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Jun 24 2021 04:10 p.m.  
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*Co-Counsel for Cary Duckworth, Trustee*

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

In the Matter of:

THE DUCKWORTH FAMILY  
TRUST,

Dated March 12, 2015.

Supreme Court No. 82314  
District Court Case No.:  
P-20-103183-T

**RESPONDENT TRUSTEE**  
**CARY**  
**DUCKWORTH'S**  
**RESPONSE TO KYLA**  
**DUCKWORTH'S MOTION**  
**TO DISMISS APPEAL**

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. INTRODUCTION**

Kyla Duckworth's Opposition to the Motion to Appeal does not provide any statutory support for the Opposition. NRS 155.190 expressly defines the orders from which an appeal may be taken under NRS Titles 12 and 13 and the appealed Finding of Fact ("Kyla hired an English attorney who filed a "Caveat" in the English proceedings and alleged and claimed that Kyla was [to] *sic* entitled to the English assets.") is not one of them. It is not a decision (NRS 155.190 (1)(n)); it does not: settle an account (NRS 155.190 (1)(g)); direct the transfer or sale of property (NRS 155.190(1)(f)); order payment (NRS 155.190(1)(j)); determine heirship (NRS 155.190(1)(k); or distribute property (NRS 155.190 (1)(l).

Separately, NRS 153.031, as cited by Kyla, does not provide separate independent statutory support for an appeal of a Finding of Fact during the pendency of a proceeding. Just as Kyla fails to provide any statutory support in opposition to the Motion to Dismiss, as set out below, Kyla misstates the evidence and pleadings before the Probate Court. Finally, the evidentiary hearing for these proceedings begins August 11, 2021, before the Probate Commissioner. The Probate Commissioner has made it clear that he will decide the validity of the First and Second Amendments to the Trust based on Kyla's claims of incapacity and undue influence and will not consider the "no contest" clause until after making a decision on the validity of the two amendments. In the absence of a final, appealable order,

and prior to any determinations by the district court relating to the no contest clause, Kyla's appeal is premature, at best, and statutorily deficient. This Court should dismiss the instant appeal.

## **II. STATEMENT OF FACTS**

Cary incorporates the Statement of Facts in his Motion to Dismiss into this Response.

## **III. LEGAL ARGUMENT**

### **A. The district court has not entered an order under which Kyla may maintain the instant appeal.**

An order of the probate court may be appealed where there is a "final judgment in an action or proceeding commenced in the court in which the judgment is rendered." NRAP 3A(b). That judgment may only be considered final if it so "disposes of all the issues presented in the case, and leaves nothing for the future consideration of the court." *Lee v. GNLV Corp.*, 116 Nev. 424, 426, 996 P.2d 416, 417 (2000). NRS 155.190 provides the statutory framework under which an appeal from a probate order may be made.

In her response, Kyla failed to show that the probate court entered an appealable order under the above statutory scheme. Instead, she asserts that her basis for appeal "sits comfortably under NRS 155.190 and NRS 153.031." This is not only inaccurate, but she wholly refuses to present any evidence for the basis of her appeal, or to explain under which factor her appeal "sits comfortably." Not

only is her response deficient, but it seeks to confuse the issues under which she believes her right to appeal lie.

The focus, for the purpose of the instant motion, is on the probate court's determination that, "Kyla hired an English attorney who filed a "Caveat" in the English proceeding and alleged and claimed that Kyla was entitled to the English assets."<sup>1</sup> This finding by the probate court was neither final, nor dispositive of the ultimate issue: whether Kyla's actions are considered a 'contest' under the "no contest" clause of the Duckworths' estate plan. The only comment made by the probate court regarding this issue is that it would not consider the "no contest" clause until after making a decision on the validity of the two amendments. In fact, the probate court has specifically deferred final adjudication on this issue until after the parties' August 11, 2021, Evidentiary Hearing. No other comments or findings were made, and certainly none that address the validity of Kyla's actions as a "contest". Therefore, Kyla's appeal is premature.

In addition to its' prematurity, the basis for Kyla's appeal is not listed under one of the enumerated factors of NRS 155.190. This Court has repeatedly held that interlocutory orders are not appealable if they do not resolve the underlying issues of the case and do not fall under one of the NRAP 3A(b) exceptions. As this Court is tasked with determining what the order or judgment actually does<sup>2</sup>, it is clear

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<sup>1</sup> See Exhibit "A", to Cary's Motion to Dismiss.

<sup>2</sup> *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 445, 874 P.2d 729, 733 (1994).

from the evidence presented that the order actually does nothing with regards to the underlying issue: Kyla's actions under the "no contest" clause. The probate court simply made a finding regarding actions taken by Kyla that were not only evident to the probate court, but admitted to by Kyla throughout her pleadings.

