

Supreme Court Case No. 82314

IN THE SUPREME COURT OF THE STATE OF NEVADA
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Elizabeth A. Brown
Clerk of Supreme Court

IN THE MATTER OF: THE
DUCKWORTH FAMILY TRUST,
Dated March 12, 2015.

KYLA DUCKWORTH
Appellant

v.

CARY DUCKWORTH, TRUSTEE OF THE
DUCKWORTH FAMILY TRUST
Respondent

APPELLANT'S APPENDIX
VOLUME III

Eighth Judicial District Court, Clark County
The Honorable Kathleen E. Delaney, Dept. XXVI
Probate Case No. P-20-103183-T

JERIMY L. KIRSCHNER, ESQ.
Nevada Bar No. 12012
JERIMY KIRSCHNER & ASSOCIATES, PLLC.
5550 Painted Mirage Road, Suite 320
Las Vegas, Nevada 89149
Telephone: (702) 563-4444
Fax: (702) 563-4445
Attorney for Appellant

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Dated this 15 day of September 2021.

JERIMY KIRSCHNER & ASSOCIATES, PLLC

/s/ Jerimy L. Kirschner, Esq.

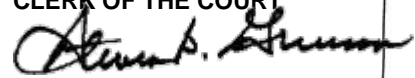
JERIMY L. KIRSCHNER, ESQ.

Nevada Bar No. 12012

5550 Painted Mirage Rd., Suite 320

Las Vegas, NV 89149

Attorney for Appellant Kyla Duckworth



1 **RPLY**

2 R. Gardner Jolley
3 Nevada Bar No. 266
4 Email: nt@juwlaw.com
5 JOLLEY URG & WOODBURY & HOLTHUS
6 330 S. Rampart Boulevard, Suite 380
7 Las Vegas, Nevada 89145
8 (702) 699-7500 Telephone
9 (702) 699-7555 Facsimile
10 *Attorneys for Trustee*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 In the Matter of) Case No. P-20-103183-T
14 THE DUCKWORTH FAMILY TRUST) Dept No. 26
15 Dated March 12, 2015)
16) **Hearing Date: September 11, 2020**
17) **Hearing Time: 9:30 a.m.**
18)

19 **REPLY OF CARY DUCKWORTH AS TRUSTEE OF THE DUCKWORTH FAMILY**
20 **TRUST DATED MARCH 12, 2015 TO THE SUPPLEMENT OF KYLA DUCKWORTH**

21 **I. Preface**

22 Ken Burns was the attorney for the Duckworth Trust and the Trustee. Ken died on
23 May 24, 2020 shortly after he had finished preparing the accounting demanded by Kyla.
24 The Trustee was not notified of the death until the early part of June. The Trustee, Cary
25 Duckworth contacted Gardner Jolley to represent he and the Trust. On June 10th Gardner
26 Jolley was advised that Mr. Kirschner was the attorney for Kyla and on January 11th, Mr.
27 Jolley wrote Mr. Kirschner to advise him that the Trustee contacted Mr. Jolley.
28 Unfortunately, Mr. Jolley was unaware that Mr. Kirschner had filed the Petition the day
before claiming the accounting was defective. After Mr. Jolley was retained and a
Substitution of Attorney was signed and filed, Mr. Jolley learned of the Petition and the

1 hearing scheduled for July 17, 2020. Mr. Jolley mailed Mr. Kirschner a letter advising
2 him that he had received the Petition and asked Mr. Kirschner take off the hearing so they
3 could try to resolve the matter or at least give Mr. Jolley more time by continuing the
4 hearing. Mr. Kirschner did not reply to that letter. Mr. Jolley then contacted the Court to
5 get a continuance which was granted resetting the hearing for August 7, 2020. Mr. Jolley
6 then received an email directed to the Court that was acceptable to Mr. Kirschner. In
7 preparing for the hearing in August and the present hearing, Mr. Jolley discovered that
8 there were other letters to Mr. Kirschner that went unanswered. And despite Mr.
9 Kirschner's statements, counsel hasn't found any document or letter from Mr. Kirschner
10 offering trying to resolve this even though he was aware of the letter sent by Ken Burns to
11 the English attorney on August 14, 2019 asserting that Kyla had violated the contest
12 clauses in the Trust and the Amendments. Mr. Kirschner's response to the letter was to
13 advise Mr. Burns that all further letters directed to Kyla should be sent to him. However
14 there was no response regarding the exercise of the Contest Clauses.
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19 Counsel only brings up the lack of any negotiation or responses to show that
20 apparently Mr. Kirschner would prefer to litigate this matter then avoid possible violation
21 of the Contest Clauses which could prevent his client from being a beneficiary.

22 II. Introduction

23 Set forth below is a chronology of events that occurred in this matter:

- 24
25 1. George and Maureen executed the Family Trust dated March 12, 2015
26 ("Trust"). Both Maureen and George were named as the original Trustees of
27

1 the revocable Trust and upon Maureen's death on June 6, 2018 George became
2 the sole Trustee. On the death of the Surviving Grantor the Successor Trustee
3 would distribute \$300,000.00 to Cary to equalize the \$300,000.00 Kyla and
4 Tara received from the grandmother before the birth of Cary. The remainder
5 of the Estate would be distributed in equal shares to the three children, Kyla,
6 Tara and Cary.
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10 2. In 2017, George and Maureen were living at the Residence and all of the bills
11 were paid from their joint account. The attorney for the parents, their
12 accountant and the other children were aware that the parents were running out
13 of money to support them for the rest of their lives. Maureen had kept her
14 English assets separate from the Trust consisting of a house and several Bank
15 Accounts. On or about May 17, 2017 Diane Short, the accountant for George
16 and Maureen, met with the parents and the two daughters Kyla and Tara. Ms.
17 Short recommended that they not sell any real property nor should they cash in
18 the tax-free bonds which they were using for support which amounted to
19 approximately \$500 a month. Instead Ms. Short recommended that they use
20 the bank accounts that were the separate property of Maureen that were located
21 in England. It was believed that those bank accounts contained approximately
22 \$400,000.00. At that meeting Maureen agreed to use those bank accounts for
23 the support of she and her husband George, **Exhibit H – Affidavit of Diane**
24 **Short.** The accountant and the attorney advised the family that because of the
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1 financial condition of the parents the monies in the English Bank from
2 Accounts should be used to support the parents. After the meeting Kyla who
3 controlled the English Bank Accounts, refused to transfer any of the monies
4 from the Bank Accounts.
5

- 6
7 3. Carrie Hurtik, the attorney who represented the parents and prepared the Trust,
8 sent a letter to the three children dated August 31, 2017 (See **Letter attached**
9 **as Exhibit I**), who had been informed of the refusal to use the English Bank
10 Accounts for the support of the parents. She advised the siblings that it was
11 unwise to use the \$600,000.00 tax-free bonds which would have to be sold at a
12 loss to support the parents. The children were also advised that they would
13 breaching their fiduciary duty by cashing in the bonds since any such decision
14 should be made jointly by all the three children according to the Maureen's
15 Power of Attorney. **Exhibit J – page 2 of the Power of Attorney.** Despite
16 this letter Kyla continued to refuse the use the monies from the English Bank
17 Accounts.
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21 Unfortunately, Kyla continued to refuse to transfer the monies to the Trust or
22 the parent's bank accounts. Obviously, Cary and Tara were opposed to Kyla's
23 position and wanted the monies to be transferred from England to care for the
24 parents. Although the Power of Attorney required a joint decision Kyla
25 refused to transfer that money in which apparently, she had been appointed as
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1 a co-signer on those English accounts. The attorney Carrie Hurtik on page 2 of
2 the letter **Exhibit I** stated in Paragraph 4:

3
4 "It has been advised that the funds in England be immediately
5 brought over to stop the bleeding that is currently occurring
6 in overdrafts and improper budgeting of your PARENT'S
7 fund."

8 It was also pointed out that the checking account was over-drawn and the
9 credit card had not been paid (on page 2). The concluding Paragraph on that
10 page stated the following:

11 "This correspondence is to advise you all that anyone who is
12 grossly negligent and is putting their best interest in front of
13 the care of your parents can be held legally responsible for
14 depletion of the funds meant to care for your parents during
15 their lifetime. Since all of you were appointed jointly to
16 make decisions that were for the good of your parents and
17 further tasked with the responsibility to appoint professionals
18 if you could not manage things responsibly. . . ."

19 Kyla continued to demand the bonds be sold at a loss to raise the monies
20 necessary for the parent's support. Kyla in fact called the stockbroker in the
21 firm that held the tax-free bonds and demanded that those bonds be sold,
22 however, George had previously advised the advisor not to make any decisions
23 regarding the sale of the bonds until he had first talked to George or the other
24 two children. Cary got on the phone with a three-way conversation and
25 advised the advisor that George did not want to sell the bonds. Despite this
26 fact several months later it was necessary to sell the bonds simply because they
27 could not get Kyla to agree to transfer monies from the English Bank
28

1 Accounts. George was forced to pay those bills by selling the tax free bonds in
2 the joint stock brokerage account in the Trust which created a loss at the time
3 because it was necessary to sell those bonds. This obviously created a problem
4 in the relationship between Kyla and the family members by her refusal to
5 provide those monies.
6

7
8 4. Kyla, one of the three children of Maureen and George, was caring for her
9 mother while living at the parents' house at, 1829 Corta Bella Drive, Las Vegas,
10 Nevada 89134 ("Corta Bella" or "Residence"), for approximately four and a
11 half years. In January of 2018 Kyla took Maureen to the hospital, but when
12 Maureen was released, instead of contacting the family members, Kyla decided
13 to place Maureen in an assisted facility, Las Ventanas. George, Tara, and Cary
14 wanted her to return home. In June 2018 Maureen died without ever returning
15 home.
16

17
18 5. After Maureen's death, George retained a Probate attorney in England to
19 Probate Maureen's Estate. Maureen had a house and Bank Accounts in
20 England ("Bank Accounts" or "Barclays Account") containing approximately
21 \$350,000.00 which she considered as part of her separate property. Maureen
22 had always told George, the Accountant, the Attorney, and the children that all
23 of the English assets were to be distributed equally among the three children.
24 Kyla had apparently been made a joint signator on the largest account at
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26

Barclays Bank while living at the Residence. (See Declaration of Tara Kassity – Exhibit K).

6. Kyla hired her own attorney in England who sent a letter dated October 12, 2018 (Exhibit L), to George's attorney advising him that Kyla was claiming all of the English assets and there was no Will. George's English attorney advised him that under the intestacy law of England George would receive 75% of the Estate and the children would divide 25%.

7. George knew this wasn't what Maureen would want and he was quite upset that Kyla was taking this position. In the Amendments by George (Exhibit M) any interference with the separate property of his wife that would be governed by English Law would create a forfeit of Kyla's interest in the Trust. Unfortunately, the majority of Maureen's funds had been put into a Barclays Account by Kyla whereby she was a sole signature on the account. As a result, George retained Ken Burns to prepare a First Amendment whereby not only was there a No Contest Clause in the Trust (Section 7.02) but also the First Amendment added Section 7.05.

The Trust stated that on the death of the Surviving Grantor, the children would each receive 1/3 of the Trust Estate. Because of the problems with Kyla, George hired Ken Burns to prepare the First Amendment on January 23, 2019

1 to the Trust pointing out the fact that Kyla had refused to provide that money
2 in the English Bank Account for Maureen's care and for that reason the
3 \$350,000.00 was to be a setoff against her one-third interest in any property
4 that was to be distributed to her from the Trust (**Exhibit M**). Based upon the
5 First Amendment, if the Bank Accounts were not distributed to the Estate in
6 England, this would be considered a forfeit of her interest in the Trust. See
7 also Directive of George as part of **Exhibit M**. Kyla has refused to provide
8 any information to the Estate's English attorneys or to the American attorneys,
9 along with her siblings as to what amount of money was in the Barclays
10 Account, and also refuses to provide a list of personal property that belonged
11 to Maureen that Kyla has in her possession of which would be considered part
12 of the Trust based on Maureen's Will. The Second Amendment, Maureen's
13 Will, and the Trust stated that all personal property was to be delivered to her
14 husband, George as Trustee. See Section 3.01 of the Trust/and Section 3.2 in
15 the Will and Amendments. Kyla's claim to the English assets is a violation of
16 Sections 7.02 and 7.05. Furthermore, in Article Fourth in the Special
17 Directives which is attached to the First Amendment, any refusal to provide
18 information relating to the balance in that account was a result in an
19 "advancement to Kyla of \$350,000.00" from the account in the United
20 Kingdom. Based upon Article Fourth of the Directive that was attached to the
21 First Amendment, Kyla was to receive a fifty percent (50%) interest in the
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1 Hinson Street property which was to be valued \$144,000.00 and would be
2 considered as part of her one-third (1/3) distribution of the Trust Estate. This
3 is also reflected in Second Amendment which is part of **Exhibit M**.
4
5 These actions on the part of Kyla therefore bring into play the no contest
6 clauses, Secondly, her attorney renewed the "Caveat" challenging the Probate
7 in England (see **Exhibit L, the August 14, 2019 letter from Ken Burns**).
8
9 As reflected in the Inventory filed in George's Estate the only asset was the
10 assets in the United Kingdom, **Exhibit P**. It should be noted the First
11 Amendment and the Second Amendment were attached to the letter. The letter
12 informed Kyla's attorney that the Caveat would be construed as a "contest" of
13 the Trust and would result in her being eliminated as a beneficiary of the Trust.
14 George's English attorney can't close the Estate and distribute 75% of the
15 Estate that would go to George's Probate and then to the Trust. Furthermore,
16 there could be no distribution of the 25% to the three children pursuant to the
17 intestacy law in England. The letter went into the background of Mr. Burns'
18 position concluding that any further actions by Kyla would result her no longer
19 being a beneficiary of the Trust. A copy of that letter was sent to Kyla.
20 Neither the British attorney nor Kyla responded to that letter. Mr. Kirschner
21 who was the Nevada attorney then wrote Mr. Burns that he had received the
22 letter and that any further correspondence to Kyla should go to him (**Exhibit**
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1 P). Mr. Kirschner did not respond to that letter as to the allegations made by
2 Mr. Burns that Kyla had violated the No Contest Clause.

3
4 It should be noted in the Supplement filed on August 21, 2020 that Kyla
5 alleged she did not claim the assets in England, yet she provided no
6 information regarding the Bank Accounts or the personal property of which
7 she had in her possession.
8

9 The First Amendment (Exhibit L dated January 23, 2019) also contained
10 language indicating in the Special Directives of George that Kyla would
11 receive subject to the \$350,000.00 advancement, a 1/3 share interest in the
12 Trust, along with the 50% interest in the Hinson Street, Las Vegas, Nevada
13 residence with the property be valued at \$144,000.00 and was to be an
14 advancement on her 1/3 distribution of the residuary Estate.
15

16
17 Because Kyla made a claim in the English Probate and refused to provide
18 information to George's Probate attorney in England, any distribution in
19 England has been prevented or the closing of the Estate as a result of Kyla's
20 conduct. By Kyla making a claim to all of the assets, George was prevented
21 from receiving his 75% interest in the English assets which would go into
22 George's Estate and then be distributed to the Trust. Based upon the above,
23 Kyla based upon the Amendments has forfeited her interest and is no longer a
24 beneficiary of the Trust.
25
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1 8. George also executed a Codicil to his Will on January 23, 2019 whereby he
2 removed Kyla as an Executor appointing Cary as the Executor and Tara as the
3 Successor Executor. Ken Burns signed the codicil as a witness and pointed out
4 in the codicil that the witnesses believed George was competent and had the
5 capacity to execute the codicil (**Exhibit N**).
6

7
8 9. Kyla had her attorney file a "Caveat" which also prevented the administration
9 and the closing of the English Estate and continued to renew the Caveat. Until
10 the English Estate was closed, the 75% in the English assets could not be
11 transferred to George who was then living but on his death his Will transferred
12 all assets to the Trust (**Exhibit L**).
13

14
15 10. In March 2019, George requested Ken Burns prepare a Second Amendment to
16 the Trust, reaffirming what was in the First Amendment and referring to the
17 "United Kingdom" as the location of the Bank Accounts (**Exhibit M**).
18

19 **III. Kyla's Conduct Violates the No Contest Clauses**

20 NRS 163.00195 sets forth the Enforcement of the No Contest Clause. Paragraph
21 2. states "a No-contest clause must be construed to carry out the settlor's intent to the
22 extent such intent is clear and unambiguous . . . a beneficiary's share may be reduced or
23 eliminated under a no-contest clause based upon conduct that is set forth by the settlor in
24 the trust."
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1 Such conduct such as Kyla's by refusing to provide information regarding the
2 Barclays Account, what personal property of Maureen was still in Kyla's possession and
3 her English attorney claiming Kyla was entitled to all of the English property, clearly
4 violated the Trust and the Amendments. Ken Burns advised Kyla's attorney in England
5 that she was violating the No Contest Clause with Kyla receiving a copy of that letter
6 (Exhibit L). Kyla's attorney, Mr. Kirschner, also received a copy of the letter from Kyla
7 and then wrote Mr. Burns to advise him to send all letters directly to him (Exhibit Q).
8 None of the three ever responded to Mr. Burns' letter which would lead one to believe
9 that Kyla was not giving up her claim to the English assets.
10

11 Cary as the Successor Trustee has the right to declare that Kyla was no longer a
12 beneficiary of the Trust or have an interest in the English Estate based upon Section 7.02
13 of the Trust and 7.05 of the First Amendment.
14

15 Section 7.02 Incontestability on page 15 of the Trust (Exhibit K) specifically
16 states that where a beneficiary asserts any claim or other right or interest against the
17 Trustor's Estate or properties of this Trust, other than pursuant to the express terms
18 hereof, or directly/indirectly contests, disputes or calls into question, before any of the
19 validity of this Trust Agreement then such beneficiary shall thereby absolutely forfeit any
20 and all beneficiary interest whatsoever (Emphasis added).
21

22 § 7.05 states:
23

24 For purposes of the Incontestability provisions of Section
25 7.02 above, any action commenced in the United Kingdom by
26 a beneficiary of this Trust with respect to property owned
27 there by the deceased Trustor, Maureen D. Duckworth, that
28

1 seeks to have such property (or the proceeds of sale of such
2 property) to be distributed in any manner other than provided
3 for the intestacy laws of the United Kingdom shall be
4 considered a contest of the provisions of this Trust. Any such
5 action will result in the proponent of such action to no longer
6 be considered a beneficiary of this Trust and shall receive no
7 distribution from this Trust including any distribution of
8 specific assets provided for herein (Emphasis added).

9 Second Amendment – The Second Amendment was executed on March 20, 2019.

10 The only reason for the Second Amendment was to point out that the Bank Account
11 question was now in the United Kingdom and reasserting that the \$350,000.00 would be
12 a set off against any inheritance that Kyla may receive as a result of the Trust and also
13 restating that she was to get the Hinson house.

14 In a later portion of this Brief, the capacity of George will be discussed.

15 **IV. Many of the Allegations Made by the Petitioner are not Correct**

16 **A. Kyla's Relationship with George and his Competency**

17 This was also discussed in the letters between the English attorneys which are also
18 discussed later.

19 First of all, numerous witnesses, including the other children will testify that Kyla
20 did not have a good relationship with her father, especially going against the wishes of
21 her father and mother and the other siblings regarding the care of their mother. See
22 Exhibits H, I and K.
23

24 ///

25 ///

1 concerns from the point of view of Mr. Burns about taxes. The Court should keep in mind
2 that Ken Burns worked for the IRS before he started practicing law in Las Vegas.

