claim before the estate was closed and distributed.

22 18. Thus, the plain terms of NRS 147.040(3) prevent Colonial from filing a late
23 creditor's claim.

24 19. Colonial argues that Morgan committed fraud on the court by failing to disclose
25 Alfano's misconduct in connection with the California probate.

26 20. Fraud on the court is

27 that species of fraud which does, or attempts to, subvert the integrity of the court
28 itself, or is a fraud perpetrated by officers of the court so that the judicial
machinery cannot perform in the usual manner its impartial task of adjudging
cases ... and relief should be denied in the absence of such conduct.

NC-DSH, Inc. v. Garner, 125 Nev. 647, 654 (2009).

1 21. Colonial does not identify any statement or instance of nondisclosure by Morgan
2 that was misleading, material, or prevented this Court from performing in the usual manner.
3 Colonial's contention that Morgan committed fraud on the court is rejected.

4 22. Colonial also argues that its due process rights were violated because the Nevada
5 Estate did not receive a creditor's notice from the Nevada estate, relying on Cont'l Ins. Co. v.
6 Moseley, 98 Nev. 476, 477 (1982). Moseley involved an issue where the only form of notice that
7 the estate administrator gave to creditors was by publication. The Creditor eventually learned of
8 the decedent's death and filed a creditor's claim two days after the claims period expired (and 3
9 days after learning of the death).

10 23. The ruling in Moseley did not create a loophole to be exploited that would permit
11 creditors who have actual notice of the estate to delay excessively, as Colonial did here, and then
12 file a late creditor's claim.

13 24. The facts at bar are distinguishable from those in Moseley. The creditor there
14 acted promptly upon learning of the decedent's passing and filed a creditor's claim before the
15 estate closed. Here, colonial had actual knowledge of the estate administration and did not act in
16 a timely manner to file a creditor's claim. Colonial's due process rights were not violated
17 because Colonial had actual notice of the Estate administration.

18 25. Finally, Colonial argues that the Court is authorized to reopen an estate under
19 NRS 151.240. However, none of the bases to reopen the estate set forth in that statute are
20 applicable here. Colonial is not asking to administer newly discovered property, correct errors in
21 property descriptions, and has not requested new letters be issued.

22 26. To the extent that the Court would have discretion to reopen the estate and allow
23 Colonial to file a late creditor's claim, the Court declines to do so.

24 27. Based on the foregoing and for the addition reasons set forth in the Sur-Reply
25 filed by Morgan on May 8, 2020, Petitioners' Petition for Order to Show Cause Why Estate
26 should not be Reopened for Creditors to Submit Proof of Claims and Accounting of the Estate

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Assets is DENIED as set forth above.

Dated this 23rd day of June, 2020

Dated this ____ day of _____, 2020.



DISTRICT COURT JUDGE

DBB 544 505A 24A8
Trevor Atkin

Prepared and submitted by:
CLEAR COUNSEL LAW GROUP

/s/David T. Blake

David T. Blake, Esq. (#11059)

Attorneys for the Estate

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - General
Administration**

COURT MINUTES

July 20, 2018

P-18-095892-E

In the matter of:
Dennis Carver, Deceased

July 20, 2018

9:30 AM

Petition - HM

HEARD BY: Yamashita, Wesley

COURTROOM: RJC Courtroom 17A

COURT CLERK: Sharon Chun

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Matter being on the Approved List and there being no objection heard, COMMISSIONER RECOMMENDED, Petition GRANTED, WILL ADMITTED, NO BOND, and Full/General Administration APPROVED.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - General
Administration**

COURT MINUTES

May 03, 2019

P-18-095892-E

In the matter of:
Dennis Carver, Deceased

May 03, 2019

9:30 AM

Petition - HM

HEARD BY: Yamashita, Wesley

COURTROOM: RJC Courtroom 14A

COURT CLERK: Alice Jacobson

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Sean Tanko- Pro Tem Probate Commissioner, present.

Matter being on Approved List and there being no objection, COMMISSIONER RECOMMENDED,
Petition APPROVED AND GRANTED; Case Closed.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - General
Administration**

COURT MINUTES

March 13, 2020

P-18-095892-E In the matter of:
Dennis Carver, Deceased

March 13, 2020 9:30 AM Petition - HM

HEARD BY: Yamashita, Wesley **COURTROOM:** RJC Courtroom 12A

COURT CLERK: Sharon Chun

RECORDER:

REPORTER:

PARTIES

PRESENT: Flangas, Leonidas P, ESQ Attorney

JOURNAL ENTRIES

- Petition for an Order to Show Cause Why Estate Should not be ReOpened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets

COMMISSIONER RECOMMENDED, OFF CALENDAR, interested parties need to be noticed. Mr. Flangas so noted.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - General
Administration**

COURT MINUTES

April 24, 2020

P-18-095892-E

In the matter of:
Dennis Carver, Deceased

April 24, 2020

3:00 AM

Petition - HM

HEARD BY: Yamashita, Wesley

COURTROOM: Chambers

COURT CLERK: Sharon Chun

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Petition for an Order to Show Cause Why Estate Should not be Re-opened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets

Pursuant to the Notice of Exercise of Right to Have Hearing Before Probate Court Judge, filed by Leonidas Flangas, Esq. on March 6, 2020, COMMISSIONER REFERRED THIS MATTER TO DISTRICT COURT JUDGE TREVOR ATKIN.

CLERK'S NOTE 4/24/20/sc: A copy of this minute order has been distributed to Judge Atkin's Judicial Executive Assistant, Lynne Lerner for setting on calendar and notification to all interested parties.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - General
Administration**

COURT MINUTES

May 11, 2020

P-18-095892-E

In the matter of:
Dennis Carver, Deceased

May 11, 2020

3:00 PM

Minute Order

**(MAY 14, 2020 10:30
AM HEARING)**

HEARD BY: Atkin, Trevor

COURTROOM: Chambers

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Department 8 Request to Appear Telephonically

Pursuant to Administrative Order 20-10, Department 8 will temporarily request all matters be heard via telephone conference ONLY. We will NOT be utilizing video conferencing. The court has set up an appearance through BlueJeans, which can accommodate multiple callers at no cost to participants.

To use BlueJeans, please call in prior to the hearing at 1-888-748-9073.

To connect to your hearing, simply input the assigned meeting ID number provided immediately below, followed by #.

Your Meeting ID: 688 105 235 (NOTE: The meeting number will be different for each day's court session.)

For your hearing, PLEASE observe the following protocol:

Place your telephone on mute while waiting for your matter/case to be called.

Do not place the conference on hold as it may play wait/hold music to others.
Identify yourself before speaking each time as a record is being made.
Please be mindful of sounds of rustling of papers or coughing.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - General
Administration**

COURT MINUTES

May 14, 2020

P-18-095892-E In the matter of:
Dennis Carver, Deceased

May 14, 2020	10:30 AM	Status Check	Status Check - Re: Petition for Order to Show Cause Why Estate Should not be Re-opened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets
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HEARD BY: Atkin, Trevor

COURTROOM: Phoenix Building 11th Floor
110

COURT CLERK: Alan Castle

RECORDER: Jessica Kirkpatrick

REPORTER:

PARTIES

PRESENT: Blake Esq, David T. Attorney
 Flangas, Leonidas P, ESQ Attorney

JOURNAL ENTRIES

- Following arguments of counsel, MATTER TAKEN UNDER ADVISEMENT. Parties to be notified of decision by Minute Order or written decision.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Probate - General
Administration**

COURT MINUTES

May 15, 2020

P-18-095892-E

In the matter of:
Dennis Carver, Deceased

May 15, 2020

3:00 AM

Minute Order

**Decision - Petition
for Order to Show
Cause Why Estate
Should not be Re-
opened for Creditors
to Submit Proof of
Claims and
Accounting of the
Estate Assets**

HEARD BY: Atkin, Trevor

COURTROOM: Chambers

COURT CLERK: Alan Castle

RECORDER:

REPORTER:

PARTIES

PRESENT:

JOURNAL ENTRIES

- Having considered the pleadings and the arguments of counsel, COURT ORDERS, Petition for Order to Show Cause Why Estate Should not be Re-opened for Creditors to Submit Proof of Claims and Accounting of the Estate Assets is DENIED for legal basis' outlined in the Estate's Sur-Reply in support of Objection to Petition. Mr. Blake to prepare the order within 10 days of this Minute Order have Mr. Flangas review as to form and Content and distribute a filed copy to all parties involved in this matter. .

CLERK'S NOTE: The above minute order has been electronically distributed.



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

LEO P. FLANGAS, ESQ.
600 S. 3RD ST.
LAS VEGAS, NV 89101

DATE: July 7, 2020
CASE: P-18-095892-E

RE CASE: In the Matter of: DENNIS JOHN CARVER, Deceased

NOTICE OF APPEAL FILED: July 2, 2020

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

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 (g) 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; ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

In the Matter of:

DENNIS JOHN CARVER,

Deceased,

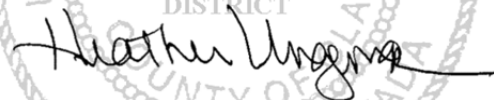
Case No: P-18-095892-E

Dept No: VIII

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 7 day of July 2020.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