Kyla erroneously argues that the court made a "formal announcement of its ruling on the 'no contest' clause."<sup>3</sup> However, Kyla provides no legal basis or authority under which a 'formal announcement' or, as in this case, findings of the probate court, are a final order. Most importantly, she wholly ignores the fact that the probate court has specifically deferred the issue. Whether Kyla argues the probate court's findings are 'window dressing' or 'formal announcements', neither are an order. Therefore, Kyla's appeal should be dismissed until a final order is entered.

**B. There is no dispute of fact that Kyla placed a caveat on the administration of the English Estate.**

Throughout these proceedings and even in her Opposition to the Motion to Dismiss, Kyla admits that she hired counsel who filed a "Caveat" in the English proceedings. Such Caveat alleged and claimed that Kyla was entitled to the English assets. Her statement to this Court in paragraph II (6) admits that she placed a caveat. Quality Solicitors Large & Gibson's letter of October 10, 2018, states that the purpose of their letter was to "give early notification of a potential

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<sup>3</sup> See Response of Kyla Duckworth at page 5, lines 8-9.

claim or claims against the Deceased's estate". Nothing is clearer.

What Kyla asks this Court to do is disregard her admissions and evidence and read into Finding of Fact No. 4, a conclusion that no one else has reached. Namely, that the Probate Commissioner equated the filing of a "Caveat" with making a claim on assets. The plain reading of Finding of Fact No. 4 is simple and clear: (i) Kyla hired an English attorney; (ii) the attorney filed a Caveat in the English proceeding; and (iii) the attorney alleged and claimed that Kyla was entitled to the English assets. All of these statements are factually accurate and supported by the evidence before the Probate Commissioner and the District Court.

None of these statements support Kyla's conclusions that the Probate Commissioner and District Court equated the two. Because the evidence supporting Finding of Fact No. 4 was admitted to by Kyla and presented before the Court, the language of Finding of fact No. 4 is clear and unambiguous and does not give rise to any conclusions or decisions on the part of the District Court. Therefore, it is not an appealable order.

**C. There is no dispute that the probate court properly found Kyla to have filed the English caveat.**

Maureen Duckworth died on June 16, 2018. On March 6, 2015, Maureen executed a Last Will which bequeathed the remainder of her estate to The Duckworth Family Trust, but expressly excluded her sole and separate property

from the distribution to the Trust (Sections 1.2 and 3.2 of the Will)<sup>4</sup>. There are no Last Resort clauses in the Will. Maureen did not execute a will or estate planning for her English assets (which included real property) and as a result, the English estate is being administered under the English laws of intestacy<sup>5</sup>.

Kyla admits in her Opposition that she filed a caveat in Maureen's English estate proceedings and that its effect was to "pause" the English estate administration. This "pause" delayed the start of the English Estate's administration for more than eighteen months through mid-January 2020.

Whether Kyla will claim an interest in the English estate in excess of her intestate share remains unclear as the English estate is still in administration. On October 10, 2018, Quality Solicitors Large & Gibson (Kyla's counsel) wrote Bramson & Childs (George's counsel handling the probate of Maureen's English assets) stating: "Our client intends to lay claim to the Deceased's estate in England<sup>6</sup>" and notifying counsel that Kyla made claim to the bulk of the Decedent's cash held in a Barclays Bank account "in the joint names of the

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<sup>4</sup> See Exhibit "H", Last Will and Testament of Maureen Daphne Duckworth.

<sup>5</sup> Contrary to Kyla's statements, that Maureen's will did not materialize until 18 months later, Kyla included a copy of that March 6, 2015, Will as Exhibit "2" to her June 10, 2020, Petition for Construction of Trust Term, Petition to Compel Proper Accounting and to Compel Turnover of Trust Documents – the petition, which is the subject of the August 11, 2021, evidentiary hearing.

<sup>6</sup> See Exhibit "G"

Deceased and our client”.<sup>7</sup>

George’s counsel responded in January 2019, disputing, inter alia, specific points in Kyla’s October 10, 2018. Namely, her intent to raise claims against the Estate.

On July 11, 2019, Bramson & Childs again wrote Quality Solicitors Large & Gibson “We are in the process of obtaining a Grant of Representation, and have today been informed that you have entered a caveat against the estate of the late Maureen Duckworth. This is now delaying the administration of the estate and we require the urgent removal of the caveat so that Letters of Administration may be issued.” On July 24, 2019, Miss M. Berry of HM Courts & Tribunal Service wrote Bramson & Childs stating “I have checked our records and the caveat 1562-6771-2396-6672 has been extended and is due to expire on 17<sup>th</sup> January 2020.