3
4 **C. Home Appraisals**

5 Kyla also complains that the house appraisal is incorrect. In fact, appraisals were
6 ordered and portions are attached hereto as **Exhibit R**, as to the values to be placed on the
7 properties as of the date of death of Maureen. The appraisals of the Corta Bella and the
8 Hinson house are both attached as **Exhibit R** and consists of 20 pages with the last page
9 reflecting that the appraiser was certified. If the Court wishes to receive the entire
10 appraisals, they will be provided. Counsel recalls that in a recent Probate hearing, the
11 Probate Commissioner refused to use a Zillow appraisal for value of the sale of real
12 property. It was Ken Burns who recommended there be a 20% discount regarding the
13 house values because of the cost of selling those houses. Tara hired the appraisers and
14 Cary had no involvement in the preparation those appraisals (**Exhibit K**).
15
16

17 **D. Competency of George**

18 The Codicil was signed on March 20, 2019 which appointed Cary as the
19 Trustee. If one reviews the English attorney's letters **Exhibit L**, it will be shown that the
20 attorney for George on January 14, 2019 believed George to be competent near to the time
21 that George executed his new Will and Codicil. Obviously, the English attorneys did not
22 feel he was unfit nor did the United States attorney who apparently had discussed the
23 matter with George. Furthermore, Ken Burns, who was a witness to the Codicil stated
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1 that the witnesses believed that George was competent at the time he signed the
2 document.

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4 **V. Points and Authorities**

5 A. **Introduction** - This Response presents a pure question of law for the
6 Court. There is no need for discovery or an evidentiary hearing. The legal analysis
7 is a simple two-step process. . . the Court must determine whether Kyla asserts claims or
8 seeks relief that violate the no-contest provisions and are not otherwise excluded under
9 NRS 163.00195.
10

11 The Court at the hearing on August 7, 2020, stated that the attorney for Kyla was
12 merely to respond to the claim that Kyla had violated the no-contest clauses. Instead the
13 Supplement contains many other claims that aren't relevant to whether in fact she violated
14 the no-contest clauses. What Kyla is trying to do is to move the issue from herself and
15 attack Cary without having facts in her favor to support her position.
16

17 For instance in the Supplement it is alleged that the Special Directives were a
18 departure from Maureen and George's prior Estate Planning and was an attempt to an end
19 run around Maureen unmistakable intention that concluding that "Maureen did not want
20 her English assets subject to the Trust." The fact is, because of Kyla's conduct, they are
21 now subject to the Trust. At the time of Maureen's death, George was still alive and it
22 was his intention to provide the children each a 1/3 share of the English assets. However,
23 when George's English attorney received the letter from Kyla's attorney dated October
24 12, 2018, it was clear that she was claiming all of the asset in England, obviously, to the
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1 detriment of the other children. George was still alive and pursuant to English intestacy
2 law would receive 75% of the Estate, which would not have occurred had Kyla cooperated
3 with George in establishing the English Trust and then closing it.
4

5 Kyla then complains on page 11 of her Supplement that Cary took advantage of
6 George while living in the Residence by spending money which benefited him while he
7 was living in the house. The fact is George was still alive and there was no one who had
8 stated other than Kyla that he lacked capacity and it was George who had the right as the
9 Trustor to allow Cary to pay bills that included Cary since Cary was living at the house.
10 Interesting enough, the Supplement states that the monies were used from the Trust to pay
11 the utilities, the pest control and two homeowner associations, yet the majority of these
12 were expenses relating to the Corta Bella house where George resided with Cary. Tara
13 has stated in her Declaration that George wanted Cary to have the house so it would
14 benefit George's grandchildren and had intended in doing that for a long time (**Exhibit**
15 **K**). Any additional expenses that Cary had were considered as a loan which would be an
16 advancement from his share of the Estate.
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20 On page 11, line 17, Kyla then attacks Carrie Hurtik, the attorney who drew up the
21 Trust that was executed on March 15, 2015. It is clear from her letters that she was siding
22 with Cary and Tara regarding Kyla's conduct and in fact was doing so since Carrie Hurtik
23 believed was for the benefit of George and would carry out the terms of the Trust whereby
24 the assets would be divided among the three children upon the death of George.
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1 Kyla also claims that Ms. Hurtik was not the attorney for George and Maureen but
2 instead was the attorney for Cary and Tara. Kyla refers to the August 27th letter from Ms.
3 Hurtik supporting that position but that instead was the attorney's position that the English
4 Bank Account should be used to support George and Maureen knowing full well that if
5 those bonds were sold at a loss, George and Maureen would lose the \$500.00 a month
6 payment they were receiving from those bonds.
7

8
9 **VI. Legal Analysis**

10 George and Maureen intended to give the Trustee broad discretion with little
11 room for second-guessing by the beneficiaries or a court. He did this by lowering the
12 Trustees' applicable standard of care to one of bad faith.

13
14 **A. Nevada Law Requires Enforcement of No-Contest Provisions to Carry**
15 **Out the Settlor's Intent** - In Nevada, a no-contest clause "must be enforced by the
16 court." NRS 163.00195(1). With a few narrow exceptions, addressed below, "a
17 beneficiary's share may be reduced or eliminated under a no-contest clause based upon
18 conduct that is set forth by the settlor in the trust." *Id.* at (2). Nevada law is not unique.
19 The majority of states hold that "no-contest clauses are not only valid but also favored as
20 a matter of public policy - because they discourage litigation and give effect to the
21 purposes expressed by the testator or trustor." *Colburn v. N. Trust Co.*, 151 Cal. App. 4th
22 439,447, 59 Cal. Rptr. 3d 828, 834 (2007); see also *Burch v. George*, 7 Cal. 4th 246, 255,
23 866 P.2d 92, 97 (1994), superseded by statute on other grounds as stated in *Meyer v.*
24 *Meyer*, 162 Cal. App. 4th 983, 990, 76 Cal. Rptr. 3d 546, 552 (Cal. Ct. App. 2008), ("[I]t
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1 is the testator's intentions that control, and a court must not rewrite the testator's will in
2 such a way as to immunize legal proceedings plainly intended to frustrate the testator's
3 unequivocally expressed intent from the reach of the no-contest clause.") (internal
4 quotations omitted).

5
6 **B. The Attempt to Impose Liability on the Trustees Based on a Lesser**
7 **Standard Violates the No-Contest Provisions as set forth in Section 6.03 of the**
8 **Trust.** George and Maureen intended to give the Trustee broad discretion with little
9 room for second-guessing by the beneficiaries or a court. They did this by lowering the
10 Trustees' applicable standard of care to one of bad faith misconduct. *Id.* at 4 and 6.

11
12 In every pleading, Kyla asserts claims that the Trustee has breached his legal
13 duties. In each such pleading, they seek to hold the Trustees responsible for ordinary
14 breaches of fiduciary duty. Their pleadings, however, make no mention of the applicable
15 standard of care, bad faith. Instead, they seek to hold the Trustees to a higher standard.
16 For example, Kyla alleges that the Trustee has acted improperly for his own benefit. The
17 First and Second Amendments which the Trustee has relied upon were discussed with
18 George and prepared and executed by Ken Burns. Therefore, Kyla has not shown that
19 Cary is guilty of a breach of any duty of due care in the administration of trust assets.

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21
22 **C. Statement of Relevant Factual Background**

23
24 **1. Section 6.03 Judgment and Discretion.** Similarly, the Trust
25 provides the Trustees with broad liability protection, limiting such claims to bad faith:
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1 In the absence of proof of bad faith . . . all questions of construction or
2 interpretation of any trusts created by this Trust Agreement will be finally and
3 conclusively determined solely by the Trustee, according to the Trustee's best judgment
4 and without recourse to any court, and each determination by its Trustee is binding on the
5 beneficiaries and prospective beneficiaries hereunder. . . Each determination may be
6 relied upon to the same extent as if it were a final and binding judicial determination. *See*
7 *Humane Soc'y v. First Nat'l Bank of Nevada*, 92 Nev. 474, 553 P.2d 963 (1976) (citing
8 Restatement (Third) of Trusts § 87 (2007)). It was the Trustee's duty to carry out the
9 intentions of George as the surviving Grantor, *Dahlgren v. First Nat'l Bank of Nevada*,
10 94 Nev. 387 (1978) and treat the beneficiaries equally. Restatement (Third) of Trusts, §
11 79 (2007). Furthermore, the Trustee has an obligation to preserve and protect trust
12 assets. *In the Matter of the Estate of Bowlds*, 120 Nev. 990, 999, 102 P. 3d 593 (2004);
13 *Bank of Nevada v. Speirs*, 95 Nev. 870, 603 P.2d 1074 (1979); *Anselmo v. Guasto*, 13
14 S.W.2d 650, 653-4 (Mo. App. 1999); Scott, *The Law of Trusts*, § 18.1.24 (5th ed. 2007).
15 See also, *In re Gross' Estate*, 216 Cal.App.2D 563.

16 Nevada courts follow the general rule with respect to review of actions taken in a
17 Trustee's discretion: "Where discretion is conferred upon the Trustee with respect to the
18 exercise of a power, its exercise is not subject to control by the court, except to prevent
19 an abuse by the Trustee of his discretion." *See Humane Society v. First National Bank of*
20 *Nevada*, 92, Nev. 474, 553 P.2d 963 (1976) (citing California cases and the Restatement
21 (Third) of Trusts § 87) (2007).

1 The Supplement first alleges that Cary violated his fiduciary duty as Trustee,
2 however they cite *In re Tiffany Living Trust* 2001124 Nev. 74 (2008) 177 P.3d 1060
3 where it was alleged the attorney violated his duty to his client by conveying a house to
4 his partner in the law firm. The second case *Executive Mgmt. v. Ticor Title Ins. Co.* 114
5 Nev. 823, 962 P2d 465 (1998) involved a question whether the title company owed a
6 fiduciary duty to the seller. So both cases are not applicable to a Trustee.
7

8 Then the claim is that George was under the undue influence of Cary. The burden
9 of proof is on the claimant and they failed to present evidence that Cary influenced
10 George in the execution of the two Amendments. As stated earlier numerous attorneys
11 have all stated that George had the capacity and was competent at the time when he
12 executed the documents. The contestant must show affirmatively and by the
13 preponderance of evidence that the testator was of unsound mind at time he executed the
14 document. *In re Lingenfelter's Estate*, 38 Cal.2d 571 (1952) 241 P.2d 990 (1952). The
15 burden of proof regarding undue influence is on the contesting party. *In re Estate of*
16 *Bethurem*, 129 Nev. 869 (2013) 313 P.3d 237, 129 Nev. Adv. Op. 92.
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20 D. Kyla's legal actions violates the no-contest provisions in at least four
21 different and independent ways:

22 a. Kyla is claiming 75 % of George's interest in the English Probate
23 that would go to George's Nevada Estate and then transfer to the Trust.
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1 b. Kyla has refused to provide information regarding the English Bank
2 Accounts and refuses to provide any information regarding any personal
3 proper such as jewelry that she has in her possession.

4
5 c. Her conduct has prevented the filing of an Inventory for the English
6 Estate and prevented the Estate from determining what the English taxes
7 will be on the assets.

8
9 d. She has challenged Cary's conduct in acting as Trustee and
10 demanding his removal even though his administration has always been in
11 accordance of the provisions of the Trust.

12
13 e. She has challenged the validity of the First and Second Amendments
14 alleging that George did not have the mental capacity to execute those
15 documents and that Cary unduly influenced George into executing those
16 documents. This is despite the fact that Ken Burns prepared the documents
17 and met with George regarding the execution of those documents and stated
18 that George was competent and that he intended to set out the terms set
19 forth in the Amendments.
20

21 Any one of these violations would support a finding to remove her as a
22 beneficiary. Moreover, once triggered, there is no opportunity to cure the breach. In
23 other words, they cannot "un-ring" the bell by dismissing the lawsuit or amending their
24 petitions to remove the offending claims/allegations. Allowing such corrective action
25 would defeat the purpose of the no-contest clause by permitting the challenger to thwart
26

1 consequences of the no-contest clause after exposing the trust or estate to litigation costs.
2 *Schwartz v. Schwartz*, 167 Cal. App. 4th 733, 745, 84 Cal. Rptr. 3d 387, 397 (2008); *see*
3 *also In re Fuller's Estate*, 143 Cal. App. 2d 820, 824 (1956) (holding that the
4 commencement of the contest violated the no-contest clause, (i.e., the English claims)
5 regardless of its subsequent withdrawal, and stating that "[n]o artificial distinctions are to
6 be taken advantage of or quibbling indulged in to the end that a person plainly and
7 palpably coming within the scope of the forfeiture clause may by 'some hook or crook'
8 escape the penalty of forfeiture"); *Restatement (Third) of Property (Wills & Don. Trans.)*
9 § 8.5 (2003) ("In the absence of specific language to the contrary, the [no-contest] clause
10 should be construed to be violated regardless of whether the action is subsequently
11 withdrawn immediately after its institution, prior to a hearing, at the trial, or at any time
12 thereafter.").

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16 **E. The Attempt to Remove the Trustees Violates the No-Contest**
17 **Provisions.**

18 Under similar factual circumstances, a California Appellate Court affirmed the
19 lower court's judgment- holding that the beneficiaries' petition to remove the trustees for
20 malfeasance would violate, and thus trigger, the trust's no-contest clause. *Hermanson v.*
21 *Hermanson*, 108 Cal. App. 4th 441, 446 (2003).

22
23
24 **F. The Attempt to Interfere with the Trustees' Authority to Manage the**
25 **Trust Assets Violates the No-Contest Provisions** - As outlined above, George and
26 Maureen intended to provide broad authority to the Trustee to act without any court
27

oversight or interference in connection with the administration of the Trust. They did this by giving the Trustee broad powers. Maureen in Section 3.2 of her Will gave all her assets to the Trust save and except the English assets stating together with any additions or amendments. . . I direct that such Trust Agreement shall not be administered under Court supervision, control or accounting. . . George had the same provision in his Will.

G. REMOVAL OF TRUSTEE

Cary Duckworth was chosen by the Trustor, George Duckworth to replace him after George decided to resign. Courts are reluctant to remove a Trustee who was appointed by a Trustor. The discussions within this Reply make it clear that Cary did not violate any fiduciary duty, didn't fraudulently advise George about the administration of the Trust or Kyla's conduct. Based on the Trust provisions, there is no basis to support his removal as the Trustee. The Court should keep in mind that the sister, Tara is the Successor Trustee who supports Cary's position in this matter and that Cary acted appropriately. (See Exhibit K – the Declaration of Tara Kassity). In addition she joined in the Opposition to Kyla's Petition and other than Cary and Kyla only other beneficiary of the Trust and an heir of the English Estate.

H. NRS 163.00195(3)(a), (b), (c) and (4) provide four exceptions to enforcing a no-contest clause. The four exceptions are as follows: (3) Notwithstanding any provision to the contrary in the trust, a beneficiary's share must not be reduced or eliminated if the beneficiary *seeks only to*:

- a) *Enforce the terms of the trust*, any document referenced in or affected by the trust, or any other trust-related instrument;
- b) *Enforce the beneficiary's legal rights* related to the trust, any document referenced in or affected by the trust, or any trust-related instrument; or
- c) *Obtain a court ruling with respect to the construction or legal effect of the trust*, any document referenced in or affected by the trust, or any other trust-related instrument.

(4) Notwithstanding any provision to the contrary in the Trust, a beneficiary's share must not be reduced or eliminated under a no-contest clause in a trust because the beneficiary institutes legal action *seeking to invalidate a trust, any document referenced in or affected by the trust, or any other trust-related instrument if the legal action is instituted in good faith and based on probable cause* that would have led a reasonable person, properly informed and advised, to conclude that the trust, any document referenced in or affected by the trust, or other trust-related instrument is *invalid*. Ken Burns in signing the Codicil to the Will stated that George was competent (Exhibit N). Ken Burns at the time he prepared additional documents prepared a memorandum dated January 24, 2019 stating that he discussed in detail George's intent in executing the First Amendment. Mr. Burns stated that he was competent to do so and the only limitation he had was his eyesight. The attorney for the Trustee is concerned if the document is produced it could possibly be determined that it waives the attorney client privilege. The fact is if Ken Burns were alive the Court would allow him to testify

1 as to George's competency and medical condition but unfortunately Ken Burns is
2 deceased. Trustee's counsel believes that since a video tape would be admissible and
3 evidence without violating the attorney client privilege the same would hold true for a
4 memorandum from the attorney. If the Court request copies it will be provided to the
5 Court for review solely by the Judge who could then determine whether it should be
6 produced without the violation of the privilege.
7

8
9 **I. Cary as Trustee Has A Duty To Carry Out The Intent Of The Trustors**
10 **George.** A beneficiary of a trust is entitled to nothing more than having the Grantor's
11 intentions followed and the express terms of the trust given effect. Continental Bank and
12 Trust Co. v. Country Club Mobile Estates, Ltd., 632 P.2d 869, 872 (Utah 1981). The
13 intent of a testator or a trustor must be carried out according to the terms and provisions of
14 the governing document. It was the Trustee's duty to carry out the intentions of George as
15 the Surviving Grantor. (Dahlgren v. First Nat'l Bank of Nevada, 94 Nev. 387, (1978).
16 Restatement (Third) of Trusts, §79 (2007)). Furthermore, The Trustee has an obligation
17 to preserve and protect trust assets. In the Matter of the Estate of Bowlds, 120 Nev. 990,
18 999, 102 P.3d 593 (2004); Bank of Nevada v. Speirs, 95 Nev. 870, 603 P.2d 1074 (1979);
19 Anselmo v. Guasto, 13 S.W.3d 650, 653-4 (Mo. Ct. App. 1999); Scott, The Law of Trusts,
20 § 79 (5th ed. 2007).
21
22

23 **J. The Trust Is Entitled To Be Awarded Attorney's Fees In Opposing**
24 **This Case.** It is well-established that a trustee is entitled to payment from the trust of
25 all of its proper expenses, including reasonable attorney's fees and costs incurred in
26
27

1 administering, preserving, and protecting trust property. See, Klinkerfuss v. Cronin, 199
2 S.W.3d 831, 844 (Mo. Ct. App. 2006); Ingalls v. Hare, 96 So. 2d 266, 273 (Ala. 1957).

3
4 Moreover, given a trustee's duty to protect and preserve trust assets, Cary
5 appropriately seeks to have the Trust reimbursed for the attorney's fees incurred in
6 defending against the Petition of Kyla. Indeed, courts have charged a beneficiary's share
7 of trust assets with the trustee's attorney's fees under the appropriate circumstances: As
8 stated in Conley v. Waite, 25 P.2d 496, 496-97 (Cal. Ct. App. 1933):
9

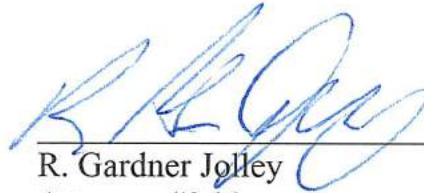
10 The rule of law applicable to the question is that
11 a trustee is entitled to reimbursement of all
12 expenses actually and properly incurred by him
13 in the performance of his trust . . . but when an
14 unfounded suit is brought against him by the
15 cestui que trust, attorney's fees may be allowed
16 him in defending the action and may be made a
17 charge against the interest in the estate of the
18 party causing the litigation.

19 See also NRS 18.010(2)(b); EDCR 7.60; Estate of Ivey, 28 Cal. Rptr. 2d 16, 21
20 (Cal. Ct. App. 1994) (reasoning that "a probate court has equitable power to charge one
21 beneficiary's share of a trust for frivolous litigation against the trust"); In re Bishop's
22 Will, 98 N.Y.S.2d 69, 76 (N.Y. App. Div. 1950) (holding that legal fees incurred by
23 trustee are properly charged against the beneficiaries who brought the unsuccessful
24 action); Klinkerfuss v. Cronin, 199 S.W.3d 831, 841 (Mo. Ct. App. 2006) ("When one of
25 several beneficiaries brings essentially groundless and unsuccessful litigation against a
26 trustee the purpose of which was to benefit only himself, no reason suggests itself why the
27

1 other beneficiaries, who did not join with him, sought no relief and had no voice in the
2 conduct of the case, should share the expense with the initiating beneficiary.”).

3
4 DATED this 1st day of September, 2020.