In short, as Kyla has admitted, her counsel placed the caveat and it remained in place until its expiration in January 2020, one year after the execution of the First Amendment and two months after George’s death. This evidence, upon presentation to the probate commissioner, formed the basis for his findings that Kyla had hired English counsel, filed a caveat in the English proceedings, and made claims that she was entitled to the English assets. These are the only findings made by the probate commissioner. Such findings are not appealable.

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<sup>7</sup> See Exhibit “G”. The account contained more than \$250,000 in the weeks before Maureen’s death.

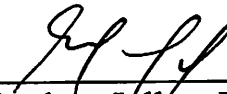


**IV. CONCLUSION**

Because the Order Denying Objection to Probate Commissioner's Report and Recommendations entered on December 15, 2020, is not a final, appealable order, and there is no statutory basis in Titles 12 or 13 to allow an appeal from this Finding of Fact, this Court must dismiss this appeal.

Dated this 24 day of June, 2021.

Respectfully Submitted,

By:   
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*Counsel for Cary Duckworth, Trustee*

**Certificate of Service**

I hereby certify that the forgoing **Respondent Trustee, Cary Duckworth's**  
**Motion to Dismiss Appeal** was filed electronically with the Nevada Supreme Court  
on the 24<sup>th</sup> day of June 2021. Electronic Service of the forgoing documents shall  
be made in accordance with the Master Service List as follows:

Jerimy L. Kirschner, Esq. NSB #12012  
Liane K. Wakayama, Esq. NSB #11313

I further certify that I served a copy of this document by mailing a true and  
correct copy thereof, postage prepaid, addressed to:

N/A



\_\_\_\_\_  
An employee of Dawson & Lordahl PLLC

Exhibit "G"

Exhibit "G"



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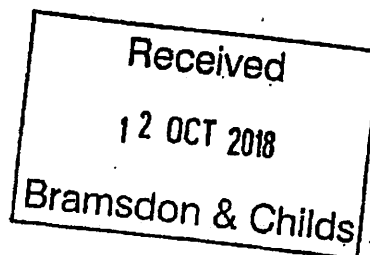
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Our Ref: PMD/FMG  
Your Ref: SH/SH/20029

11 October 2018

Bramsdon & Childs  
Solicitors  
DX 2224 PORTSMOUTH



Dear Sirs

**The Estate of the late Maureen Daphne Duckworth**  
**Our client: Miss Kyla Michele Duckworth**

We have been instructed by Miss Kyla Michele Duckworth, who is one of 3 children of Maureen Daphne Duckworth Deceased ("the Deceased").

We understand that you act in the administration of the Deceased's estate in England and Wales. Please note our interest for future correspondence.

In your letter of 21<sup>st</sup> September 2018 addressed (and sent by email) to our client you state that you have been instructed to represent the Deceased's husband (the father of our client and her two siblings). You state that her father is the Personal Representative of her mother's estate under the Intestacy rules, and that the legal interest in all property owned by the Deceased in this jurisdiction vests in him.

Our client's father is aged 94, and due to health issues, he has not handled his own affairs for some time. There appears to be a serious question as to whether the Deceased's husband has capacity to administer the affairs of the Deceased's estate. We would enquire what steps have you taken to confirm the source of your instructions and whether the Deceased's husband has capacity to give those instructions to your firm?

Our client has no knowledge of an English Will.

Our client lived full-time with and cared for both of her parents for 4½ years before her mother's death. Our client sacrificed her home and her career to look after her parents, but in particular to care for her mother whose health was deteriorating badly. During this time, our client's brother Cary, and her sister Tara, had comparatively little to do with their parents



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Quality Solicitors Large & Gibson is the trading name of Large & Gibson Solicitors. Authenticated and regulated by the Solicitors Regulation Authority number 03651634. VAT Registration Number 1106 5761 65. Service by fax and email not accepted. \*Associate Member of Solicitors for the Elderly

The Deceased made it clear to our client, in various conversations and at various times in the last years of her life that she would inherit the Deceased's English estate including (but not limited to) her freehold property namely 40 Waverley Road, Southsea. According to our instructions, the Deceased also communicated her intentions to third parties who will, if necessary, attest to this.

Evidently, our client's siblings did not like the fact their mother had promised her estate in England to our client. Immediately following the death of the Deceased our client was ostracised by her siblings, and without recourse to any legal process, they summarily evicted her from the family home in which she had lived for the last 4½ years.

Our client intends to lay claim to the Deceased's estate in England. We are presently in the process of formulating the details of our client's claim against the estate. So far as the property namely 40 Waverley Road is concerned, her case is the property was held by the Deceased on trust for her by virtue of an implied, resulting or constructive Trust. Alternatively, our client will say she is entitled to the property by virtue of either proprietary or promissory estoppel. Our client acted to her detriment on the strength of the promise made to her by the Deceased that she would inherit the Deceased's estate in England.