5 JOLLEY URGAL WOODBURY & HOLTHUS

6
7
8
9 

R. Gardner Jolley

Attorney #266

330 S. Rampart Boulevard, Suite 380
Las Vegas, Nevada 89145

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1 CERTIFICATE OF SERVICE

2 I hereby certify that I am employed in the County of Clark, State of Nevada, am
3 over the age of 18 years and not a party to this action. My business address is Jolley Urga
4 Woodbury & Holthus, 330 S. Rampart Boulevard, Suite 380, Las Vegas, Nevada, 89145.
5

6 On this day I served the Reply of Cary Duckworth as Trustee of the Duckworth
7 Family Trust Dated March 12, 2015 to the Supplement of Kyla Duckworth in this action
8 or proceeding electronically with the Clerk of the Court via the Odyssey E-File and Serve
9 system, which will cause this document to be served upon the following counsel of
10 record:
11

12 Jerimy L. Kirschner, Esq.
13 JERIMY KIRSCHNER & ASSOCIATES, PLLC
14 5550 Painted Mirage Road, Suite 320
15 Las Vegas, Nevada 89149
16 *Attorney for Kyla Duckworth*

17 I certify under penalty of perjury that the foregoing is true and correct, and that I
18 executed this Certificate of Service on September 1, 2020, at Las Vegas, Nevada.
19

20 
21 An employee of Jolley Urga Woodbury & Holthus
22
23
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EXHIBIT “H”

AFFIDAVIT OF DIANE SHORT

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

I Diane Short, being duly sworn, according to law, deposes and says:

I was the Accountant for George and Maureen Duckworth beginning around 1990.

In May 2017, as their Accountant, I attended a meeting at the residence of George and Maureen along with the two daughters Kyla and Tara to discuss the financial condition of the parents and the need to make decisions relating to their financial conditions. It was clear from my review of the parents' financial documents that the parents had liquidity issues, partially a result of their medical bills and that the parents needed to make financial decisions to ensure they had sufficient monies for the future.

I recommended that they use the monies in Maureen's English bank accounts rather than sell any real property or cash in the tax-free municipal bonds. Maureen agreed to use the monies in the English bank accounts for the support of the parents.

I have reviewed the letter of Carrie Hurtik dated August 31, 2017, attached as Exhibit A. I have no disagreement with her statements regarding the May 17, 2017 meeting. I was informed and believe that letter is attached as Exhibit A to the Opposition filed July 30, 2020.

DATED this 19th day of August, 2020.

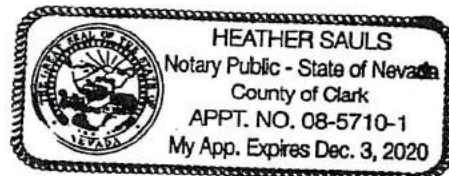


Diane Short

SUBSCRIBED AND SWORN to before me
this 19th day of August, 2020.



NOTARY PUBLIC



HURTIK LAW & ASSOCIATES

ATTORNEYS AT LAW
7866 WEST SAMARA AVENUE
LAS VEGAS, NEVADA 89117
(702) 966-5200 TELEPHONE
(702) 966-5206 FACSIMILE
Wife's e-mail address: chunh@hurliklaw.com

August 31, 2017

Via Certified Mail and electronic mail

Kyla Duckworth
1829 Corta Bella Drive
Las Vegas, Nevada, 89134

Cary Duckworth
2105 Henniker Way
Las Vegas, NV 89134

Tara Kassity
9200 Silverwood Ct.
Granite Bay, CA 95746

Re: George and Maureen Duckworth

Dear Kyla, Cary and Tara:

This correspondence is being sent to you as I understand that the financial situation for your parents has deteriorated rapidly over the last few years and that *their assets* which are to be used solely for both their care and well-being are compromised. Please understand that you are all "Co-Attorney's" in fact, pursuant to your parent's wishes, and you have an ethical and fiduciary duty to act in their best interests. As such, you all have a duty to ensure that the estate assets are being used not for any personal gain, or personal bills other than bills for your parents care and benefit.

It is my understanding that the 2016 tax return has not been filed at this time and the latest date this is to be filed is October 15, 2016. The accountant, Diane Short will need to be provided the items she requested in her May 25, 2017 email.

This information should be provided no later than September 10, 2017 to the accountant so that no penalties are incurred, or an issue arises wherein the Internal Revenue Service would decide to Audit all of the records. This could seriously harm your parent's financial situation and no one should want that to occur.

EXHIBIT A

Furthermore, I understand that Diane Short, met with you and your parents on May 17, 2017 and advised that you need to keep the bonds intact, as this is Thirty-Thousand Dollars and Zero Cents (\$30,000.00) of tax free income annually which is in jeopardy at this time. My understanding is that the balance owed on the bonds currently is Four Hundred Eighty Thousand Dollars (\$480,000.00) and that the account does not have ample funds for the September 1, 2017 payment. If the payment is not made on time, or cannot be paid the Bonds could be called and the entire amount would have to be paid in full. Thus, the income would be lost and another asset would have to pay the bonds. This is fiscally not a good move and disastrous for tax purposes and cash flow.

Additionally, it is my understanding that the credit card has not been paid and is over fifteen (15) days late, which affects your parents credit; this again is not a situation that should be happening and needs to be remedied.

The accountant has reviewed everything and provided an analysis of what financially needs to be done to ensure that your parents are protected from large tax liability and to ensure they have the funds to pay for necessities and care for the last years of their lives. Diane has advised that the condominium should not be sold or mortgaged at this time, which would result into dire tax consequences due to the cost basis. The house is paid in full and no liens should encumber the home as your parents may need funds in the future from this source and they do not have the means to pay any liens placed on the properties.

It has been advised that the funds in England be immediately brought over to stop the bleeding that is currently occurring in overdrafts and improper budgeting of your PARENT'S funds. It is my understanding the checking account is overdrawn by approximately Three Thousand Dollars (\$3,000.00). The CD should be broken immediately, as the fee to release the funds is minor compared to the disaster that is currently occurring. All funds from Lloyds and Barclay need to be brought over to your parent's accounts in the States. The amount in the Barclay accounts I understand is around Two Hundred and Fifty Thousand Dollars US (\$250,000.00) and Lloyds should be around One Hundred and Fifty Dollars US (\$150,000.00) according to Diane Short's email dated May 30, 2017.

This correspondence is to advise you all that anyone who is grossly negligent and is putting their best interests in front of the care of your parents can be held legally responsible for depletion of the funds meant to care for your parents during their lifetime. Since all of you were appointed jointly to make decisions that were for the good of your parents and further tasked with the responsibility to appoint professionals if you could not manage things responsibly, I suggest you begin doing so. If the above-referenced steps are not taken by September 10, 2017, I believe that action should be taken to appoint a receiver or Guardian over the Estate to ensure that correct decisions are being made and the estate is not depleted further.

HURTIK LAW & ASSOCIATES
August 31, 2017
Page 3 of 3

It is disconcerting to say the least that joint decisions are not being made for the benefit of your parents, my clients are your parents and my sole interest is for their well-being please take the necessary steps together to fix the situation.

Sincerely,
HURTIK LAW & ASSOCIATES

CARRIE E. HURTIK

CARRIE E. HURTIK, ESQ.

EXHIBIT “I”

HURTIK LAW & ASSOCIATES

ATTORNEYS AT LAW
7866 WEST SAHARA AVENUE
LAS VEGAS, NEVADA 89117
(702) 966-5200 TELEPHONE
(702) 966-5206 FACSIMILE
Writer's e-mail address: churtik@hurtiklaw.com

August 31, 2017

Via Certified Mail and electronic mail

Kyla Duckworth
1829 Corta Bella Drive
Las Vegas, Nevada, 89134

Cary Duckworth
2105 Henniker Way
Las Vegas, NV 89134

Tara Kassity
9200 Silverwood Ct.
Granite Bay, CA 95746

Re: George and Maureen Duckworth

Dear Kyla, Cary and Tara;

This correspondence is being sent to you as I understand that the financial situation for your parents has deteriorated rapidly over the last few years and that *their assets* which are to be used solely for both their care and well-being are compromised. Please understand that you are all "Co-Attorney's in fact, pursuant to your parent's wishes, and you have an ethical and fiduciary duty to act in their best interests. As such, you all have a duty to ensure that the estate assets are being used not for any personal gain, or personal bills other than bills for your parents care and benefit.

It is my understanding that the 2016 tax return has not been filed at this time and the latest date this is to be filed is October 15, 2016. The accountant, Diane Short will need to be provided the items she requested in her May 25, 2017 email.

This information should be provided no later than September 10, 2017 to the accountant so that no penalties are incurred, or an issue arises wherein the Internal Revenue Service would decide to Audit all of the records. This could seriously harm your parent's financial situation and no one should want that to occur.

Furthermore, I understand that Diane Short, met with you and your parents on May 17, 2017 and advised that you need to keep the bonds intact, as this is Thirty-Thousand Dollars and Zero Cents (\$30,000.00) of tax free income annually which is in jeopardy at this time. My understanding is that the balance owed on the bonds currently is Four Hundred Eighty Thousand Dollars (\$480,000.00) and that the account does not have ample funds for the September 1, 2017 payment. If the payment is not made on time, or cannot be paid the Bonds could be called and the entire amount would have to be paid in full. Thus, the income would be lost and another asset would have to pay the bonds. This is fiscally not a good move and disasterous for tax purposes and cash flow.

Additionally, it is my understanding that the credit card has not been paid and is over fifteen (15) days late, which affects your parents credit; this again is not a situation that should be happening and needs to be remedied.

The accountant has reviewed everything and provided an analysis of what financially needs to be done to ensure that your parents are protected from large tax liability and to ensure they have the funds to pay for necessities and care for the last years of their lives. Diane has advised that the condominium should not be sold or mortgaged at this time, which would result into dire tax consequences due to the cost basis. The house is paid in full and no liens should encumber the home as your parents may need funds in the future from this source and they do not have the means to pay any liens placed on the properties.

It has been advised that the funds in England be immediately brought over to stop the bleeding that is currently occurring in overdrafts and improper budgeting of your PARENT'S funds. It is my understanding the checking account is overdrawn by approximately Three Thousand Dollars (\$3,000.00). The CD should be broken immediately, as the fee to release the funds is minor compared to the disaster that is currently occurring. All funds from Lloyds and Barclay need to be brought over to your parent's accounts in the States. The amount in the Barclay accounts I understand is around Two Hundred and Fifty Thousand Dollars US (\$250,000.00) and Lloyds should be around One Hundred and Fifty Dollars US (\$150,000.00) according to Diane Short's email dated May 30, 2017.

This correspondence is to advise you all that anyone who is grossly negligent and is putting their best interests in front of the care of your parents can be held legally responsible for depletion of the funds meant to care for your parents during their lifetime. Since all of you were appointed jointly to make decisions that were for the good of your parents and further tasked with the responsibility to appoint professionals if you could not manage things responsibly, I suggest you begin doing so. If the above-referenced steps are not taken by September 10, 2017, I believe that action should be taken to appoint a receiver or Guardian over the Estate to ensure that correct decisions are being made and the estate is not depleted further.

HURTIK LAW & ASSOCIATES

August 31, 2017

Page 3 of 3

It is disconcerting to say the least that joint decisions are not being made for the benefit of your parents, my clients are your parents and my sole interest is for their well-being please take the necessary steps together to fix the situation.

Sincerely,

HURTIK LAW & ASSOCIATES

CARRIE E. HURTIK

CARRIE E. HURTIK, ESQ.

EXHIBIT “J”

YOU OVER YOUR OBJECTION, AND HEALTH CARE NECESSARY TO KEEP YOU ALIVE MAY NOT BE STOPPED IF YOU OBJECT.

6. YOU HAVE THE RIGHT TO REVOKE THE APPOINTMENT OF THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THAT PERSON OF THE REVOCATION ORALLY OR IN WRITING.

7. YOU HAVE THE RIGHT TO REVOKE THE AUTHORITY GRANTED TO THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU BY NOTIFYING THE TREATING PHYSICIAN, HOSPITAL, OR OTHER PROVIDER OF HEALTH CARE ORALLY OR IN WRITING.

8. THE PERSON DESIGNATED IN THIS DOCUMENT TO MAKE HEALTH CARE DECISIONS FOR YOU HAS THE RIGHT TO EXAMINE YOUR MEDICAL RECORDS AND TO CONSENT TO THEIR DISCLOSURE UNLESS YOU LIMIT THIS RIGHT IN THIS DOCUMENT.

9. THIS DOCUMENT REVOKES ANY PRIOR DURABLE POWER OF ATTORNEY FOR HEALTH CARE.

10. IF THERE IS ANYTHING IN THIS DOCUMENT THAT YOU DO NOT UNDERSTAND, YOU SHOULD ASK A LAWYER TO EXPLAIN IT TO YOU.

1. **DESIGNATION OF HEALTH CARE AGENT**

I, MAUREEN D. DUCKWORTH, do hereby designate and appoint Designations of Co-Health Care Agents to make decisions together, as follows:

Name	:	TARA E. KASSITY
Address	:	9200 Silverwood Ct. Granite Bay, CA 95746
Telephone	:	(916)716-1424
-AND-		
Name	:	KYLA M. DUCKWORTH
Address	:	930 Via Mil Cumbres #206 Solana Beach, CA 92075
Telephone	:	(760)604-9333
-AND-		
Name	:	CARY J. DUCKWORTH
Address	:	2105 Henniker Way Las Vegas, Nevada 89134
Telephone	:	(702) 265-3660

My co-attorneys-in-fact will jointly make health care decisions for me as authorized in this document.

EXHIBIT “K”

DECLARATION OF TARA KASSITY

1. I, Tara Kassity are one of the three children of Maureen and George Duckworth.
2. I filed a Joinder of the Opposition of my brother, Cary, to Kyla's Petition filed June 10, 2020.
3. I reviewed the Affidavit of Diane Short and agree with her review of the meeting among the family, which is **Exhibit H**.
4. My mother always stated that the English assets would be divided equally between the three children. My mother did not want them to be part of the Trust but instead would just be distributed to the children.
5. My mother stated that she had a Will drawn by the English attorney, however, after her death no such Will could be located. My mother was determined to make sure that my father, George, never got anything from the English assets since she felt that they should only go to the children.
6. I cared for my father when I was in Las Vegas. I had a house in Las Vegas and also one in California. When my mother was moved out by Kyla in January 2018, my brother and I hired care givers to care for my father.
7. I kept the list of drugs for my father. My father had surgery and the doctors gave him pills that affected his memory. After Kyla moved out, I hired a concierge doctor who reduced those pills and after he was on a new regiment, his memory and his condition improved greatly. Kyla even mentioned several times when I bought my dad from Las Ventanas how much my father had improved since she had moved out taking my mother to Las Ventana in January 2018.
8. After my mother's death in June 2018, my father retained a English attorney to Probate my mother's Estate. I assisted my father and kept in contact with the English attorneys.

As far as the First and Second Amendments, I can attest that everything in those Amendments were as 100% my father's wishes. None of those changes were initiated by Cary. My dad had extremely strong feelings and he counted on me to help him which I did.

Cary had nothing to do with the appraisals. I was the one who was involved in the appointment of appraisers at the direction of the accountant, Diane Short. The appraisal took place at the request of the attorney, Ken Burns since he needed an appraisal of the properties that my mother had an interest in for tax purposes.

9. Cary did not engage any of the attorneys to make any of the changes including the Amendments. Kyla has made that assumption, and she is incorrect. I reached out to Carrie Hurtik in early February 2018 at my dad's insistence after my sister tried to sell the bonds without involving my brother or me. This was to despite the fact that the three children had a Power of Attorney for my mother yet, Kyla on her own, decided that no money would be distributed from the English Bank Accounts to assist in the financial support of my parents.

10. My dad confided in me that he wanted Kyla removed from his financial and health care decisions. He told me to call the woman who "took care of all his wishes," Ms. Hurtik. Ms. Hurtik met with him and they discussed the changes and that's why he was making them. At this meeting, he also asked her to help him to change a life insurance policy that my mom was the beneficiary on. He knew my mom was greatly ill and wished to leave the money to his four grandchildren. He asked Ms. Hurtik to facilitate this and she did.

I was the one who contacted Ken Burns not Cary. I informed my dad in November 2018 that Kyla had taken all the money out of mom's Barclays account abroad and had filed a "Caveat." He was so disappointed. A few days later he told me to hire a "grizzly bear" and that he was tired of her shenanigans. I arranged for him meet Ken and he was very comfortable as they had many

friends in common. Dad decided to treat the Barclays monies as an advance. He did not fight with my sister while he was alive. He was trying to keep the peace. I am not aware of how Kyla got on the account as a joint owner as my mother was incapacitated and couldn't dial a phone, write at all and her speech was severely impaired. I haven't discussed this before because the Barclays Bank Account was in my father's Amendment and I felt it was a mute point.

11. My father had been talking about transferring the house to Cary for quite sometime. He asked Ken's advice on how to facilitate this before he passed as he wanted to make sure the house was not sold so his grandkids could live there. There was nothing more important to my father than Cary remaining in the home. He knew I had a house in Las Vegas and in his Amendment he was trying to secure Kyla's home in Vegas as well (1627 Hinson). After my mother's death, we knew Kyla was currently residing in the Hinson house with my aunt who owned the other 50%. My dad was aware my aunt planned on leaving Kyla her 50% portion of Hinson to Kyla after her passing. He was ensuring that she would end up with the home. Despite being disappointed in Kyla, he still wanted to ensure her well being.

12. Kyla's claiming that my father was on drugs that would have affected his mental capacity, however, this took place after my father had stomach surgery in 2014 for about one month following surgery. My comments in the notes in 2018 that were attached as Exhibit were to warn any doctor, unfamiliar with my dad, that he was a "light weight" when it came to meds which at the time he was receiving a lot of pain killers and back to back surgeries that required anesthesia for a hernia and bowel resection in October 2014. I was warning them that if he was given anesthesia or heavy pain killers in an emergency situation like in 2014, that he would have lingering affects of confusion and anxiety as he metabolized them slowly and they lurk in his system. I was not referring to his current state. He was on Memantine and remained on it for the

rest of his life. It was an amazing drug and gave him so much clarity and awareness. The drugs in fact lessened after Kyla left the house in January 2018. When Cary and I hired my dad a concierge doctor that immediately took him off several meds. When I would take my dad to see my mom at the nursing home, even Kyla would tell him how great he looked and how well he was walking.

13. Kyla claims that Carrie Hurtik was not doing her job. Exhibit 26 indicated there was a meeting in 2015 that nothing had been done in the Trust by Jeff Burr or Gamage, however, no one was responding to Carrie and Tara indicated Carrie was prepared to set up a Trust for the English assets whereby the children would each receive 1/3 of the assets. We discovered in 2014 that my parents had never finalized document previously created by other attorneys which would have included Powers of Attorney.

14. Ms. Hurtik asked my mom in early 2015 if she would please provide a copy of the English Will so that she could make sure everything was in line. I believe it was Kyla that was charged with trying to get this document, although it was never produced. In retrospect I should have insisted on getting a copy of the Will abroad and would have realized there was no Will. As stated above, we all thought there was a Will in England. I did mention to Ms. Hurtik that she should consider my mom doing a separate Trust if needed for England. Kyla had self-appointed herself to deal with the English matters. At the time, Cary and I just went with the flow as to not upset my mom and we actually trusted Kyla to handle the English issue. That all changed when she rerouted all of my mom's mail and wouldn't share bank statements, and refused to bring money over for parents' care.

15. While my mother was at Las Ventana, I discovered that they did not have a Power of Attorney for my mother so Kyla had listed herself as the sole contact. Shortly thereafter I

received harassing calls from the financial person at Las Ventana saying my sister referred her for payment for my mom. I contacted Ms. Hurtik who was concerned about the nursing facility was going to delve into my parents' financial records when Kyla could easily pay them with my mom's money. Carrie set up a meeting at her office and Kyla did not show. At my request, Carrie reached out to the director of Las Ventana and set up a patient care meeting with three people. Both Cary and I attended the meeting but Kyla never showed up. I had frequent interaction with my mom and several of the nurses and therapists at Las Ventana. As Kyla knows, I flew down every 7 to 10 for 24-48 hours to visit mom from January 2018 until June 2018 when my mother died.

16. Cary and I requested from Kyla the statements from Bank of America and also the credit card statements on July 11, 2018, but never received those. Furthermore, she never turned over the English bank account statements, rental agent statements, or tax return from England. In addition, Kyla has never provided family items such as photos, and memorabilia from our grandparents on my mom's side. We are missing many of our childhood photos, report cards etc. Many family photos of us growing up are also missing. Kyla provided copies of photos to be included in my parents casket that were clearly taken from the home.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

Executed on September 1, 2020.


Tara Kassity

EXHIBIT “L”



Quality Solicitors Large & Gibson

Kent House
49 Kent Road
Portsmouth
PO5 3EJ

DX 2248 Portsmouth 1

T: 023 92 296296

F: 023 92 826134

E: reception@largeandgibson.co.uk
qualitysolicitors.com/largeandgibson

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 21st 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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Partners:

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Peter M. Dymock LL.B

Associates:

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Ruth Twiney LL.B
Tricia Longmore LL.B (Hons) T.E.P. *
Barry King FCILEx
Emma Denton LL.B (Hons)
Cara Sandillon-Charlton LL.B (Hons)

Licensed Conveyancer:

Olivia Howard LL.B (Hons)

Practice Manager:

Lindy Vinue AMInstLM

www.qualitysolicitors.com

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0430

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

Direct Contact details:

Peter Dymock T: (023) 92 728111 E: peter.dymock@largeandgibson.co.uk

Fran Giles, Legal Assistant E: fran.giles@largeandgibson.co.uk

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>.

Partners:
A.L. WHITE LL.B
A.J. RAFFERTY LL.B
R.N.E. RIXON
K.M. RAFFERTY LL.B

Consultants:
C. INNES (Non-Practising)

Staff Solicitors:
R.M. RAFFERTY LL.B
S. HANAHAN LL.B, LL.M

Chartered Legal Executives:
A.J. McKEE
V. KOVAS LL.B

BRAMSDON & CHILDS

SOLICITORS
COMMISSIONERS FOR OATHS

141 ELM GROVE
SOUTHSEA
PORTSMOUTH
HAMPSHIRE
PO5 1HR

DX: 2224 PORTSMOUTH

TELEPHONE (023) 9282 1251
FAX (023) 9289 3777

www.bramsdonandchilds.com

E-mail: sh@bramsdonandchilds.com

Quality Solicitors Large & Gibson
49 Kent Road
Southsea
Hampshire
PO5 3EJ

Our Ref: SH/SH/20029

Your Ref: PMD/FMG

14 January 2019

Dear Sirs

Estate of the Late Maureen Duckworth
Your Client: ~~Kyla Duckworth~~

We write further to your letter of 11th 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 20th 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

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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 30th 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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A.J.RAFFERTY LL.B
R.N.E.RIXON
K.M.RAFFERTY LL.B

Consultants:
C.INNES (Non-Practising)

Staff Solicitors:
H.M. RAFFERTY LL.B
S.HANDANI LL.B, LL.M

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141 ELM GROVE
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HAMPSHIRE
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PO5 3EJ

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 8th November 2018, and your acknowledgement of 12th 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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Wednesday, 24 July 2019

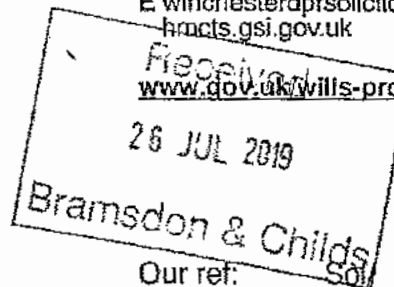
Winchester District Probate Registry
1st Floor
Southside Offices
The Law Courts
Winchester
SO23 9EL

DX 96900 Winchester 2

T 01962 814100

E winchesterdpsolicitorsenquiries@hmcts.gsi.gov.uk

www.gov.uk/wills-probate-inheritance



Our ref: SOL
Your ref: SH/SH/20029

Dear Sirs,

RE: MAUREEN DUCKWORTH deceased

I acknowledge receipt of your letter dated 22nd July 2019.

I have checked our records and the caveat 1562-6771-2396-8672 has been extended and is due to expire on 17th 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 “M”

**FIRST AMENDMENT
TO THE "DUCKWORTH FAMILY TRUST"
(DATED MARCH 12, 2015)
BETWEEN
GEORGE M. DUCKWORTH
(SURVIVING TRUSTOR)
AND
GEORGE M. DUCKWORTH
(SURVIVING TRUSTEE)**

* * *

In exercise of the rights reserved to the Surviving Grantor under ARTICLE ONE, Section 1.08 of the "DUCKWORTH FAMILY TRUST" dated March 12, 2015, I hereby amend said Trust Agreement, effective for all purposes from and after the time of execution of this instrument, in the following respects:

1. I hereby add Section 7.05 to ARTICLE SEVEN as follows:

Section 7.05 United Kingdom Contest

For purposes of the Incontestability provisions of Section 7.02 above, any action commenced in the United Kingdom by a beneficiary of this Trust with respect to property owned there by the deceased Trustor, MAUREEN D. DUCKWORTH, that seeks to have such property (or the proceeds of sale of such property) to be distributed in any manner other than provided for by the intestacy laws of the United Kingdom shall be considered a contest of the provisions of this Trust. Any such action will result in the proponent of such action to no longer be considered a beneficiary of this Trust and shall receive no distribution from this Trust including any distribution of specific assets provided for herein.

2. I hereby revise Section 9.01 of ARTICLE NINE to read as follows:

Section 9.01 Trustees.

All Trustees are to serve without bond. The following will act as Trustees of any Trusts created by this Trust Agreement, in the following order of succession:

- First: The undersigned, GEORGE M. DUCKWORTH, the surviving Trustee;
- Second: At the death, incapacity or resignation of GEORGE M. DUCKWORTH, CARY J. DUCKWORTH as my Successor Trustee;
- Third: If Cary J. Duckworth should be unable or unwilling to act or to continue to act as Successor Trustee, then TARA E. KASSITY shall act as Second Successor Trustee;
- Fourth: If Tara E. Kassity should be unable or unwilling to act or to continue to act as Successor Trustee, then KYLA M. DUCKWORTH shall act as Third Successor Trustee;

3. I hereby revise Section 9.03 of ARTICLE NINE to read as follows:

Section 9.03 Personal Property Distribution

Notwithstanding any provision of this Trust Agreement to the contrary, the Trustee must abide by any memorandum by the Trustor, particularly that contained in the section entitled "Special Directives" incorporated into this Trust Instrument, directing the disposition of Trust Assets of every kind, including, but not limited to, furniture, appliances, furnishings, pictures, artwork, china, silverware, glass, books, jewelry, wearing apparel, and all policies of fire, burglary, property damage, and other insurance on or in connection with the use of this property.

Any other personal and household effects of Trustor shall be distributed as my Successor Trustee shall determine in his or her absolute discretion, the exercise of which shall not be subject to review or, in the alternative, if there is any attempt to challenge the exercise of such discretion, all items of personal property not disposed of by a memorandum shall be distributed to CARY J. DUCKWORTH, if living or, if not living, to TARA E. KASSITY.

4. I hereby revise the Special Directives of George M. Duckworth to read as follows:

**SPECIAL DIRECTIVES
OF
GEORGE M. DUCKWORTH**

I, GEORGE M. DUCKWORTH, a resident of Clark County, State of Nevada, being of lawful age, sound and disposing mind and memory, and not acting under duress, fraud or undue influence, hereby make, publish and declare this to be my Special Directive, and I incorporate this into THE DUCKWORTH FAMILY TRUST.

FIRST

I declare that the natural objects of my affection are:

- 1) My daughter - TARA ELYZE KASSITY;
- 2) My daughter - KYLA MICHELE DUCKWORTH; and
- 3) My son - CARY JAY DUCKWORTH.

All references in this agreement to "my children" are references to these children. References to "my descendants" are to my children and their descendants. I specifically omit Diane Varney and any of her "issue," including but not limited to Shane P. Varney and Beau J. Varney, from receiving any assets from my estate.

SECOND

I direct that all estate and inheritance taxes payable as a result of my death, not limited to taxes assessed on property, shall be paid out of the residue of my Estate, and shall not be deducted or collected from any Legatee, Devisee or Beneficiary hereunder.

THIRD

My late wife MAUREEN and I both desired to treat our children equally and provided for our son to receive the sum of Three Hundred Thousand Dollars (\$300,000) to compensate for inheritance received by our two (2) daughters from their grandmother, EVELYN RICH, since our son was not born at the time her provisions were made and he did not share in the inheritance from his grandmother. I intend to transfer my residence at 1829 Corta Bella Drive, Las Vegas, Nevada 89134 to CARY J. DUCKWORTH contemporaneous with the execution of this amendment. The residence was appraised at a fair market value of \$598,000 as of June 16, 2018. For purposes of this distribution to CARY, he shall be considered to have received a distribution of 80% of the fair market value to account for selling costs, etc., for a total distribution of \$478,400 to CARY with \$300,000 to be treated as the equalizing distribution for our daughters receiving the inheritance from their grandmother and \$178,400 shall be treated as an advancement of his one-third distribution of the residuary estate. Further, it is my intent to give all

household furnishings to CARY contemporaneous with the transfer of the residence, but the transfer of such furnishings shall not be considered an advancement and his share shall not be reduced by the value of such items.

FOURTH

My daughter KYLA is to receive the one-half interest in the residence located at 1627 Hinson Street, Las Vegas, NV 89102, (in which this Trust has a 50% interest) which was appraised of a total value of \$360,000 on June 16, 2018, with the trust's one-half interest being \$180,000. For purposes of the distribution to KYLA will be valued at 80% of the fair market value with a resulting value for distribution purposes of \$144,000 and to be part of her one-third distribution of the residuary estate.

Further, KYLA was made a co-signatory on certain bank or financial accounts in the United Kingdom belonging as separate property of my late wife, MAUREEN. To the extent these accounts were transferred to KYLA following MAUREEN's death, such amounts shall be treated as an advancement toward her one-third share of the residuary. KYLA will need to provide the Trustee with account balance received by her and the failure of KYLA to provide evidence through account statements or other documentation, KYLA will be treated as having received an advancement of \$350,000 from the account in the United Kingdom.

Further, the accounts that KYLA receives in the United Kingdom may be subject to estate, death or inheritance taxes in the United Kingdom and any such tax required to be paid by MAUREEN's estate in the United Kingdom with respect to those accounts shall be considered an advancement toward her one-third share of the residuary.

FIFTH

5.1 Upon my death (my wife having predeceased me) and subject to accounting for the advancements set forth above and the distribution of the two properties to CARY and KYLA, the remainder of my estate shall be split equally between my three children:

TARA ELYZE KASSITY
KYLA MICHELE DUCKWORTH
CARY JAY DUCKWORTH

Subject, however, to the Incontestability provisions of Sections 7.02 and 7.05, the violation of which shall eliminate such beneficiary from sharing in this Trust.

- a) If a child or grandchild is not named they shall receive nothing from my estate. My grandchildren are as follows:

OLIVIA DUCKWORTH
ASHLEY DUCKWORTH
LAUREN KASSITY
CHASE KASSITY

- b) Should TARA ELYZE KASSITY predecease me then TARA ELYZE KASSITY's share of my estate shall pass equally to my grandchildren as listed below. If a child or grandchild is not named they shall receive nothing from TARA ELYZE KASSITY's share of my estate.

LAUREN KASSITY
CHASE KASSITY

- c) Should KYLA MICHELE DUCKWORTH predecease me then KYLA MICHELE DUCKWORTH's portion of my estate shall pass to my grandchildren as listed below. If a child or grandchild is not named they shall receive nothing from KYLA MICHELE DUCKWORTH's portion of my estate.

OLIVIA DUCKWORTH
ASHLEY DUCKWORTH
LAUREN KASSITY
CHASE KASSITY

- d) Should CARY JAY DUCKWORTH predecease me then CARY JAY DUCKWORTH's portion of my estate shall pass equally to my grandchildren as listed below. If a child or grandchild is not named they shall receive nothing from CARY JAY DUCKWORTH's portion of my estate.

OLIVIA DUCKWORTH
ASHLEY DUCKWORTH

- e) The inheritance that these grandchildren receive will be managed by RACHEL L. SHELSTAD, who shall be appointed as Trustee of the "grandchildren's trust" should their parents predecease me. The grandchildren shall not receive any inheritance until they attain the age of twenty-five years (25) old.

...

...

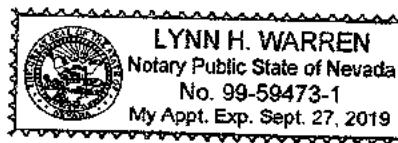
IN WITNESS WHEREOF, the Surviving Trustor and the Surviving Trustees has
executed this First Amendment to the Trust Agreement on this 23rd day of
January, 2019.

George M. Duckworth
GEORGE M. DUCKWORTH, Surviving
Trustor & Surviving Trustee

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

On January 23, 2019, before me, the undersigned, a Notary Public
in and for said County and State, personally appeared GEORGE M. DUCKWORTH,
known to me to be the person whose name is subscribed to the within instrument, and
acknowledged to me that he executed the same.

Lynn H. Warren
Notary Public in and for said County and
State



**SECOND AMENDMENT
TO THE “DUCKWORTH FAMILY TRUST”
(DATED MARCH 12, 2015)
BETWEEN
GEORGE M. DUCKWORTH
(SURVIVING TRUSTOR)
AND
GEORGE M. DUCKWORTH
(SURVIVING TRUSTEE)**

* * *

In exercise of the rights reserved to the Surviving Grantor under ARTICLE ONE, Section 1.08 of the “DUCKWORTH FAMILY TRUST” dated March 12, 2015, I hereby amend said Trust Agreement, effective for all purposes from and after the time of execution of this instrument, in the following respects:

1. I hereby revise the Fourth Special Directive of George M. Duckworth to read as follows:

FOURTH

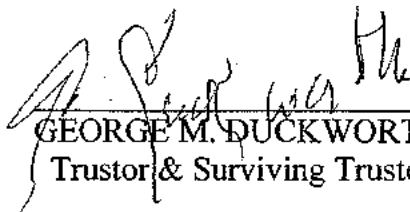
My daughter KYLA is to receive the one-half interest in the residence located at 1627 Hinson Street, Las Vegas, NV 89102, (in which this Trust has a 50% interest) which was appraised of a total value of \$360,000 on June 16, 2018, with the trust’s one-half interest being \$180,000. For purposes of the distribution to KYLA will be valued at 80% of the fair market value with a resulting value for distribution purposes of \$144,000 and to be part of her one-third distribution of the residuary estate.

Further, KYLA was made a co-signatory on certain bank or financial accounts in the United Kingdom and/or in the Isle of Man, a British Crown dependency, belonging as

separate property of my late wife, MAUREEN. To the extent these accounts, or any other financial accounts wherever located held by MAUREEN with KYLA as a co-signatory or jointly, were transferred to KYLA following MAUREEN's death, such amounts shall be treated as an advancement toward her one-third share of the residuary. KYLA will need to provide the Trustee with account balance received by her and the failure of KYLA to provide evidence through account statements or other documentation, KYLA will be treated as having received an advancement of \$350,000 from the account in the United Kingdom.

Further, the accounts that KYLA receives in the United Kingdom or elsewhere may be subject to estate, death or inheritance taxes in the United Kingdom or elsewhere and any such tax required to be paid by MAUREEN's estate in the United Kingdom or elsewhere with respect to those accounts shall be considered an advancement toward her one-third share of the residuary.

IN WITNESS WHEREOF, the Surviving Trustor and the Surviving Trustees has executed this Second Amendment to the Trust Agreement on this 20th day of MARCH, 2019.

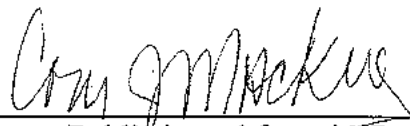


GEORGE M. DUCKWORTH, Surviving
Trustor & Surviving Trustee

STATE OF NEVADA)
) ss:
COUNTY OF CLARK)

On March 20th, 2019, before me, the undersigned, a Notary Public in and for said County and State, personally appeared GEORGE M. DUCKWORTH, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.





Notary Public in and for said County and
State

EXHIBIT “N”

KOLESAR & LEATHAM

ATTORNEYS AT LAW

400 SOUTH RAMPART BLVD., SUITE 400

LAS VEGAS, NEVADA 89145

702.362.7800

knevada.com

August 14, 2019

VIA EMAIL

Peter Dymock, Esq.
QUALITY SOLICITORS LARGE & GIBSON
Kent House
49 Kent Road
Portsmouth
PO8 3EJ

Re: The Estate of the Late Maureen Daphne Duckworth
Our Client: George M. Duckworth

Dear Sirs:

Our firm represents George M. Duckworth, father of your client, with respect to his trust and estate within the United States. We understand that you have filed (and renewed) a caveat on behalf of your client, Kyla Michele Duckworth, which prevents the intestate administration of Maureen Duckworth's estate in the United Kingdom. We are providing this information so that Kyla Duckworth is on notice of the consequences of her actions.

We are instructing our Solicitors, Bramsdon & Childs, to file a warning off on or about August 22, 2019, and it is our understanding that your client will have seven (7) days to respond to prevent the removal of the caveat. We wish to inform your client that her responding to prevent the caveat from being removed will be construed as a "contest" of the Duckworth Family Trust in the United States and will result in her being eliminated as a beneficiary of said trust.

We are enclosing a copy of the First Amendment to the Duckworth Family Trust from which provisions which do not apply to Kyla Duckworth have been redacted. A Section 7.05 United Kingdom Contest has been added to the terms of the trust to provide that any attempt to have Maureen's UK property distributed other than in the manner provided for by the intestacy laws of the United Kingdom shall be considered a contest of the trust and such proponent shall no longer be a beneficiary of the trust.

Other provisions of the first amendment include a specific bequest to Kyla of the trust's fifty percent (50%) interest in a residence at 1627 Hinson Street, which shall be valued for credit against her share based upon the appraised value at the time of her mother's death, with an allowance for a twenty percent (20%) discount of illiquidity. The amendment further provides that Kyla's one-third share shall be reduced by any funds from accounts of her mother over which

Peter Dymock, Esq.
QUALITY SOLICITORS LARGE & GIBSON
Page 2
August 14, 2019

KOLESAR & LEATHAM
ATTORNEYS AT LAW

Kyla had signature authority and that she received or withdrew after her mother's death. The amendment provides that if Kyla is not forthcoming with account statements her one-third share shall be reduced by \$350,000. A second amendment is also attached and its sole purpose was to clarify that the financial account referred to would include any held in the Isle of Man or elsewhere.

The contents of this letter and the attachments are specifically provided for the purpose of giving Kyla Duckworth notice that continuing her opposition to an orderly disposition of Maureen Duckworth's estate in the UK under the laws of intestacy shall eliminate her as a beneficiary in the U.S. While the filing of the caveat originally may be grounds to consider it a contest, the courts in the U.S. are reluctant to enforce "no contest" provisions if a potential beneficiary has no notice of such provisions. Any actions by Kyla Duckworth after this letter has been transmitted shall be considered to be actions taken to contest the trust and she will no longer be a beneficiary of the Duckworth Family Trust.

Since your firm is not licensed to practice in the State of Nevada where the trust is located, we are forwarding a copy of the letter and attachments to Kyla Duckworth at addresses known to my client that Kyla has used in the recent past.

Very truly yours,

KOLESAR & LEATHAM



Kenneth A. Burns, Esq.