In respect of the Deceased's cash, we understand the bulk of that cash was held in an account with Barclays Bank, in the joint names of the Deceased and our client. We understand the Deceased deliberately made the Barclays account a joint one, firstly so that our client might be able to access the money whilst her mother was alive and secondly that our client might inherit the balance of the account automatically by survivorship on her mother's death.

According to our instructions, the Deceased and her husband set up a family trust in which all or most of their US assets were held. It sounds as if this may be a discretionary trust of some description, possibly set up for tax reasons. It is our understanding that on the death of Maureen Duckworth all assets in the US family trust are held on trust for the benefit of George Duckworth during his lifetime, and thereafter for their 3 children in equal shares.

According to our client, she believes that, by virtue of the actions of her siblings and/or influence brought to bear by them upon their father (who is a vulnerable individual by virtue of age and infirmity) the terms of the US family trust may have been altered to her financial detriment.

We have already made the point that our client relied upon her parents for a home in which to live, and financial support given by her mother. Our client has significant health issues of her own. She is now to all intents and purposes homeless and currently without employment. She devoted the last 4 1/2 years to the care of her parents, and her mother in particular.

We understand the Deceased's husband is already well provided for financially.

In the circumstances, are also considering a claim by our client against the Deceased's English estate for reasonable provision under the Inheritance (Provision for Family and Dependents) Act 1975.

The purpose of this letter is to give early notification of a potential claim or claims against the Deceased's estate.

We would request the Personal Representative(s) of the Deceased's estate confirm to us in writing that there will be no distribution of the assets of the estate, save for payment of legitimate expenses, pending resolution of this matter, either by agreement, or adjudication by the court.

We look forward to hearing from you in response to this letter as soon as possible and in any event within the next 14 days.

Yours faithfully,

**QUALITY SOLICITORS LARGE & GIBSON**

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*In light of recent changes in data protection legislation, we have updated our Privacy Notice taking effect on 25 May 2018. This notice gives information about how we collect and use personal data from clients and contacts, how we safeguard it and the rights you may have, if we hold personal data for you. You can access a copy here: <https://bit.ly/2xbE2E1>.*

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Our Ref: SH/SH/20029

Your Ref: PMD/FMG

14 January 2019

Dear Sirs

**Estate of the Late Maureen Duckworth**  
**Your Client, ~~Kyle Duckworth~~**

We write further to your letter of 11<sup>th</sup> October 2018.

We confirm that we are instructed to act in the estate of the late Maureen Duckworth ("the Deceased"). We act for the Personal Representative of the estate, George Duckworth.

You are correct that our client is 94. We have spoken directly with our client and our client presented as chatty and ~~compos mentis~~ at all times. Our client understood the issues in this estate and raised various relevant points without prompting. Additionally, our client visited his US attorney to verify his identity to us and we confirm that the US attorney raised no concerns to us regarding our client's capacity.

We have no concerns as to our client's capacity to instruct us in this matter and do not intend to engage further on this point.

We confirm that we have been unable to locate an English Will.

Our client refutes entirely your client's suggestion that your client's siblings, Cary and Tara have had comparatively little to do with their parents lives. Your client resided at her parents' home between December 2013 and 20<sup>th</sup> January 2018, notably leaving the property prior to the Deceased's death.

Your client refused to return to the property following Cary and Tara hiring a full time live-in carer for their father. This was your client's decision and it is our client's position that your client has chosen to ostracise herself from her family.



Also at: 4 Basing Mews, Lower Basingwell Street, Bishops Waltham, Southampton, Hampshire, SO32 1PA

Authorised and regulated by the Solicitors Regulation Authority (under no 47593)

VAT Registration No. 107-3799-56

It is therefore simply not the case that your client was evicted from the property following the death and, in any case, any unlawful eviction would be a matter for US and Nevada law rather than a matter for the English estate.

We are instructed that Cary has lived 500 metres from his parents' home for the last 13 years and has in fact recently moved into his parents' home, with his family, to be close to his father. This is not a coincidence and it has always been Cary's intention to be close to his parents.

Although Tara lives 600 miles away from the parents' home, she makes numerous flights back and forth with her husband and children. We are instructed that in the last 12 months our client has made 22 trips by plane to see her parents.

Our client does not see how these allegations assist the administration of his late wife's estate and is hurt that his daughter would make such allegations about her siblings.

~~We enclose herewith three copy letters from Hurtik Law and Associates, the Deceased's attorneys in the US dated 30<sup>th</sup> April 2018 and of which privilege is not waived. These letters make clear that there was concern prior to the Deceased's death that Kyla was not acting in the best interest of her mother.~~

We note your comments regarding your client's assertions that she was promised the entirety of the English estate by her late mother. We note your client's claim that the Property (40 Waverley Road) was held by the deceased on an implied, resulting or constructive Trust and, alternatively, that your client should be entitled to the property by virtue of either promissory or proprietary estoppel.