KAB/chk
Enclosures
cc: Ms. Kyla Duckworth (with Enclosures)

Nancy Taylor

From: Kenneth A. Burns
Sent: Wednesday, August 14, 2019 2:48 PM
To: SH@bramsdonandchilds.com
Cc: Tara kassity; caryduckworth@icloud.com
Subject: The Estate of the Late Maureen Daphne Duckworth
Attachments: 3204672_PDF - Ltr to Dymock.pdf; Redacted 1st Amendment.pdf; 2nd Amendment.pdf

Dear Mr. Handani:

I represent George Duckworth, the husband of the late Maureen Duckworth, in his estate planning in Nevada. It has been requested that I provide notice to Kyla Duckworth that her actions in the UK may have an adverse effect on her inheritance in the US. I am enclosing my letter to her Solicitor in the UK, along with the attachments that reflect changes to Mr. Duckworth's estate plan.

Kyla Duckworth is a one-third beneficiary of Mr. Duckworth's estate, however he added provisions that specifically applied to proceedings in the UK regarding Maureen Duckworth's estate. In particular, he has provided that a continuation of proceedings in the UK that attempts to have Maureen Duckworth's estate distributed other than in accordance with intestacy laws will be considered a contest of his estate plan which will eliminate Kyla as a beneficiary of his estate.

Her solicitor has been provided with notice that any attempt to contest the warning off on the caveat will be considered such an action. I stated in the letter that a warning off would be filed on or about August 22. That would give Kyla and her solicitor a week's notice prior to the filing of the warning off which I believe to be sufficient. If you have any questions or concerns, please do not hesitate to contact me.

Kenneth A. Burns, Esq.

Shareholder



ATTORNEYS AT LAW

Office: 702.362.7800 Cell: 702.769.0600

Web: www.klnevada.com Bio: [Attorney Bio](#)

400 S. Rampart Blvd. | Suite 400 | Las Vegas | NV 89145

This communication (including any attachments) is not intended or written to be used, and it cannot be used, for the purpose of avoiding tax penalties that may be imposed on the taxpayer.

This transmission is intended only for the use of the addressee and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, any use of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately.

EXHIBIT “O”

**FIRST CODICIL TO
LAST WILL AND TESTAMENT
OF
GEORGE M. DUCKWORTH
DATED FEBRUARY 5, 2018**

I declare that I am a resident of and domiciled in the State of Nevada, and do hereby make, publish, and declare this to be the First Codicil to my Last Will and Testament executed February 5, 2018, which I hereby amend in the following respects:

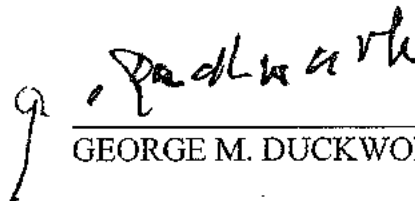
ARTICLE TWO

Fiduciaries

I nominate CARY J. DUCKWORTH, as Executor of my Will. If he shall fail to qualify or shall cease to act, TARA E. KASSITY shall act as my Executor.

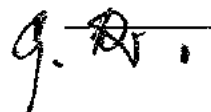
The term "my Executor" as used in this Last Will and Testament shall include any personal representative of my estate and all named Executors shall serve without bond being required.

I HAVE EXECUTED this instrument on the 23rd day of JANUARY, 2019.



GEORGE M. DUCKWORTH, Testator



SELF-PROVING DECLARATION

Under penalty of perjury pursuant to the law of the State of Nevada, the undersigned, KENNETH A. BURNS and Lynn H. Warren, declare that the following is true of their own knowledge:

That they witnessed the execution of the foregoing First Codicil to the Last Will and Testament of the Testator, GEORGE M. DUCKWORTH; and

that the Testator subscribed the Last Will and Testament and declared it to be the First Codicil to his Last Will and Testament in their presence; and

that they thereafter subscribed the Last Will and Testament as witnesses in the presence of the Testator and in the presence of each other and at the request of the Testator; and

that the Testator, at the time of the execution of the will, appeared to them to be of full age and of sound mind and memory.

Dated this 23rd day of JANUARY, 2018.

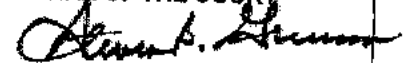
Kenneth A. Burns
Witness

Lynn H. Warren
Witness

AB lw

George M. Duckworth

EXHIBIT “P”



1 **IRV**
KENNETH A. BURNS, ESQ.
2 Nevada Bar No. 003689
KOLESAR & LEATHAM
3 400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
4 Telephone: (702) 362-7800
Facsimile: (702) 362-9472
5 E-Mail: kburns@klnevada.com

6 Attorney for Personal Representative
7 **CARY J. DUCKWORTH**

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 * * *

11 In the Matter of the Estate of

CASE NO. P-19-101561-E

12 **GEORGE M. DUCKWORTH,**

13 Deceased.

14
15 **INVENTORY AND RECORD OF VALUE**

16 STATE OF NEVADA

17 COUNTY OF CLARK

}
} ss:
}

18 I, CARY J. DUCKWORTH, Personal Representative of the estate of GEORGE M.
19 DUCKWORTH, Deceased, do solemnly swear that the accompanying Inventory and
20 Appraisalment and Record of Value contains a true statement of all of the assets of the estate of the
21 above-named Decedent which have come into my possession or knowledge and of its value as of
22 November 16, 2019, the date of death of the Decedent, as determined by appraisers engaged by the
23 Personal Representative for assets as to which there is reasonable doubt as to value, and as
24 determined from the Record of Value of the Personal Representative for assets as to which there is
25 no reasonable doubt as to value, and particularly of all monies belonging to the Decedent. There


26 ...

27 ...

28 ...

KOLESAR & LEATHAM
406 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

were no just claims of the Decedent against the Personal Representative as of date of death. All property listed in this inventory is the sole and separate property of the Decedent.



CARY J. DUCKWORTH, Personal Representative

SUBSCRIBED AND AFFIRMED to before me this 4th day of February, 2020.


NOTARY PUBLIC

INVENTORY

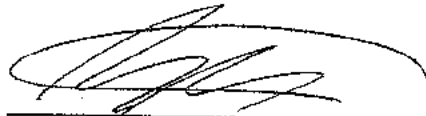
	Gross Asset Value	Amount of Encumbrance	Estate's Interest*	Value of Estate's Interest
A. REAL PROPERTY				
Description - Item				
1.				
2.				
B. PERSONAL PROPERTY				
Cash and Deposits (List)				
3.				
PARTNERSHIP INTERESTS, ETC.				
(Describe)				
4.				
NOTES, BONDS, SECURITIES, DEBTS, ETC. (List Name & Address of Debtor, Date Debt Originated, Endorsements w/Date, Estimate as to Amount Collectible)				
5.				
VEHICLES (Describe)				
6.				
MISC. PERSONAL PROPERTY (DESCRIBE)				
7. Estimated Distribution from the Estate of Maureen Duckworth in the United Kingdom	\$300,000.00+	0.00	100%	\$300,000.00 +
TOTAL VALUE OF ESTATE	\$300,000.00+	0.0		\$300,000.00+

*Designate Nature of Estate's Interest & % of Ownership; (C) Community; (S) Separate; i.e., 50% (C) or (S)
Must attach proof of value of all assets.

KOLESAR & LEATHAM
400 South Rampart Boulevard, Suite 400
Las Vegas, Nevada 89145
Tel: (702) 362-7800 / Fax: (702) 362-9472

RECORD OF VALUE

I, CARY J. DUCKWORTH, Personal Representative of the Estate of GEORGE M. DUCKWORTH, Deceased, hereby certify that the property described in Item Nos. 1-7 of the foregoing Inventory is property where there is no reasonable doubt as to value and is equal in value to money in the amount set opposite the respective items, and that the value of the whole of the inventoried estate of the Decedent as recorded is the total sum of.



CARY J. DUCKWORTH, Personal
Representative

STATE OF NEVADA)

COUNTY OF CLARK)

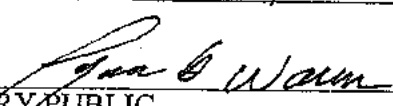
ss:

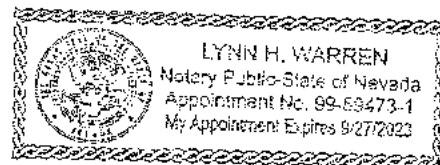
CARY J. DUCKWORTH, being first duly sworn, hereby swears under penalty of perjury that the assertions of this verification are true: That I am the Personal Representative of the estate of GEORGE M. DUCKWORTH, Deceased; that I have read the foregoing Record of Value and know the contents thereof; that the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to those matters, I believe them to be true.



CARY J. DUCKWORTH, Personal
Representative

SUBSCRIBED AND AFFIRMED to before me
this 4th day of February, 2020.


NOTARY PUBLIC



In the Matter of the Estate of George M. Duckworth/P-19-101561-E
Inventory and Record of Value

EXHIBIT “Q”



**JERIMY
KIRSCHNER**
— & ASSOCIATES PLLC

JERIMY L. KIRSCHNER, ESQ.
Admitted in Nevada and Washington

September 12, 2019

Sent Via Certified Mail/Email: info@klnevada.com

Kolesar & Leatham
400 S Rampart Blvd, #400
Las Vegas, NV 89145

Re: The Estate of the Late Maureen Daphne Duckworth

To whom it may concern,

Please be advised that our office represents Kyla Duckworth and we have been retained to assist in the matter of The Estate of the Late Maureen Daphne Duckworth. We request that you send all future correspondence directed to Ms. Duckworth to our office.

Sincerely,


JERIMY KIRSCHNER, ESQ.

JLK/sjm

5550 Painted Mirage Rd, Suite 320
Las Vegas, NV 89149
(702) 563-4444 Fax (702) 563-4445

www.JKirschnerLaw.com

2302 S Union Ave, C-30
Tacoma, WA 98405
(253) 240-4444 Fax (206) 538-0068

EXHIBIT “R”

**APPRAISAL REPORT
OF**



1829 CORTA BELLA DR
LAS VEGAS, NV 89134

PREPARED FOR

DUCKWORTH FAMILY TRUST
1829 CORTA BELLA DR LAS VEGAS
NV, 89134

AS OF

10/09/2018

PREPARED BY

OAKES APPRAISAL
2451 N. RAINBOW BLVD. UNIT # 1043
LAS VEGAS, NV 89108

INVOICE

OAKES APPRAISAL
2451 N. RAINBOW BLVD. UNIT # 1043
LAS VEGAS, NV 89108

Date: 10/14/2018

Lender
or Client: DUCKWORTH FAMILY TRUST
1829 CORTA BELLA DR LAS VEGAS
NV, 89134

File No.: 18-1829COR-PRI
Case No.

Borrower:
Property: 1829 CORTA BELLA DR
LAS VEGAS, NV 89134

Item	Cost
ONE APPRAISAL REPORT	\$450.00
THANK YOU VERY MUCH FOR YOUR BUSINESS PAID WITH CHECK 10/09/2018	-\$450
PLEASE MAKE PAYABLE TO: MICHAEL OAKES	
Total \$	0.00

Thank you

LETTER OF ENGAGEMENT

Date: Oct.04, 2018To: MICHAEL OAKESFrom: PAT VAN HOLTON FOR DUCKWORTH FAMILY TRUSTThe lender/client is requesting you perform an appraisal on: 1829 CORTA BELLA DR. LAS VEGAS, NV 89134

Scope of work to be performed:

THE VALUATION OF THE SUBJECT PROPERTY HAS INVOLVED A PHYSICAL INSPECTION (BOTH INTERIOR AND EXTERIOR) OF THE PROPERTY UNDER APPRAISEMENT. ALTHOUGH DUE DILIGENCE WAS EXERCISED WHILE AT THE SUBJECT PROPERTY, THE APPRAISER IS NOT AN EXPERT IN SUCH MATTERS AS PEST CONTROL, STRUCTURAL ENGINEERING, HAZARDOUS WASTE, ETC., AND ACCORDINGLY, NO WARRANT IS GIVEN TO THESE ELEMENTS. ADDITIONALLY, DATA RELATING TO SALES, RENTALS, COSTS, HIGHEST AND BEST USE, ZONING, ETC. HAS BEEN ASSEMBLED, ANALYZED, AND RECONCILED INTO A SUPPORTABLE ESTIMATE OF VALUE.

EVERY EFFORT HAS BEEN MADE TO CONFORM TO FNMA, FHLMC, FIRREA, AND USPAP GUIDELINES AND IN MOST CASES, AN EVEN STRICTER INTERPRETATION FOUND COMMON TO MOST INVESTORS IN THE SECONDARY MARKET. THE COMMENTS IN THIS ADDENDUM ARE INTENDED TO EXPAND ON WHAT THE APPRAISER FEELS ARE THE AREAS OF MOST CONCERN TO MORTGAGE INVESTORS IN UNDERWRITING AND APPRAISAL REPORTS. THE EXPANDED NARRATIVE ALLOWS THE APPRAISER TO PROVIDE ADDITIONAL COMMENTS WHERE SUFFICIENT SPACE IS NOT AVAILABLE ON THE APPRAISAL FORM. THE MARKET HAS BEEN THOROUGHLY SEARCHED AND THE SALES REPORTED ARE IN THE APPRAISER'S OPINION THE BEST AVAILABLE THAT PROPERLY WEIGH THE MAJOR ELEMENTS OF COMPARISON.

SHOULD ANY ERROR OR OMISSION BE SUBSEQUENTLY FOUND WITHIN THIS REPORT, WE RESERVE THE RIGHT TO AMEND AND/OR CORRECT IT.

ADEQUACY OF SCOPE:

THE APPRAISER HAS PROPOSED AND THE CLIENT HAS AGREED (PRIOR TO SUBMISSION) THAT THE LEVEL OF DEVELOPMENT AND REPORTING DETAILED ABOVE IS SUFFICIENT TO ADDRESS THE SUBSTANTIATIVE CRITERIA OF A REASONABLE SCOPE OF WORK WITHIN THE CONTEXT OF THE INTENDED USER AND INTENDED USE WITH THE EXCEPTION OF REVISIONS MADE FOR THE PURPOSE OF CORRECTION OF ANY ERRORS, THE APPRAISER DOES NOT ANTICIPATE FURTHER DEVELOPMENT OR REPORTING REQUIREMENTS FOR THIS ASSIGNMENT. ANY ADDITIONAL REQUESTS FROM THE CLIENT OR ANY THIRD PARTIES MAY REPRESENT A CHANGE IN THE ASSIGNMENT CONDITIONS AND REQUIRE THE DEVELOPMENT OF A NEW ASSIGNMENT. THEREFORE, ANY ADDITIONAL REQUESTS MUST BE MADE IN WRITING AND MAY BE SUBJECT TO ADDITIONAL BILLING.

Intended Use: THE APPRAISAL WILL BE USED FOR THE FEDERAL TAX RETURNS FOR DUCKWORTH FAMILY TRUST TO ESTABLISH APPROPRIATE DEPRECIATION PER FANNIE MAE'S DEFINITION OF MARKET VALUE. THIS IS TO HAVE A HISTORICAL EFFECTIVE DATE OF JUNE 16, 2018. THIS APPRAISAL HAS NO OTHER USE.

Intended User: DUCKWORTH FAMILY TRUST

I have read the requirements as they pertain to performing this appraisal and agree to perform the appraisal within the guidelines outlined.

Appraisal Firm: OAKES APPRAISALBy: 
MICHAEL F. OAKES

10/14/2018

DUCKWORTH FAMILY TRUST
1829 CORTA BELLA DR LAS VEGAS
NV, 89134

File Number: 18-1829COR-PRI

Dear PAT VAN HOLTON

In accordance with your request, I have personally inspected and appraised the real property at:

1829 CORTA BELLA DR
LAS VEGAS, NV 89134


The purpose of this appraisal is to estimate the market value of the subject property, as improved. The property rights appraised are the fee simple interest in the site and improvements.

In my opinion, the estimated market value of the property as of 10/09/2018 is:\$ 598,000

Five Hundred and Ninety-Eight Thousand Dollars

The attached report contains the description, analysis and supportive data for the conclusions, final estimate of value, descriptive photographs, limiting conditions and appropriate certifications.

Respectfully submitted,

Signature: 

MICHAEL F. OAKES

OAKES APPRAISAL

APPRAISER CERTIFICATE

STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY

NOT TRANSFERABLE

REAL ESTATE DIVISION

NOT TRANSFERABLE

This is to Certify That: **MICHAEL F OAKES**Certificate Number: **A-0002974-CR**

Is duly authorized to act as a **CERTIFIED RESIDENTIAL APPRAISER** from the issue date to the expiration date of the business address stated here in, unless the certificate is sooner revoked, cancelled, withdrawn, or invalidated.

Issue Date: **June 5, 2018**Expire Date: **June 30, 2020**

In witness whereof, THE DEPARTMENT OF BUSINESS AND INDUSTRY, REAL ESTATE DIVISION, by virtue of the authority vested in it by Chapter 645C of the Nevada Revised Statutes, has caused this Certificate to be issued with its Seal printed thereon. This certificate must be conspicuously displayed in place of business.

FOR: **MICHAEL F OAKES**
2451 N RAINBOW BLVD #1043
LAS VEGAS, NV 89168

REAL ESTATE DIVISION

SHARATH CHANDRA
Administrator

**APPRAISAL REPORT
OF**



1627 HINSON ST
LAS VEGAS, NV 89102

PREPARED FOR

DUCKWORTH FAMILY TRUST
1829 CORTA BELLA DR LAS VEGAS
NV, 89134

AS OF

06/16/2018

PREPARED BY

OAKES APPRAISAL
2451 N. RAINBOW BLVD. UNIT # 1043
LAS VEGAS, NV 89108

INVOICE

OAKES APPRAISAL
2451 N. RAINBOW BLVD. UNIT # 1043
LAS VEGAS, NV 89108

Date: 10/21/2018

Lender
or Client: DUCKWORTH FAMILY TRUST
1829 CORTA BELLA DR LAS VEGAS
NV, 89134

File No.: 18-1627HIN-PRI
Case No.

Borrower:
Property: 1627 HINSON ST
LAS VEGAS, NV 89102

Item	Cost
ONE APPRAISAL REPORT	\$450.00

THANK YOU VERY MUCH FOR YOUR BUSINESS

PLEASE MAKE PAYABLE TO: MICHAEL OAKES

PAID IN FULL CHECK # 1099 - \$450

Total \$ 0.00

Thank you

LETTER OF ENGAGEMENT

Date: Oct. 4, 2018To: MICHAEL OAKESFrom: PAT VAN HOLTON FOR DUCKWORTH FAMILY TRUSTThe lender/client is requesting you perform an appraisal on: 1627 HINSON ST, LAS VEGAS, NV 89102

Scope of work to be performed:

THE VALUATION OF THE SUBJECT PROPERTY HAS INVOLVED A PHYSICAL INSPECTION (BOTH INTERIOR AND EXTERIOR) OF THE PROPERTY UNDER APPRAISEMENT. ALTHOUGH DUE DILIGENCE WAS EXERCISED WHILE AT THE SUBJECT PROPERTY, THE APPRAISER IS NOT AN EXPERT IN SUCH MATTERS AS PEST CONTROL, STRUCTURAL ENGINEERING, HAZARDOUS WASTE, ETC., AND ACCORDINGLY, NO WARRANTY IS GIVEN TO THESE ELEMENTS. ADDITIONALLY, DATA RELATING TO SALES, RENTALS, COSTS, HIGHEST AND BEST USE, ZONING, ETC. HAS BEEN ASSEMBLED, ANALYZED, AND RECONCILED INTO A SUPPORTABLE ESTIMATE OF VALUE.