~~Our client has no evidence of any promise of the English estate, and/or the Property solely to your client. In any case our client is not aware of any way in which your client may have relied on such a promise to her detriment. We are instructed that your client has carried out no repair or improvement works to the property and are at a loss as to how your client believes she is entitled to the Property.~~

It is, of course, for your client to make out her claims but we would comment that we have no evidence that the deceased promised the English estate to anyone other than her three children in equal shares.

We note your comments regarding the Barclays joint bank account. We require confirmation that this account was indeed held in joint names and invite you to provide evidence confirming this. Our client is concerned at this development and was not aware of your client being added as a joint owner of this account. As such our client entirely reserves their position until such evidence is forthcoming.

We understand that the Barclays account likely held close to \$250,000.00 but would request your confirmation of the date of death balance for the sake of good order.

We have no instructions regarding the operation of the family trust in the US and would invite you to direct any queries regarding this to the US attorneys, Hurtik Law and Associates.

~~We note that your client is considering a claim pursuant to the Inheritance (provision for Family and Dependents) Act 1975. With respect, we do not accept that it is the case that our client is~~



~~well provided for and, in any case, we cannot see that your client's needs are greater than our client's. It is of course for your client to establish that she has not received "reasonable provision that is necessary for her maintenance".~~

We are instructed that your client has never relied on her parents for a home and in fact currently still owns a home in Solana Beach, California. Your client is not homeless and is currently residing at a property in Las Vegas that is part owned by our client. Despite this, it is not necessary for your client to live at any other property than her own property in California. We understand that the approximate equity in this property is \$200,000.00 (£153,600.00).

Your client's assertion that she was supported by the Deceased raises significant concerns regarding the use of the Deceased US funds in the last months of her life. Our client, and his other children as the Deceased's joint attorneys, have no knowledge of the Deceased supporting your client and would request your evidence of this and your client's explanation as to how this came about.

For the sake of good order we wish to confirm that it is currently the intention of our client to administer the estate in accordance with the Intestacy Rules. This will, of course, entitle your client to a share of the residue estate.

Yours faithfully

**Bramsdon & Childs**

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R.N.E.RIXON  
K.M.RAFFERTY LL.B

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Quality Solicitors Large & Gibson  
49 Kent Road  
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Hampshire  
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Our Ref: SH/SH/20029

Your Ref: PMD/FMG

11 July 2019

Dear Sirs

### **Estate of the Late Maureen Duckworth**

We write further to our letter of 8<sup>th</sup> November 2018, and your acknowledgement of 12<sup>th</sup> November 2018.

We note that we have received no substantive response to our letter.

We are in the process of obtaining a Grant of Representation, and have today been informed that you have entered a caveat against the estate of the late Maureen Duckworth.

This is now delaying the administration of the estate and we require the urgent removal of the caveat so that Letters of Administration may be issued.

We would remind you that your client is a beneficiary of this estate and further delays and legal costs are likely to adversely impact her.

We look forward to your urgent confirmation that you are seeking to remove the caveat.

Yours faithfully

**Serhan Handani**  
**Bramsdon & Childs**



Also at: 4 Basing Mews, Lower Basingwell Street, Bishops Waltham, Southampton, Hampshire, SO32 1PA

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HM Courts &  
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Wednesday, 24 July 2019

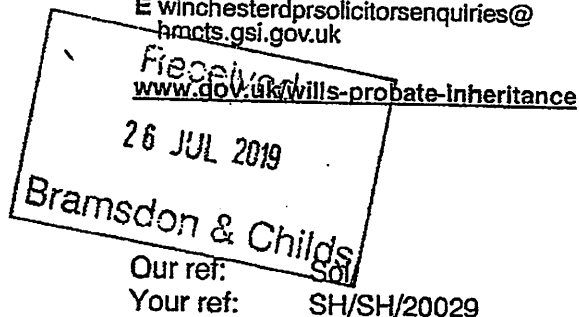
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[www.gov.uk/wills-probate-inheritance](http://www.gov.uk/wills-probate-inheritance)



Dear Sirs,

**RE: MAUREEN DUCKWORTH deceased**

I acknowledge receipt of your letter dated 22<sup>nd</sup> July 2019.

I have checked our records and the caveat 1562-6771-2396-8672 has been extended and is due to expire on 17<sup>th</sup> January 2020.

Yours faithfully,

Miss M Berry  
Probate Officer

**NB : Your reply to this query will be dealt with within 7 working days of receipt into the Registry. Please refrain from contacting the Registry within this period and allow additional time for postage.**

Exhibit "H"

Exhibit "H"

W-20-017475

FILED

JAN 2 2020

*Alana A. Spence*  
CLERK OF COURT

**LAST WILL AND TESTAMENT  
OF  
MAUREEN DAPHNE DUCKWORTH**

I, MAUREEN DAPHNE DUCKWORTH, a resident of Clark County, Nevada, make, publish and declare this to be my Last Will and Testament. I hereby revoke all of my prior wills and codicils.