EVERY EFFORT HAS BEEN MADE TO CONFORM TO FNMA, FHLMC, FIRREA, AND USPAP GUIDELINES AND IN MOST CASES, AN EVEN STRICTER INTERPRETATION FOUND COMMON TO MOST INVESTORS IN THE SECONDARY MARKET. THE COMMENTS IN THIS ADDENDUM ARE INTENDED TO EXPAND ON WHAT THE APPRAISER FEELS ARE THE AREAS OF MOST CONCERN TO MORTGAGE INVESTORS IN UNDERWRITING AND APPRAISAL REPORTS. THE EXPANDED NARRATIVE ALLOWS THE APPRAISER TO PROVIDE ADDITIONAL COMMENTS WHERE SUFFICIENT SPACE IS NOT AVAILABLE ON THE APPRAISAL FORM. THE MARKET HAS BEEN THOROUGHLY SEARCHED AND THE SALES REPORTED ARE IN THE APPRAISER'S OPINION THE BEST AVAILABLE THAT PROPERLY WEIGH THE MAJOR ELEMENTS OF COMPARISON.

SHOULD ANY ERROR OR OMISSION BE SUBSEQUENTLY FOUND WITHIN THIS REPORT, WE RESERVE THE RIGHT TO AMEND AND/OR CORRECT IT.


ADEQUACY OF SCOPE:

THE APPRAISER HAS PROPOSED AND THE CLIENT HAS AGREED (PRIOR TO SUBMISSION) THAT THE LEVEL OF DEVELOPMENT AND REPORTING DETAILED ABOVE IS SUFFICIENT TO ADDRESS THE SUBSTANTIATIVE CRITERIA OF A REASONABLE SCOPE OF WORK WITHIN THE CONTEXT OF THE INTENDED USER AND INTENDED USE WITH THE EXCEPTION OF REVISIONS MADE FOR THE PURPOSE OF CORRECTION OF ANY ERRORS, THE APPRAISER DOES NOT ANTICIPATE FURTHER DEVELOPMENT OR REPORTING REQUIREMENTS FOR THIS ASSIGNMENT. ANY ADDITIONAL REQUESTS FROM THE CLIENT OR ANY THIRD PARTIES MAY REPRESENT A CHANGE IN THE ASSIGNMENT CONDITIONS AND REQUIRE THE DEVELOPMENT OF A NEW ASSIGNMENT. THEREFORE, ANY ADDITIONAL REQUESTS MUST BE MADE IN WRITING AND MAY BE SUBJECT TO ADDITIONAL BILLING.

Intended Use: THE APPRAISAL WILL BE USED FOR THE FEDERAL TAX RETURNS FOR DUCKWORTH FAMILY TRUST TO ESTABLISH APPROPRIATE DEPRECIATION PER FANNIE MAE'S DEFINITION OF MARKET VALUE. THIS IS TO HAVE A HISTORICAL EFFECTIVE DATE OF JUNE 16, 2018. THIS APPRAISAL HAS NO OTHER USE.

Intended User: DUCKWORTH FAMILY TRUST

I have read the requirements as they pertain to performing this appraisal and agree to perform the appraisal within the guidelines outlined.

Appraisal Firm: OAKES APPRAISALBy: 
MICHAEL F. OAKES

10/21/2018

DUCKWORTH FAMILY TRUST
1829 CORTA BELLA DR LAS VEGAS
NV, 89134

File Number: 18-1627HIN-PRI

Dear PAT VAN HOLTON

In accordance with your request, I have personally inspected and appraised the real property at:

1627 HINSON ST
LAS VEGAS, NV 89102


The purpose of this appraisal is to estimate the market value of the subject property, as improved. The property rights appraised are the fee simple interest in the site and improvements.

In my opinion, the estimated market value of the property as of 06/16/2018 is:\$ 360,000

Three Hundred and Sixty Thousand Dollars

The attached report contains the description, analysis and supportive data for the conclusions, final estimate of value, descriptive photographs, limiting conditions and appropriate certifications.

Respectfully submitted,

Signature: 

MICHAEL F. OAKES

OAKES APPRAISAL

APPRAISER CERTIFICATE**STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY****NOT TRANSFERABLE****REAL ESTATE DIVISION****NOT TRANSFERABLE****This is to Certify That: MICHAEL F OAKES****Certificate Number: A-0002974-CR**

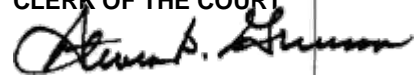
Is duly authorized to act as a **CERTIFIED RESIDENTIAL APPRAISER** from the issue date to the expiration date at the business address stated here on, unless the certificate is sooner revoked, cancelled, withdrawn, or invalidated.

Issue Date: June 5, 2018**Expire Date: June 30, 2020**

In witness whereof, THE DEPARTMENT OF BUSINESS AND INDUSTRY, REAL ESTATE DIVISION, by virtue of the authority vested in it by Chapter 645C of the Nevada Revised Statutes, has caused this Certificate to be issued with its Seal printed thereon. This certificate must be conspicuously displayed in place of business.

FOR: MICHAEL F OAKES
2451 N RAINBOW BLVD #1043
LAS VEGAS, NV 89108

REAL ESTATE DIVISION**SHARATH CHANDRA**
Commissioner



1 **RAR**
2 R. Gardner Jolley
3 Nevada Bar No. 266
4 Email: nt@juwlaw.com
5 **JOLLEY URG A WOODBURY & HOLTHUS**
6 330 S. Rampart Boulevard, Suite 380
7 Las Vegas, Nevada 89145
8 (702) 699-7500 Telephone
9 (702) 699-7555 Facsimile
10 *Attorney for Cary Duckworth as Trustee*
11 *of the Duckworth Family Trust*

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

14 In the Matter of) Case No. P-20-103183-T
15) Dept No. 26
16 THE DUCKWORTH FAMILY TRUST)
17)
18 Dated March 12, 2015) **Hearing Date: September 11, 2020**
19) **Hearing Time: 9:30 a.m.**
20)

21 **REPORT AND RECOMMENDATIONS**

22 **Attorneys for Petitioner:** Kyla Duckworth – Jerimy Kirschner, Esq. of the law
23 firm Jerimy Kirschner & Associates, PLLC
24 **Attorneys for Respondent:** Cary Duckworth, Trustee – R. Gardner Jolley, Esq. of
25 the law firm Jolley Urga Woodbury & Holthus
26 **Appearance by Beneficiary:** Tara Duckworth

27 This matter came on for hearing on the 11th day of September 2020. The Probate
28 Commissioner having reviewed the Pleadings on file herein, considered the oral
arguments of Counsel and good cause appearing the Probate Commissioner Reports And

Recommends:

///

///

I.

FINDINGS

1. On March 12, 2015, the Duckworth Family Trust dated, March 12, 2015 ("Duckworth Trust" or "Trust") was executed by George M. Duckworth ("George") and Maureen D. Duckworth ("Maureen") as ("Trustors" and "Trustees").

2. Maureen died on June 16, 2018 and George continued to act as the remaining Trustee.

3. George retained an English attorney to open and administer an Estate in England regarding the separate assets of Maureen which were subject to English law.

4. Kyla hired an English attorney who filed a "Caveat" in the English proceeding and alleged and claimed that Kyla was to entitled to the English assets.

5. George resigned as Trustee and Cary Duckworth ("Cary") became Successor Trustee on January 23, 2019.

6. George died on November 18, 2019.

7. Ken Burns as attorney for the Estate opened a Probate and Mr. Kirschner on behalf of Kyla made an appearance in that matter.

8. Based upon the pleadings filed in this matter the Court has determined that there is a contest relating to the First and Second Amendments to the Trust executed by George in 2019 as to there validity based upon Kyla's claim of incapacity and undue influence by Cary.

9. Cary as the Successor Trustee has alleged that Kyla's conduct relating to the English assets and her refusal to provide information relating to the English assets

1 and assets that belong to the Trust brings into play the no contest clauses set forth in the
2 Trust and the Amendments. The Court will consider this issue after it makes a decision
3 as the validity of the two Amendments.
4

5 II.

6 RECOMMENDATIONS

7 1. The Court in rem takes jurisdiction over the Trust and the Trust is
8 domiciled in Nevada.
9

10 2. Cary is confirmed as the Successor Trustee of the Trust.

11 3. Cary shall obtain valuations of the personal property consisting of jewelry
12 and paintings at the residence located at 1829 Corta Bella Drive, Las Vegas, Nevada
13 ("Corta Bella Property").
14

15 4. Kyla will provide an Affidavit as to what items Kyla had in her possession
16 consisting of personal property of Maureen, financial statements, the value of the English
17 bank accounts and statements along with any English tax returns of Maureen relating to
18 her separate property which are needed to finalize the English Estate. After that
19 information is provided Cary will complete the accounting requested by Kyla. Cary will
20 complete the accounting within 60 days assuming that Kyla timely provides the
21 information regarding the assets and financial information relating to Maureen.
22

23 5. The Court has been advised that most of the personal property in question
24 is located in a storage unit and the garage which Kyla is welcome to take whatever she
25 wants since Cary and Tara were not making any claims to that property. The
26 Commissioner directed Mr. Kirschner to take that offer back to his client.
27
28

6. The Commissioner set a trial date for April 14, 2021 at 9:00 a.m.

7. The Commissioner advised counsel that they would have 180 days to complete discovery.

8. A Status Check will be set for December 4, 2020 regarding Discovery and the Response to the Recommendations.

DATED this 6 day of October, 2020.


PROBATE COMMISSIONER

Respectfully submitted:

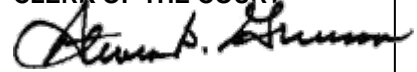
JOLLEY URG & WOODBURY & HOLTHUS

/s/ R. Gardner Jolley
R. Gardner Jolley
330 S. Rampart Boulevard, Suite 380
Las Vegas, Nevada 89145
*Attorney for Cary Duckworth as Trustee
of the Duckworth Family Trust*

Approved to as to Form and Content

JERIMY KIRSCHNER & ASSOCIATES, PLLC

Jeremy L. Kirschner
550 Painted Mirage Rd., Suite 320
Las Vegas, Nevada 89149
Attorney for Petitioner



JERIMY L. KIRSCHNER, ESQ.
Nevada Bar No. 12012
JERIMY KIRSCHNER & ASSOCIATES, PLLC
5550 Painted Mirage Rd., Suite 320
Las Vegas, NV 89149
Telephone: (702) 563-4444
Fax: (702) 563-4445
jerimy@jkirschnerlaw.com

Attorney for Kyla Duckworth

DISTRICT COURT

CLARK COUNTY, NEVADA

In the Matter of the

THE DUCKWORTH FAMILY TRUST

Case No.: P-20-103183-T

Dept: 26

Dated March 12, 2015

OBJECTION TO REPORT AND RECOMMENDATION

COMES NOW, Respondent Kyla Duckworth ("Petitioner"), by and through her attorneys of record, Jerimy Kirschner & Associates, PLLC., and hereby submits this Objection to Report and Recommendation ("Objection").

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On October 6, 2020, the Probate Commissioner (“Commissioner”) entered his Report and Recommendation (“R&R”) regarding several pending petitions. The Commissioner committed clear error in issuing several findings of facts, including issuing findings about matters it had already set out in an evidentiary hearing, as well as making findings on legal documents not part of the record. The Commissioner also committed error in reaching several legal conclusions that ignore Nevada statutory law, and also made conclusion about law without any legal authority cited. As a result, Petitioner requests that this Court overrule the findings and conclusions identified below.

II. ARGUMENT

A. STANDARD OF REVIEW

A special master's conclusions of law are reviewed de novo. *See, Farmers Ins. Exc. v. Neal*, 119 Nev. 62, 64, 64 P.3d 472, 473 (2003). A special master's findings of fact are given greater deference and reviewed under the clearly erroneous standard. *See, Venetian Casino Resort. LLC v. Eighth Judicial Dist. Court of State ex rel. County of Clark*, 118 Nev. 124, 132, 41 P.3d 327, 331-32 (2002.); *See Also*, NRCPC 53(e)(2). The district court’s review of a probate commissioner's reports and recommendations are “confined to the record, together with the specific written objections.” EDCR 4.07(a). If there are alleged irregularities in procedure in a “contested probate matter heard by the probate commissioner that are not shown in the record, the probate judge may receive evidence concerning the alleged irregularities.” EDCR 4.07(b).

B. CLEARLY ERRONEOUS FACTUAL FINDINGS

1. Finding of Fact, ¶4 “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.”

This finding is clearly erroneous and is actually disguised as a conclusion of law about a legal document which the Court has never seen. “To prove the content of a writing, recording or photograph, the original writing, recording or photograph is required, except as otherwise provided

1 in this title.” *See*, NRS 52.235. No party produced the “Caveat,” an English legal document; not an
2 original nor a copy. The only reference in the record is a discussion of a “Caveat” having been filed,
3 but not the document itself.¹ The court cannot interpret or render findings about there being a claim
4 on the English assets in the Caveat because it has never been presented with the document.
5 Moreover, the “factual finding” is an interpretation of a legal document, which is a legal conclusion,
6 not a factual finding.

7 The absence of the Caveat is perhaps unsurprising since the Court set an evidentiary hearing
8 to take evidence on this question and whether Trust amendments were valid, but the Court should
9 not make rulings on the document in the meantime. Ultimately, this finding is premature,
10 unsupported by the record, an improper legal conclusion, and clearly erroneous. The Court should
11 strike this finding.

12 2. Finding of Fact, ¶5 “*George resigned as Trustee and Cary Duckworth*
13 *(“Cary”) became Successor Trustee on January 23, 2019.”*

14 Similarly, the Court cannot interpret a resignation it has never seen, and an allegation
15 Petitioner did not get a chance to dispute. The Duckworth Family Trust required a resignation of a
16 trustee *to be in writing*, with Section 1.11, specifically:

17 Section 1.11 Trustor Powers

18 The Trustors shall be the Trustees unless and until he or she resigns in writing, or
19 is determined incompetent under the terms provided herein. 2

20 There is no resignation of Trustee George Duckworth in the record, not an original or a
21 copy. Again, the Court cannot interpret a document it has never seen, and likely does not exist. *See*,
22 NRS 52.235 (“To prove the content of a writing, recording or photograph, the original writing,
23 recording or photograph is required, except as otherwise provided in this title.”). Similarly, the
24 court’s “factual finding” is an interpretation of a legal document, which is a legal conclusion, not a
25 factual finding. This is also one of the matters to be heard at the evidentiary hearing set by the

26 ¹ *See*, September 1, 2020 REPLY OF CARY DUCKWORTH AS TRUSTEE OF THE DUCKWORTH FAMILY
27 TRUST DATED MARCH 12, 2015 TO THE SUPPLEMENT OF KYLA DUCKWORTH, Exhibit L - August 14, 2019
letter from Ken Burns

28 ² *See*, June 10, 2020, PETITION FOR CONSTRUCTION OF TRUST TERM; PETITION TO COMPEL
PROPER ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS, Exhibit 1, Pg. 5 Section 1.11.

1 Court. In addition, the first instance of Cary claiming there was a resignation was in his final Reply
2 that Petitioner was not able to properly respond to.³

3 As a result, the Commissioner's factual finding is clearly erroneous and must be overturned.
4

5 **C. ERRORS OF LAW**

- 6 1. Recommendation ¶3 ("Cary shall obtain valuations of the personal
7 property consisting of jewelry and paintings at the residence located at
8 1829 Corta Bella Drive, Las Vegas, Nevada ("Corta Bella Property").")

9 The Commissioner committed an error of law by overruling statute to limit the scope of the
10 Cary's accounting obligation. Petitioner made a demand for an accounting pursuant to NRS
11 165.141, which required satisfaction of NRS 165.135 requirements from the time Cary claimed to
12 have taken over as trustee of the Trust.⁴ Statute requires as part of the accounting that, "[t]he trust
13 principal held at the beginning of the accounting period, and in what form held, and the approximate
14 market value thereof at the beginning of the accounting period." *See* NRS 165.135(b)(1).

15 Petitioner initiated this matter because this is an unusual estate with rare artworks and the
16 value of personal property is significant, yet Cary failed to provide any valuations.⁵ The
17 recommendation does not require Cary to value the property since the start of the accounting and
18 limits valuations to only certain property, both restrictions in defiance of statute. The
19 recommendation is contrary to statute, an error of law and as such this Court should reject it.

- 20 2. Recommendation ¶6 ("The Commissioner set a trial date for April 14,
21 2021 at 9:00 a.m.")

22 The R&R does not define the scope of trial or even the issues to be tried. From a due
23 process standing point the parties should know what matters are to be tried and it is also critical for
24 determining the relevance of requests in discovery. Petitioner has contested the undue influence
25 exerted upon George Duckworth, whether George Duckworth had capacity to execute the First and

26 ³ *See*, September 1, 2020 REPLY OF CARY DUCKWORTH AS TRUSTEE OF THE DUCKWORTH FAMILY
TRUST DATED MARCH 12, 2015 TO THE SUPPLEMENT OF KYLA DUCKWORTH, Pg. 24.

27 ⁴ *See*, June 10, 2020, PETITION FOR CONSTRUCTION OF TRUST TERM; PETITION TO COMPEL
PROPER ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS, Exhibit 7.

28 ⁵ *Id.*, Exhibit 8 [In fact, within the last week Cary has disclosed the existence of more than one hundred forty thousand
dollars (\$140,000) in jewelry]

Second Amendments to the Trust, as well as Cary's significant number of transfers to himself. Cary has conceded in his sworn pleadings that he was a fiduciary acting under a power of attorney who arranged the First and Second Amendments to the Trust.⁶ The Amendments provided Cary Trust assets for free as well as a 20% discount on other assets.⁷ Cary's fiduciary position and the benefits found on the face of the Amendments make the documents presumptively void. Cary should be on notice that he bears the burden at trial to prove the validity of the documents at trial. This Court should reject the recommendation of the Commissioner and clarify the issues for trial and make clear that Cary bears the burden at trial to prove the validity of the amendments.

III. CONCLUSION

Petitioner request that the Court reject the Findings of Fact #4 and #5, reject Recommendations #3 and to clarify the scope of trial in Recommendations #6.

DATED this 16th day of October, 2020.

JERIMY KIRSCHNER & ASSOCIATES, PLLC

/s/ Jerimiy L. Kirschner, Esq.

JERIMY L. KIRSCHNER, ESQ.

Nevada Bar No. 12012

5550 Painted Mirage Rd., Suite 320

Las Vegas, NV 89149

Attorney for Kyla Duckworth

⁶ See, August 21, 2020, SUPPLEMENT TO PETITION TO COMPEL PROPER ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS; AND RESPONSE TO COUNTER-PETITION, Exhibits 16-17; *See Also*, July 30, 2020, OPPOSITION TO PETITION FOR CONSTRUCTION OF TRUST TERM; PETITION TO COMPEL PROPER ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS, Pg. 16, Ln. 1-2.

⁷ See, June 10, 2020, PETITION FOR CONSTRUCTION OF TRUST TERM; PETITION TO COMPEL PROPER ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS, Exhibit 4, Pg. 3.

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**VERIFICATION OF KYLA DUCKWORTH FOR OBJECTION TO PROBATE
COMMISSIONER'S REPORT AND RECOMMENDATIONS**

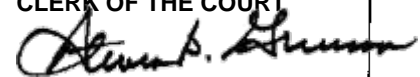
I, Kyla Duckworth, declare that:

1. I am submitting an "OBJECTION TO PROBATE COMMISSIONER'S REPORT AND RECOMMENDATIONS"
2. I know the contents of the Objection, which I know to be true of my own knowledge, except for those matters stated on information and belief.

I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

10-16-20
Date

Kyla Duckworth
KYLA DUCKWORTH



1 **OPPS**

2 R. Gardner Jolley

3 Nevada Bar No. 266

4 Email: nt@juwlaw.com

5 JOLLEY URGAL WOODBURY & HOLTHUS

6 330 S. Rampart Boulevard, Suite 380

7 Las Vegas, Nevada 89145

8 (702) 699-7500 Telephone

9 (702) 699-7555 Facsimile

10 *Co-Counsel for Cary Duckworth, Trustee*

11 and

12 Elizabeth Brickfield

13 Nevada Bar No. 6236

14 Email: ebrickfield@dlnevadalaw.com

15 Melissa R. Douglas

16 Nevada Bar No. 9545

17 Email: mdouglas@dlnevadalaw.com

18 DAWSON & LORDAHL PLLC

19 8925 West Post Road, Suite 210

20 Las Vegas, Nevada 89148

21 (702) 476-6440 Telephone

22 (702) 476-6442 Facsimile

23 *Co-Counsel for Cary Duckworth, Trustee*

24 **DISTRICT COURT**

25 **CLARK COUNTY, NEVADA**

26 In the Matter of

Case No. P-20-103183-T

Dept No. 26

27 THE DUCKWORTH FAMILY TRUST,

28 Dated March 12, 2015.

29 **OPPOSITION OF CARY DUCKWORTH AS TRUSTEE OF THE DUCKWORTH**

30 **FAMILY TRUST, DATED MARCH 12, 2015 ("TRUST") TO KYLA**

31 **DUCKWORTH'S OBJECTION TO REPORT AND RECOMMENDATION**

32 Cary Duckworth, as Trustee of the Duckworth Family Trust, dated March 12,

33 2015 ("Trust"), through his attorneys R. Gardner Jolley of the law firm of Jolley Urga

JOLLEY URGAL WOODBURY & HOLTHUS
attorneys at law

330 S. RAMPART BOULEVARD, SUITE 380, LAS VEGAS, NV 89145
TELEPHONE: (702) 699-7500 FAX: (702) 699-7555

Woodbury & Holthus and Elizabeth Brickfield and Melissa R. Douglas of the law firm of Dawson & Lordahl, PLLC hereby submits his Opposition to the Petitioner's Objection to the Report and Recommendation.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Counsel for Kyla Duckworth (Kyla is incorrect regarding the Report and Recommendation of the Probate Commissioner ("Commissioner")). The sole standard applied is the Clearly Erroneous standard and not several legal conclusions that ignored Nevada statutory law.

II. ARGUMENT

A. STANDARD OF REVIEW

To overturn the Commissioner's Decision, the appealing party must show that the Decision was clearly erroneous. *Hannam v. Brown*, 114 Nev. 350, 357, 956 P.2d 794, 799 (1998). See also NRCP 53. A finding is only clearly erroneous when the reviewing Court is "left with the definite and firm conviction that a mistake has been committed." *Unionamerica Mortg. and Equity Trust v. McDonald*, 97 Nev. 210, 626 P.2d 1272 (1981) (citing *United States v. Gypsum Co.*, 333 U.S. 364, 395, 68 S.Ct. 525, 542 (1948)). Arguments on appeal are not evidence. See *Nev. Ass'n Servs. v. Eighth Jud. Dist. Ct.*, 130 Nev. Adv. Op. 94, 338 P.3d 1250, 1255 (2014). Rather, judicial review of the recommendation of the Probate Commissioner will be confined to the record, together with the specific written objections. EDCR 4.07(a). See also NRCP 53(h).

The cases cited by Kyla are not in point. *Farmers Ins. Exc. v. Neal* 119 Nev. 62,

64 P.3d, 473 (2003) involved a declaratory judgment on appeal. The Court stated on appeal of judgment interpretation of a contract is a question of law that is reviewed *de novo*. *Venetian Casino Resort v. Eighth Judicial Dist. Court*, 118 Nev. 124, 132, 41 P.3d 327, 331 (2002) dealt with a Judge referring the case to a Special Master who is limited to a hearing of matters expressly conferred by the District Court which was to determine the amount of the claims due not their validity. Probate and Trust matters are specifically assigned to the Probate Commissioner unless the Probate Judge is requested. Pursuant to NRS 53 the clearly erroneous standard applies to the Probate Judge's review of the Commissioner's Report and Recommendations.

B. FACTUAL FINDINGS WHICH KYLA CLAIMS ARE CLEARLY ERRONEOUS

1. Finding of Fact, ¶4 "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."

Mr. Kirschner in his Objection to the Report and Recommendation alleged that no "Caveat" was filed.

Attached as **Exhibit A** are the documents relied upon at the hearing to support this finding consisting of the following:

- October 12, 2018 Letter from Kyla's English attorney to George's English Attorney
- January 14, 2019 Letter from George's attorney to Kyla's attorney
- July 11, 2019 Letter from George's attorney to Kyla's attorney
- July 24, 2019 Letter from the English Court to George's attorney confirming a Caveat was filed on the Estate
- August 14, 2019 Letter from Ken Burns as Cary's attorney to Kyla's English attorney
- September 12, 2019 Letter from Kyla's attorney to Ken Burns

Two of Kyla's attorneys and Kyla received the August 14, 2019 letter and the

1 Amendments, yet no one contacted the Trustee or his attorney that the Caveat would be
2 removed. All of these documents were in the Trustee's Reply to Kyla's Supplement filed
3 on August 21, 2020. The documents in question were attached as **Exhibit L, and Q** to
4 the Reply.
5

6 In Kyla's Supplement filed August 21, 2020 on page 23 line 10 quoted the Section
7 of the First Amendment which stated that if anyone claimed the property in the United
8 Kingdom that belonged to Maureen other than under the intestacy laws shall be
9 considered a contest of the Trust. On line 16 Kyla's attorney admits that a Caveat was
10 filed yet after receiving the August 14, 2019 letter Mr. Burns demanding a 7 day response
11 neither the English attorney nor Mr. Kirschner notified Cary's counsel that they did not
12 intend to renew the "Caveat" or dispute the "warning off" which would be deemed a
13 contest.
14

15
16 Instead Mr. Kirschner's only response on September 16, 2019 was to state he
17 received the letter and the documents and advised Mr. Burns that any further letters
18 directed to Kyla should go to him (**Exhibit A**). Mr. Kirschner in the Supplement on page
19 23 lines 18 – 24 admitted that Kyla filed a "Caveat" which in an earlier pleading stated it
20 was no different than filing a "Notice of Appearance" however the Legal
21 Thesaurus/Dictionary (1986) states that a Caveat is:
22

23 A formal notice or warning. "Let him beware." (referring to
24 probating a Will) admonition, forewarning, alarm - - - . . .

25 A Caveat is also defined in the American Heritage Dictionary (3rd Ed.; 1993) which
26 states on page 306:
27

28 2. *Law*. A formal notice filed by an interested party with a court

1 of officer, requesting a postponement of a proceeding until the
2 filer is heard.

3 Although not referred to in Nevada law the Court of appeals of Georgia in *Estate*
4 *of Peterson* 255 GA APP 303, 565 S.E. 2d 524 (2002), the decedent heirs filed a Caveat
5 objecting to the appointment of the lawyer as Executer who drafted the Will. The
6 attorney was disqualified and the matter was appealed to the Appellate Court. In North
7 Carolina *In re Will of Shepherd*, 235 N.C. Appellate. 298 (2014) a Caveat was filed
8 challenging the will and on appeal the Court reversed the Summary Judgment.
9 Obviously this procedure is authorized in other states. Mr. Kirschner was well aware that
10 Mr. Burns requested a response within 7 days but instead sent a letter advising him to
11 send any further letters to Mr. Kirschner. It should be noted that Mr. Kirschner attached
12 that letter as Exhibit 32 to the Amended Supplement filed August 25, 2020
13 ("Supplement") which had a bates stamp of DU00023. The documents attached as
14 Exhibits to Kyla's Petition filed, June 10, 2020 complaining about an inadequate
15 accounting attached documents with the bates stamps starting with the 200s with some in
16 the 700s, yet Mr. Kirschner did not think it was important to respond to the August 14,
17 2019 letter of Mr. Burns. Because of the early bates stamp it is clear Mr. Kirschner was
18 well aware of the issue back in September, 2019.

19 More importantly the letter from Kyla's English attorney and American attorneys
20 are as agents of Kyla and such documents would be admissible in evidence. *See Estate*
21 *of Adams v. Fallini*, 132 Nev. 814, 820; 386 P.3d 621(2016) and *NC-DSH, Inc. v.*
22 *Garner*, 125 Nev. 647, 656; 218 P.3d 853 (2009). There were no objections to those
23 Exhibits that were filed with the Court. NRS 53.035 (d) specifically states that any
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1 statements by the attorney for the client is not hearsay.

2 Although the Caveat was not produced the document from the English Court was
3 produced showing there was a Caveat on the property as of August 14, 2019 and no
4 response received that it was removed (**Exhibit A**).

6 2 Finding of Fact, ¶5 "George resigned as Trustee and Cary Duckworth
7 ("Cary") became Successor Trustee on January 23, 2019."

8 In the first portion of Kyla's Supplement filed August 21, 2020 to Counter-
9 Petition and the Opposition to the Response requested that Cary be confirmed as Trustee.

10 In addition in Kyla's proposed Report and Recommendations attached as **Exhibit**
11 **B** he specifically stated that Cary was the Successor Trustee. When he filed the initial
12 Petition on June 10, 2020 which was the first filing in the Trust proceeding, he mailed
13 Cary Duckworth a copy of the Petition as the Trustee of the Trust. So there is no
14 question that from the beginning he knew that Cary was the Trustee.

16 **C. RECOMMENDATION**

17 3. Recommendation ¶3 ("Cary shall obtain valuations of the personal property
18 consisting of jewelry and paintings at the residence located at 1829 Corta
19 Bella Drive, Las Vegas, Nevada ("Corta Bella Property)."

20 The Court apparently after reviewing the documents on file determined that the
21 only thing necessary was to require the Trustee to obtain a valuation of the jewelry and
22 the paintings at the residence located at 1829 Corta Bella Drive. The Commissioner
23 instructed the Trustee to value the jewelry and the personal property that was in the
24 residence. Mr. Kirschner in fact stated in the Supplement on page 4 lines 19 – 23 that the
25 jewelry was worth \$1,000,000. On 2 other occasions he brought up the jewelry stating it
26 was worth \$1,000,000 (page 4 lines 4-8 and page 11 lines 19-20).

1 The Commissioner ordered the inventory despite the fact that the Trust
2 specifically states that if a beneficiary was not to receive any benefit from a particular
3 asset the Trustee was not required to provide information relating to that asset. See
4 Paragraph 7.04 of the Trust. It was Cary's position at the time that based upon Ken
5 Burns' letter dated August 14, 2019 (**Exhibit A**), Kyla was no longer a beneficiary
6 because she refused to respond to the requirements set forth in the First and Second
7 Amendments and therefore under Paragraph 7.04 of the Trust the Trustee was not
8 required to provide that information to Kyla. See also Section 9.03 regarding personal
9 Property. The Court has ordered otherwise and for that reason the Trustee obtained the
10 value of the jewelry and the paintings.

11 The Commissioner ordered the Trustee to appraise the jewelry and the personal
12 property at the hearing but explained he did not want to order the fiduciaries to separate
13 the value of items stating:
14

15 When it comes to personal property, both on trusts and
16 estates, I kind of do this as – as a 706 tax return does. If
17 you got one item worth \$5,000 by itself, then that should
18 be valued separately or if there's a collection of the same
19 type of items worth \$10,000, that should be valued
20 separately. But if it's just everything else, it doesn't come
21 up to a heck of a lot. You don't need to value them
22 separately¹.

23 The accounting provided the material information required by Chapter 165. The
24 fact is Kyla's attorney never went into detail what he believed were the problems in the
25 accounting but instead questioned whether certain expenses were appropriate however
26 that is not part of the accounting under Chapter 165. That raises a whole different issue
27

28 ¹ See **Exhibit "C"**, Transcript from September 11, 2020 hearing, p. 21, ll. 12-19.

1 that would be subject to a separate petition alleging that certain payments were not
2 appropriate. Mr. Kirschner instead of focusing on the accounting, complained about the
3 use of the monies which is a totally different issue than providing an accounting.
4

5 Kyla's attorney complains that the obtained appraisal now shows that the jewelry
6 was worth \$140,000, however, since the jewelry is only valued at \$140,000 it is doubtful
7 that the paintings would be valued at \$850,000 since Kyla's attorney specifically stated
8 that it was the valuable jewelry not the paintings that he was claiming having great value.
9 According to the estimate received the paintings and the other personal property are
10 valued at approximately \$47,000.²
11

12 It should be kept in mind that Kyla to date has not provided whether she has any
13 jewelry in her possession or at the time of Maureen's death. Clearly under the terms of
14 the Trust and the Assignment of all personal property to the Trust all of the jewelry and
15 personal property of Maureen was to be part of the Trust. See Section 3.01 of Article 3 in
16 the Trust and the Assignment of Personal Property attached hereto as **Exhibit D** where it
17 states that all personal property in the possession of Maureen as of March 15, 2015 or any
18 personal property "acquired after that time" would be part of the Trust. Therefore Kyla
19 has no claim to those items property as her sole and separate property.
20
21

22 The Commissioner correctly recommended that the date of the accounting and
23 therefore the appraisals be as of George Duckworth's date of death because, as a matter
24
25
26

27 ² As recommended by the Probate Commissioner, the Trustee has had the jewelry and the paintings
28 appraised with their values as of the Decedent George Duckworth's date of death. The jewelry appraisal
has been provided to Kyla's counsel. Kyla's counsel and Kyla were offered the opportunity to attend the
October 21, 2020 inspection of the personal property by the appraiser but declined to do so.

1 of law, George Duckworth was the sole beneficiary of the Trust from the date of
2 Maureen Duckworth's death on June 16, 2018 until his death on November 16, 2019³.
3 See Article One, Section 1.01, Section 1.02 (a), (b) and (c); Article Two of the Trust,
4 Sections 2.01, 2.04, attached as Exhibit 1 to the Petition. The Objection to the
5 Recommendation 3 should be denied.
6

7 **D. RECOMMENDATION**

8 Recommendation ¶6 ("The Commissioner set a trial date for April 14, 2021 at 9:00 a.m.).
9 The Recommendation as written correctly recommended the Commissioner's rulings. At the
10 September 11, 2020 hearing, the parties agreed that the Commissioner would conduct the
11 evidentiary matter, lengthened Mr. Kirschner's initial discovery request for 120 days for
12 discovery to 180 days, set an April 14, 2021 hearing date and a December 4, 2020 status check.
13 In Findings of Fact 8 and 9, the Commissioner set out the scope of the evidentiary hearing and the
14 issues set for trial, the very same issues he clearly articulated as being the scope of the evidentiary
15 hearing on September 11, 2020.⁴
16

17 Petitioner asks this Court to usurp the trial court's authority by asking this Court to do
18 what the Probate Commissioner is expressly authorized to do under EDCR 4.04 and 4.17, namely
19 set out scheduling orders and deadlines, hear motions and decide pretrial disputes. Petitioner
20 wants this Court to short circuit the pretrial discovery processes and motion practice by having
21
22
23

24 ³ See Exhibit "C", Transcript p. 26 ll. 13-17 (The Court: Anything – actions that were done as far as
25 accounting up through date of death would – only one to the title of that was the person – you know, the –
26 –decendent now. And so that—that's off. The accounting is to come from date of death forward). P. 26, ll.
27 20 -24 p. 27, ll. 1-8. (Mr. Kirschner: Your Honor, we asked for the accounting from the date that he
28 became trustee of the Trust and there was a claim that he became trustee of the Trust as of January 23,
2019 ... the very same date the amendment was signed, Your Honor. The Court: I-I understand what you
are saying, but until you establish that he wasn't deemed sic [in]competent, the only one that could
require an accounting is the –is the beneficiary".).

⁴ See Transcript, p. 9, ll 18-20, p. 10. ll. 19-24, p. 11. ll. 1-9.

1 this Court determine the burden of proof for an evidentiary hearing when that issue has not been
2 briefed or presented to the Discovery Commissioner.

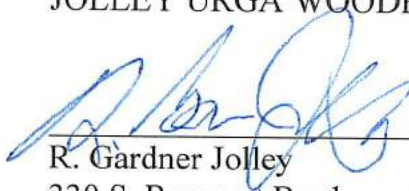
3 The parties will be before the Discovery Commissioner for a status check and a discovery
4 motion. If Petitioner is seeking a specific determination from the trier of the matter as to whether
5 the Trustee is a caregiver as defined by NRS 155.097 and whether the burden of proof in this
6 proceeding has shifted, that is a pretrial issue that has not been placed before the Discovery
7 Commissioner. Until Petitioner has sought and obtained a ruling from the Probate Commissioner,
8 his request to this Court is premature. This Court should adopt the Recommendation in its
9 entirety.
10

11 **CONCLUSION**

12 **For the reasons set out above, the Objection should be denied in its entirety**
13 **and the Court should adopt the Report and Recommendation as the order of the**
14 **Court.**
15

16 DATED this 26th day of October, 2020.

17 JOLLEY URGAL WOODBURY & HOLTHUS
18

19 
20 R. Gardner Jolley

21 330 S. Rampart Boulevard, Suite 380

22 Las Vegas, Nevada 89145

23 Co-counsel for Cary Duckworth, Trustee
24
25
26
27
28

CERTIFICATE OF SERVICE

I hereby certify that a true and correct file stamped copy of the foregoing **OPPOSITION OF CARY DUCKWORTH AS TRUSTEE OF THE DUCKWORTH FAMILY TRUST, DATED MARCH 12, 2015 ("TRUST") TO KYLA DUCKWORTH'S OBJECTION TO REPORT AND RECOMMENDATION** was served electronically using the Odyssey eFileNV Electronic Filing system and serving all parties with an email address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

The date and time of the electronic proof of service is in place of the date and place of deposit in the U.S. Mail.

Dated this 26th October, 2020.


Employee of Jolley Urga Woodbury & Holthus

EXHIBIT “A”



Quality Solicitors Large & Gibson

Kent House
49 Kent Road
Portsmouth
PO5 3EJ

DX 2248 Portsmouth 1

T: 023 92 296296

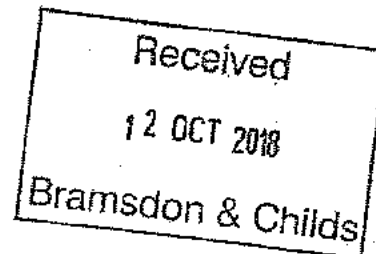
F: 023 92 826134

E: reception@largeandgibson.co.uk
qualitysolicitors.com/largeandgibson

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 21st 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.



Conveyancing
Quality

Partners:
Richard LM Woolton TEP
Peter M Dymock LLB

Associates:
Michael Rowland LLB
Ruth Twiney LLB
Tricia Longmore LLB (Hons) TEP*
Barry King FCILEx
Emma Denton LLB (Hons)
Cara Sandillon-Charlton LLB (Hons)

Licensed Conveyancer:
Olivia Howard LLB (Hons)

Practice Manager:
Lindy Vinue AMInstLM

www.qualitysolicitors.com

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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

Direct Contact details:

Peter Dymock T: (023) 92 728111 E: peter.dymock@largeandgibson.co.uk

Fran Giles, Legal Assistant E: fran.giles@largeandgibson.co.uk

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>.

Partners:
A.L. WHITE LL.B.
A.I. RAFFERTY LL.B.
P.N. RYON
K.M. RAFFERTY LL.B.

Consultant:
C. INNES (Non-Practising)

Staff Solicitors:
H.M. RAFFERTY LL.B.
SHANDAM LL.B., LL.M.

Chartered Legal Executives:
A.J. MCKEE
V. KOVAS LL.B.