**ARTICLE ONE**

**Declarations**

1.1 **Marital Status and Family.** I am married to GEORGE M. DUCKWORTH, and we are now residing together. I have three (3) children whose names are:

- 1) TARA ELYZE KASSITY, date of birth September 29, 1967;
- 2) KYLA MICHELLE DUCKWORTH, date of birth November 8, 1968;
- 3) CARY JAY DUCKWORTH, date of birth April 29, 1974.

I have no other children living or deceased. I do not intend to provide in this Will for anyone except as may be specifically set forth in this Will.

1.2 **Trust Agreement.** The term "TRUST AGREEMENT" as used in this Will shall refer to that certain unrecorded trust instrument known as THE DUCKWORTH FAMILY TRUST, previously created by me. Any of my sole and separate property will be specifically excluded from the above-referenced trust.

**ARTICLE TWO**

**Fiduciaries**

I nominate TARA E. KASSITY, KYLA M. DUCKWORTH and CARY J. DUCKWORTH, as Co-Executors of my Will. If any of these individuals shall fail to qualify or shall cease to act, the remaining individuals will continue to act as my co-executors.

The term "my Executor" as used in this Will shall include any personal representative of my estate and all named Executors shall serve without bond being required.

**ARTICLE THREE**

**Distribution of Estate**

**Payment of Estate Expenses.** My Co-Executors shall pay from my estate, after consulting with the then-acting Trustee or Trustees of THE DUCKWORTH

*Ado*  
Initials

RECEIVED  
JAN 23 2020  
CLERK OF THE COURT

FAMILY TRUST, all debts which are due and enforceable against my estate, the expenses of my last illness and funeral, the expenses of administering my estate, and all death taxes and governmental charges imposed and made payable under the laws of the United States or of any state or country by reason of my death. Such taxes shall include taxes imposed upon all other property, whether passing under my Will or otherwise; provided that the assets, if any, over which I hold any taxable power of appointment at my death shall bear the entire increment and the burden of death taxes and other governmental charges to the extent that the total of such taxes and charges is greater than would have been imposed and made payable if I did not hold such a power of appointment, to the extent required by law, I exercise such power of appointment in favor of the appropriate taxing authorities to discharge such taxes. Other than the above direction for the taxation of a power of appointment, the pro-ratio of taxes imposed upon my estate shall be in the manner directed in said Trust.

If my residuary estate is insufficient for such payments, in whole or in part, or if, in the discretion of my Executor, all or a part of such payments from my estate would prejudice the best interests of my estate, then my Executor shall direct the then-acting Trustee or Trustees of said Trust to pay the appropriate amounts, either directly or to my Executor for such purposes.

- 3.2 **Gift to Trust.** I give, devise, and bequeath the remainder of my estate, with the exception of my sole and separate property, to the then-acting Trustee or Trustees of THE DUCKWORTH FAMILY TRUST, together with any additions or amendments thereto, to be added to the principal of that trust and to be held, administered and distributed under the Trust Agreement and any amendments to such Trust Agreement. I direct that such Trust Agreement shall not be administered under court supervision, control or accounting, and the Trustee shall not be required to give bond in such capacity.

## ARTICLE FOUR

### Estate Administration

- 4.1 **General Powers of Executor.** Subject to any limitations stated elsewhere in this Will, my Executor shall have, in addition to all of the powers now or hereafter conferred on Executors by law, and any powers enumerated elsewhere in this Will, the power to perform any of the acts specified in this section without the necessity of court approval:
- A. To take possession or control of all of my Estate subject to disposition by this Will, and to collect all debts due to me or to my Estate;
  - B. To receive the rents, issues and profits from all real and personal property in my Estate until the Estate is settled or delivered over by order of court to my heirs or beneficiaries;

- C. To pay taxes on, and take all steps reasonably necessary for the management, protection, and preservation of, all property in my Estate;
- D. To insure the property of my Estate against damage or loss, and insure the Personal Representative against liability to third persons;
- E. To deposit money belonging to my Estate in an insured account in a financial institution in Nevada;
- F. If any asset of my Estate consists of an option right, to exercise the option and to use any funds or property in my Estate to acquire the property covered by the option;
- G. To hold any securities or other property, both real and personal, in the name of the Executor, in the name of such nominee as my Executor shall select, or in the form of "street certificates," without in any of such cases disclosing the fact that such property is held in a fiduciary capacity, and to indemnify any such nominee against any loss resulting from holding such property as nominee;
- H. To vote in person, and give proxies to exercise, any voting rights with respect to any stock, any membership in a nonprofit corporation, or any other property in my Estate, and waive notice of a meeting, give consent to the holding of a meeting, and authorize, ratify, approve, or confirm any action that could be taken by shareholders, members, or property owners;
- I. To make any elections permitted under any pension, profit sharing, employee stock ownership or other benefit plan;
- J. To sell and to grant options to purchase all or any part of my estate, both real and personal, at any time, at public or private sale, for such consideration, whether or not the highest possible consideration, and upon such terms, including credit, as the Executor shall deem advisable, and to execute, acknowledge and deliver deeds or other instruments in connection therewith. No purchaser shall be held to see the application of the purchase money;
- K. To lease any real estate for such term or terms and upon such provisions and conditions as the Executor shall deem advisable, including the granting of options to renew, options to extend the term or terms, and options to purchase;
- L. To borrow and to pledge or mortgage any property as collateral, and to make secured or unsecured loans. The Executor is specifically authorized to make loans without interest to any beneficiary hereunder. No

individual or entity loaning property to the Executor shall be held to see to the application of such property;

- M. To pay any and all charges reasonably incurred in connection with or incidental to the distribution of any property of my Estate, including but not limited to expenses of storage, freight, shipping, delivery, packing, and insurance; and on any accounting, treat any such expenditures as expenses of the administration of my Estate;
- N. To dispose of or abandon tangible personal property (including donation to any charitable organization or organizations of the Executor's choice), except tangible personal property that is a specific gift, when the cost of collecting, maintaining, and safeguarding the property would exceed its fair market value;
- O. To commence and prosecute, either individually or jointly with my heirs or beneficiaries, any action necessary or proper to quiet title to or recover possession of any real or personal property in my Estate;
- P. To pay, compromise or settle any claim, action, or proceeding by or for the benefit of, or against, me, my Estate, or the Executor, subject only to any confirmation of court that may be required by law; and
- Q. To employ others in connection with the administration of my Estate, including legal counsel, investment advisors, brokers, accountants and agents, notwithstanding the fact that the Executor may receive a direct or indirect financial benefit as a result of such employment or may otherwise be affiliated with any of them, and to pay reasonable compensation thereto in addition to that to be paid to the Executor.

4.2 **Power to Invest.** To retain for whatever period the Executor shall deem advisable any property, including property owned by me at my death, and to invest and reinvest any money of my Estate not reasonably required for the immediate administration of my Estate in any kind of property, real, personal, or mixed and in any kind of investment, including but not limited to improved and unimproved real property, interest-bearing accounts, certificates of deposit, corporate and governmental obligations of any kind, preferred or common stocks, mutual funds (including mutual funds of the "load" and "no load" variety), investment trusts, money-market funds, taxable and tax-exempt commercial paper, repurchase and reverse repurchase agreements, and stocks, obligations, and shares or units of common trust funds of any corporate fiduciary; regardless of whether any particular investment would be proper for an Executor and regardless of the extent of diversification of the assets held hereunder.

4.3 **Power to Make Tax Elections.** To the extent permitted by law, and without regard to the resulting effect on any other provision of this Will, on any person



interested in my Estate, or on the amount of taxes that may be payable, the Executor shall have the power to choose a valuation date for tax purposes; choose the methods to pay any death taxes; elect to treat or use any item for state or federal estate or income tax purposes as an income tax deduction or an estate tax deduction; disclaim all or any portion of any interest in property passing to my Estate at or after my death; and determine when an item is to be treated as taken into income or used as a tax deduction.

- 4.4 **Division or Distribution in Cash or in Kind.** In order to satisfy a pecuniary gift or to distribute or divide estate assets into shares or partial shares, the Executor may distribute or divide those assets in kind, or divide undivided interests in those assets or sell all or any part of those assets and distribute or divide the property in cash, in kind, or partly in cash and partly in kind, with or without regard to tax basis. Property distributed to satisfy a pecuniary gift under this Will shall be valued at its fair market value at the time of distribution.
- 4.5 **Payments to Legally Incapacitated Persons.** If at any time any beneficiary under this Will is a minor or it appears to the Executor that any beneficiary is incapacitated, incompetent, or for any other reason not able to receive payments or make intelligent or responsible use of the payments, then the Executor, in lieu of making direct payments to the beneficiary, may make payments to the beneficiary's conservator or guardian; to the beneficiary's custodian under the Uniform Gifts to Minors Act or Uniform Transfers to Minors Act of any state; to one or more suitable persons, as the Executor deems proper, such as a relative or a person residing with the beneficiary, to be used for the benefit of the beneficiary; to any other person, firm, or agency for services rendered or to be rendered for the beneficiary's assistance or benefit; or to accounts in the beneficiary's name with financial institutions, and the receipt of the person to whom such money or property is paid shall be a full and complete discharge to the Executor;
- 4.6 **Liability.** Unless due to such Executor's own willful default or gross negligence, no Executor shall be liable for such Executor's acts or omissions or those of any co-Executor or prior Executor.

## ARTICLE FIVE

### Miscellaneous Provisions

- 5.1 **No Contest.** To the extent permitted under the laws of the State of Nevada, if any person who is, or claims under or through a devisee, legatee or beneficiary under this Will, or any person who, if I died intestate, would be entitled to share in my estate, shall in any manner whatsoever, directly or indirectly contest this Will or attack, oppose or seek to impair or invalidate any provision hereof or of the Trust hereinabove mentioned, or seek to succeed to any part of my Estate otherwise than in the manner specified in this Will, or conspire or cooperate with anyone attempting to do any of the acts or things aforesaid, then the right of that person to

take any interest given him or her by this Will or as an heir-at-law shall be determined as it would have been determined had the person predeceased me without being survived by issue.

**5.2 Miscellaneous.**

- A. As used in this Will, the masculine, feminine or neuter gender, and the singular or plural number, shall be deemed to include the others whenever the extent so indicates.
- B. Article headings in this Will are inserted for convenience only, and are not to be considered in the construction of the provisions thereof.

**5.3 Period of Survivorship.** For the purposes of this Will, a beneficiary shall not be deemed to have survived me if that beneficiary dies within three (3) months after my death.

**5.4 Guardian Ad Litem.** I direct that the representation by a guardian ad litem of the interests of persons unborn, unascertained, or legally incompetent to act in proceedings for the allowance of accounts hereunder be dispensed with to the extent permitted by law.

**5.5 Beneficial Interests.** The interests of any beneficiary in any share or part of this Will, both as to principal and income, shall not be alienable, assignable, attachable, transferable, nor paid by way of anticipation, nor in compliance with any order, assignment or covenant, and shall not be applied to, or held liable for, any of their debts or obligations either in law or equity and shall not in any event pass to his, her or their assignee under any instrument or under any insolvency or bankruptcy law, and shall not be subject to the interference or control of creditors, spouses or others.

**5.6 Severability Clause.** If any provision of this Will is invalid, that provision shall be disregarded, and the remainder of this Will shall be construed as if the invalid provision had not been included.

**5.7 Governing Law.** All questions concerning the validity and interpretation of this Will shall be governed by the laws of the State of Nevada in effect at the time this Will is executed.

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IN WITNESS WHEREOF, I, MAUREEN DAPHNE DUCKWORTH, the Testator, sign my name to this instrument this 6 day of March, 2015, and being first duly sworn, do hereby declare to the undersigned authority that I sign and execute this instrument as my Last Will and Testament and that I sign it willingly, in the presence of each and all of the subscribing witnesses, each of whom I have requested, in the presence of each of the others, to subscribe his or her name as an attesting witness, in my presence and in the presence of the others. That I execute it my Last Will and Testament in my capacity as a free and voluntary act for the purposes expressed in it, and that I am of legal age, of sound mind, and under no constraint or undue influence.

Maureen D. Duckworth  
MAUREEN DAPHNE DUCKWORTH, Testator

On the date last above written, MAUREEN DAPHNE DUCKWORTH declared to us, the undersigned, that the foregoing instrument was his Last Will and Testament and requested to us to act as witnesses to it. That to the best of our knowledge, MAUREEN DAPHNE DUCKWORTH was of legal age, of sound mind and under no constraint or undue influence. MAUREEN DAPHNE DUCKWORTH thereupon signed this Will in our presence, all of us being present at the same time. We now, at his request, in his presence and in the presence of each other, subscribe our names as witnesses.

Executed on the 6 day of March, 2015, in Clark County, Nevada.

We declare under penalty of perjury that the foregoing is true and correct.

Matthew Walker  
WITNESS (printed)

[Signature]  
WITNESS (signature)

7546 W. Sahara Ave., Las Vegas NV 89117  
WITNESS (address)

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Nancy Ramirez  
WITNESS (printed)

Nancy Ramirez  
WITNESS (signature)

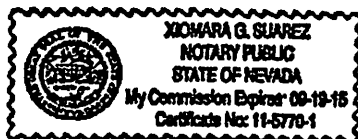
7866 W. Sahara Ave. Las Vegas, NV 89117  
WITNESS (address)

**ACKNOWLEDGEMENT**

STATE OF NEVADA     )  
                                      ) ss  
COUNTY OF CLARK    )

On this 6<sup>th</sup> day of March, 2015, before me, a Notary Public for the State of Nevada, personally appeared MAUREEN DAPHNE DUCKWORTH personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the same.

NOTARY SEAL



[Signature]  
NOTARY PUBLIC in and for said  
County and State.