BRAMSDON & CHILDS

SOLICITORS
COMMISSIONERS FOR OATHS

141 ELM GROVE
SOUTHSEA
PORTSMOUTH
HAMPSHIRE
PO5 1HR

DX: 2224 PORTSMOUTH

TELEPHONE (023) 9282 1251
FAX (023) 9289 3777

www.bramsdonandchilds.com

E-mail: sh@bramsdonandchilds.com

Quality Solicitors Large & Gibson
49 Kent Road
Southsea
Hampshire
PO5 3EJ

Our Ref: SH/SH/20029

Your Ref: PMD/FMG

14 January 2019

Dear Sirs

Estate of the Late Maureen Duckworth
Your Client: ~~Kyla Duckworth~~

We write further to your letter of 11th 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 20th 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 30th 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~~

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~~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

Partners:
A.L. WHITE LL.B
A.J. RAFFERTY LL.B
R.N.E. RIXON
K.M. RAFFERTY LL.B

Consultants:
C. JONES (Non-Practising)

Staff Solicitors:
H.M. RAFFERTY LL.B
S. HANDELL LL.B, LL.M

Chartered Legal Executives:
A.J. MCKEE
V. KOVAS LL.B

BRAMSDON & CHILDS

SOLICITORS
COMMISSIONERS FOR OATHS

141 ELM GROVE
SOUTHSEA
PORTSMOUTH
HAMPSHIRE
PO5 1HR

DX: 2224 PORTSMOUTH

TELEPHONE (023) 9282 1251
FAX (023) 9289 3777

www.bramsdonandchilds.com

E-mail: sh@bramsdonandchilds.com

Quality Solicitors Large & Gibson
49 Kent Road
Southsea
Hampshire
PO5 3EJ

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 8th November 2018, and your acknowledgement of 12th 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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BRAMSDON & CHILDS SOLICITORS
DX 2224 PORTSMOUTH

Wednesday, 24 July 2019

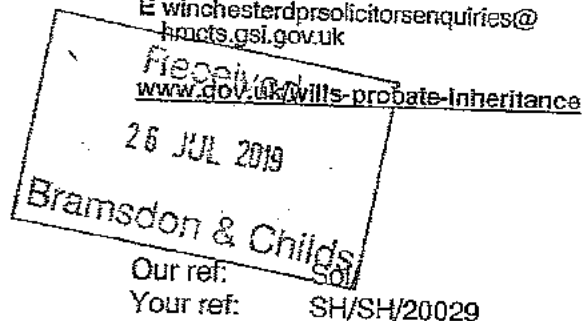
Winchester District Probate Registry
1st Floor
Southside Offices
The Law Courts
Winchester
SO23 9EL

DX 96900 Winchester 2

T 01962 814100

E winchesterdpsolicitorsenquiries@hmcts.gsi.gov.uk

www.gov.uk/wills-probate-inheritance



Dear Sirs,

RE: MAUREEN DUCKWORTH deceased

I acknowledge receipt of your letter dated 22nd July 2019.

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

KOLFSAR & LEATHAM

ATTORNEYS AT LAW

400 SOUTH RAMPART BLVD., SUITE 400

LAS VEGAS, NEVADA 89145

702.362.7800

klnvada.com

August 14, 2019

VIA EMAIL

Peter Dymock, Esq.
QUALITY SOLICITORS LARGE & GIBSON
Kent House
49 Kent Road
Portsmouth
PO8 3EJ

Re: **The Estate of the Late Maureen Daphne Duckworth**
Our Client: George M. Duckworth

Dear Sirs:

Our firm represents George M. Duckworth, father of your client, with respect to his trust and estate within the United States. We understand that you have filed (and renewed) a caveat on behalf of your client, Kyla Michele Duckworth, which prevents the intestate administration of Maureen Duckworth's estate in the United Kingdom. We are providing this information so that Kyla Duckworth is on notice of the consequences of her actions.

We are instructing our Solicitors, Bramsdon & Childs, to file a warning off on or about August 22, 2019, and it is our understanding that your client will have seven (7) days to respond to prevent the removal of the caveat. We wish to inform your client that her responding to prevent the caveat from being removed will be construed as a "contest" of the Duckworth Family Trust in the United States and will result in her being eliminated as a beneficiary of said trust.

We are enclosing a copy of the First Amendment to the Duckworth Family Trust from which provisions which do not apply to Kyla Duckworth have been redacted. A Section 7.05 United Kingdom Contest has been added to the terms of the trust to provide that any attempt to have Maureen's UK property distributed other than in the manner provided for by the intestacy laws of the United Kingdom shall be considered a contest of the trust and such proponent shall no longer be a beneficiary of the trust.

Other provisions of the first amendment include a specific bequest to Kyla of the trust's fifty percent (50%) interest in a residence at 1627 Hinson Street, which shall be valued for credit against her share based upon the appraised value at the time of her mother's death, with an allowance for a twenty percent (20%) discount of illiquidity. The amendment further provides that Kyla's one-third share shall be reduced by any funds from accounts of her mother over which

Peter Dymock, Esq.
QUALITY SOLICITORS LARGE & GIBSON
Page 2
August 14, 2019

KOLESAR & LEATHAM
ATTORNEYS AT LAW

Kyla had signature authority and that she received or withdrew after her mother's death. The amendment provides that if Kyla is not forthcoming with account statements her one-third share shall be reduced by \$350,000. A second amendment is also attached and its sole purpose was to clarify that the financial account referred to would include any held in the Isle of Man or elsewhere.

The contents of this letter and the attachments are specifically provided for the purpose of giving Kyla Duckworth notice that continuing her opposition to an orderly disposition of Maureen Duckworth's estate in the UK under the laws of intestacy shall eliminate her as a beneficiary in the U.S. While the filing of the caveat originally may be grounds to consider it a contest, the courts in the U.S. are reluctant to enforce "no contest" provisions if a potential beneficiary has no notice of such provisions. Any actions by Kyla Duckworth after this letter has been transmitted shall be considered to be actions taken to contest the trust and she will no longer be a beneficiary of the Duckworth Family Trust.

Since your firm is not licensed to practice in the State of Nevada where the trust is located, we are forwarding a copy of the letter and attachments to Kyla Duckworth at addresses known to my client that Kyla has used in the recent past.

Very truly yours,

KOLESAR & LEATHAM



Kenneth A. Burns, Esq.

KAB/chk
Enclosures

cc: Ms. Kyla Duckworth (with Enclosures)

Nancy Taylor

From: Kenneth A. Burns
Sent: Wednesday, August 14, 2019 2:48 PM
To: SH@bramsdonandchilds.com
Cc: Tara kassity; caryduckworth@icloud.com
Subject: The Estate of the Late Maureen Daphne Duckworth
Attachments: 3204672_PDF - Ltr to Dymock.pdf; Redacted 1st Amendment.pdf; 2nd Amendment.pdf

Dear Mr. Handani:

I represent George Duckworth, the husband of the late Maureen Duckworth, in his estate planning in Nevada. It has been requested that I provide notice to Kyla Duckworth that her actions in the UK may have an adverse effect on her inheritance in the US. I am enclosing my letter to her Solicitor in the UK, along with the attachments that reflect changes to Mr. Duckworth's estate plan.

Kyla Duckworth is a one-third beneficiary of Mr. Duckworth's estate, however he added provisions that specifically applied to proceedings in the UK regarding Maureen Duckworth's estate. In particular, he has provided that a continuation of proceedings in the UK that attempts to have Maureen Duckworth's estate distributed other than in accordance with intestacy laws will be considered a contest of his estate plan which will eliminate Kyla as a beneficiary of his estate.

Her solicitor has been provided with notice that any attempt to contest the warning off on the caveat will be considered such an action. I stated in the letter that a warning off would be filed on or about August 22. That would give Kyla and her solicitor a week's notice prior to the filing of the warning off which I believe to be sufficient.

If you have any questions or concerns, please do not hesitate to contact me.

Kenneth A. Burns, Esq.
Shareholder



ATTORNEYS AT LAW

Office: 702.362.7800 Cell: 702.769.0600
Web: www.klnevada.com Bio: [Attorney Bio](#)
400 S. Rampart Blvd. | Suite 400 | Las Vegas | NV 89145

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**JERIMY
KIRSCHNER**
— & ASSOCIATES PLLC

JERIMY L. KIRSCHNER, ESQ.
Admitted in Nevada and Washington

September 12, 2019

Sent Via Certified Mail/Email: info@klnvada.com

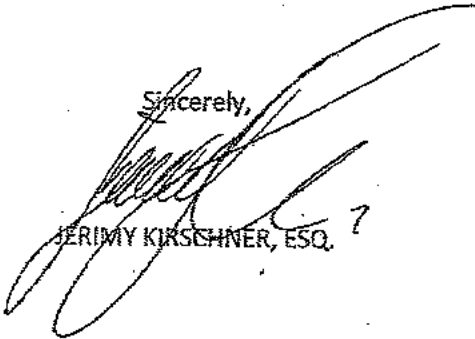
Kolesar & Leatham
400 S Rampart Blvd, #400
Las Vegas, NV 89145

Re: The Estate of the Late Maureen Daphne Duckworth

To whom it may concern,

Please be advised that our office represents Kyla Duckworth and we have been retained to assist in the matter of The Estate of the Late Maureen Daphne Duckworth. We request that you send all future correspondence directed to Ms. Duckworth to our office.

Sincerely,


JERIMY KIRSCHNER, ESQ.

ILK/sjm

5550 Painted Mirage Rd, Suite 320
Las Vegas, NV 89149
(702) 563-4444 Fax (702) 563-4445

www.JKirschnerLaw.com

2302 S Union Ave, C-30
Tacoma, WA 98405
(253) 240-4444 Fax (206) 538-2008

0505

EXHIBIT “B”

JERIMY L. KIRSCHNER, ESQ.
Nevada Bar No. 12012
JERIMY KIRSCHNER & ASSOCIATES, PLLC
5550 Painted Mirage Rd., Suite 320
Las Vegas, NV 89149
Telephone: (702) 563-4444
Fax: (702) 563-4445
jerimy@jkirschnerlaw.com

Attorney for Kyla Duckworth

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the

THE DUCKWORTH FAMILY TRUST

Case No.: P-20-103183-T
Dept: 26

Dated March 12, 2015

COMMISSIONER REPORT AND RECOMMENDATIONS

Attorneys for Petitioner KYLA DUCKWORTH – Jeremy Kirschner, Esq.

Attorneys for Respondent CARY DUCKWORTH – R. Gardner Jolley, Esq.

Respondent TARA DUCKWORTH – *Pro se*

This matter came before Commissioner Wesley Yamashita for an evidentiary hearing on September 11th, 2020 at 9:45 AM on the following pending matters:

1. PETITION FOR CONSTRUCTION OF TRUST TERM; PETITION TO COMPEL PROPER ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS
2. OPPOSITION TO PETITION FOR CONSTRUCTION OF TRUST TERM; PETITION TO COMPEL PROPER ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS
3. JOINDER OF TARA KASSITY TO THE OPPOSITION TO PETITION FOR CONSTRUCTION OF TRUST TERM; PETITION TO COMPEL PROPER ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS

4. AMENDED RESPONSE TO OPPOSITION TO PETITION FOR
CONSTRUCTION OF TRUST TERM; PETITION TO COMPEL PROPER
ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS
5. AMENDED SUPPLEMENT TO PETITION TO COMPEL PROPER
ACCOUNTING AND TO COMPEL TURNOVER OF TRUST DOCUMENTS;
AND RESPONSE TO COUNTERPETITION
6. REPLY OF CARY DUCKWORTH AS TRUSTEE OF THE DUCKWORTH
FAMILY TRUST DATED MARCH 12, 2015 TO THE SUPPLEMENT OF KYLA
DUCKWORTH

Jeremy Kirschner, Esq. having appeared on behalf of Kyla Duckworth; R. Gardner Jolley,
Esq. having appeared on behalf of Cary Duckworth; and Tara Duckworth having appeared *pro se*;
having considered the parties' briefing, the oral arguments of the parties and good cause appearing
therefore the Commissioner hereby reports and recommends the following:

I. FINDINGS OF FACT

1. On March 12, 2015, the Duckworth Family Trust Dated, March 12, 2015
("Duckworth Trust" or "Trust") was executed by settlors George M. Duckworth ("George") and
Maureen D. Duckworth ("Maureen") (collectively, "Settlors").
2. The Duckworth Trust is domiciled in the state of Nevada.
3. The Duckworth Trust originally distributed its residuary equally between George and
Maureen's three children, Petitioner Kyla Duckworth ("Petitioner"), Cary Duckworth ("Cary") and
Tara Kassity-Duckworth ("Tara") with the exception of an initial distribution of three hundred
thousand dollars (\$300,000.00) to Cary which was to put him on an equal footing with his sisters
who had each received a three hundred thousand dollars (\$300,000.00) distribution from their
grandmother who had not provided for Cary in her estate planning which was completed prior to
Cary being born.
4. On March 12, 2015, George and Maureen also executed Last Wills and Testaments
with mirrored provisions, powers of attorneys and health care power of attorneys.

5. George and Maureen's Trust, wills, power of attorneys and health care power of attorneys executed March 12, 2015 all identified Petitioner, Cary and Tara serving together in joint roles as joint successor trustees, joint personal representatives, and joint powers of attorney.

6. Petitioner lived in George and Maureen's home for four and a half years caring for them and arranging for their care with doctors, in home care providers and therapist.

7. Petitioner alleges George was suffering from cognitive defects as early as 2016.

8. George was prescribed Memantine in 2017 to treat Alzheimer's disease.

9. On January 31, 2018, Maureen was admitted to Las Ventanas Skilled Nursing Facility ("Las Ventanas") where she stayed, with the exception of brief visits to the hospital, until her death.

10. Petitioner stayed with Maureen throughout her stay at Las Ventanas and the hospital.

11. On February 5, 2018, Cary Duckworth ("Cary") arranged for George to execute a new last will and testament ("New Will") and a new durable power of attorney ("New POA").

12. George's New Will removed Petitioner as a personal representative, but continued to name Cary and Tara as his personal representatives.

13. George's New POA removed Petitioner as an agent, but continued to name Cary and Tara as his agents.

14. On June 16, 2018 Maureen passed away.

15. Cary ordered Petitioner barred from George's residence located at 1829 Corta Bella Drive, Las Vegas, Nevada 89134 ("Corta Bella Property") and also evicted her from the residence.

16. After Maureen passed away, Cary and his family moved into the Corta Bella Property with George.

17. On January 23, 2019, Cary arranged for George to execute an amendment to the Trust (the "First Amendment"). The First Amendment made the following changes:

a. Name George as the sole acting trustee, then removed Petitioner and Tara as joint successor trustees while leaving Cary as the sole successor trustee.

b. Changed its distributions to immediately transfer George's Corta Bella Property to Cary without payment.

- c. Immediately transferred all the furnishings at that Corta Bella Property to Cary without payment (the "Furnishings").
- d. Provided Cary, as successor trustee, absolute discretion to distribute George's personal property ("Personal Property Provision"), and that the result of any challenges to this discretion would be a forfeiture award to Cary of 100% of the personal property.
- e. Included a provision which construed any claim on Maureen's English estate as a challenge to the Trust under the no-contest provision.

18. The Furnishings transferred to Cary in the First Amendment are not valued, but Petitioner has alleged the value of the furnishings are significant and included one-of-a-kind jewels and artworks.

19. The Personal Property Provision was not contingent upon the death of George and the forfeiture provision would also apply to a challenge coming from George.

20. Cary took over as Successor Trustee on January 23, 2019, the same day the First Amendment was executed.

21. On March 20, 2019, George amended the Trust a second time to include a broader definition of Maureen's English Estate.

22. On November 16, 2019, George died of "End Stage Senile Degeneration of the Brian" at the age of ninety-five (95).

23. On January 17, 2020, Petitioner made a demand upon Cary for an accounting pursuant to NRS 165.141 which covered the period in which he was acting as Trustee and expressly demand the accounting comport with NRS 165.135.

24. On March 13, 2020, Cary produced an accounting ("Accounting") however it did not value the personal property in the Trust.

25. Petitioner has alleged that the personal property not valued in the Accounting is worth hundreds of thousands of dollars and potentially more than a million dollars, and has provided an itemized list of personal property which should have been included.

26. Cary has alleged that Petitioner has violated the no-contest provisions of Trust for requesting the Accounting, for interfering in resolution of Maureen's English estate, and for challenging the First Amendment and Second Amendment.

II. CONCLUSIONS OF LAW

27. The Court has *in rem* jurisdiction over the trust.

28. Cary Duckworth is confirmed as the Trustee of the Duckworth Trust.

29. Based on Cary's undisputed role as a fiduciary as a result of the New POA and the benefit he received under the First Amendment and Second Amendment ("Amendments") there is a presumption of undue influence and invalidity of the Amendments.

30. Petitioner's allegations of Cary arranging the Amendments and/or paying for the professionals to create the Amendments to the Trust may also raise a presumption of invalidity.

31. Petitioner has alleged facts which call into question George's mental capacity to amend his Trust.

32. It is necessary for the Court to take evidence related to undue influence and George's capacity to resolve the requests before it.

III. RECOMMENDATIONS

A. Cary shall provide a full accounting of the Trust within sixty days, starting from George's date of death to the present.

B. Cary shall obtain valuations of personal property and furnishings owned by Trust.

C. Petitioner shall provide to Cary a list of all of Maureen's personal property in her possession.

D. Petitioner shall provide information within her possession on Maureen's English assets.

E. An Evidentiary Hearing shall be held on April 14, 2021 to determine whether George had capacity to execute the Trust amendments and whether the Trust amendments were the result of undue influence.

F. If George had capacity to execute the amendments and the amendments were not the subject of undue influence, then the Court shall decide whether Petitioner violated the no-contest provisions of the Trust.

1 G. Discovery is open and the parties shall have one hundred eighty (180) days to conduct
2 discovery.

3 H. The Court shall set a status hearing in seventy-five (75) days.

4 I. The Court shall reserve questions on allocations of attorney fees, whether to remove Cary as
5 Trustee and whether the no contest provisions apply until after the Court has determined the validity
6 of the amendments.

7
8 IT IS SO ORDERED this _____ day of _____, 2020

9
10
11 _____
12 DISTRICT JUDGE

13 PREPARED BY

14 JERIMY KIRSCHNER & ASSOCIATES, PLLC

15
16 /s/Jerimy L. Kirschner, Esq.
JERIMY L. KIRSCHNER, ESQ.

17 Nevada Bar No. 12012
18 5550 Painted Mirage Rd., Suite 320
Las Vegas, NV 89149
Attorney for Petitioner

19
20 APPROVED AS TO FORM AND CONTENT

21 JOLLEY URG A WOODBURY & HOLTHUS

22
23
24 R. GARDNER JOLLEY, ESQ.
330 S. Rampart Boulevard, Suite 380
25 Las Vegas, Nevada 89145
Attorney for Cary Duckworth

EXHIBIT “C”

1 TRANS

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FILED
OCT 20 2020
John L. Blum
CLERK OF COURT

EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

IN THE MATTER OF THE)
TRUST OF:) CASE NO. P-20-103183-T
THE DUCKWORTH FAMILY) DEPT. 26
TRUST)

BEFORE THE HONORABLE WESLEY YAMASHITA
DISTRICT COURT JUDGE

TRANSCRIPT RE: PETITION FOR CONSTRUCTION OF TRUST TERM;
PETITION TO COMPEL PROPER ACCOUNTING AND TO COMPEL TURNOVER OF
TRUST DOCUMENTS

FRIDAY, SEPTEMBER 11, 2020

APPEARANCES:

The Petitioner:	NOT PRESENT
For the Petitioner:	JERIMY L. KIRSCHNER, ESQ. (Tel.)
	5550 Painted Mirage Rd., #320
	Las Vegas, Nevada 89149
	(702) 563-4444
The Trustee:	CARY DUCKWORTH (Tel.)
For the Trustee:	R. GARDNER JOLLEY, ESQ. (Tel.)
	330 S. Rampart Blvd., #380
	Las Vegas, Nevada 89145
	(702) 699-7500

1 LAS VEGAS, NEVADA

FRIDAY, SEPTEMBER 11, 2020

2 PROCEEDINGS

3 (THE PROCEEDINGS BEGAN AT 10:16:38)

4

5 THE COURT: Mr. Jolley, you can come back online
6 now.

7 MR. JOLLEY: Thank you, Your Honor. I'm sorry. I'm
8 left handed and a klutz, so I'll --

9 THE COURT: Okay.

10 MR. JOLLEY: -- try tonight.

11 THE COURT: That is -- that is two strikes, but
12 let's go ahead. Let's make appearances on this one.

13 MR. KIRSCHNER: Good morning, Your Honor. Jeremy
14 Kirschner, bar number 12012, on behalf of the Petitioner.

15 MR. JOLLEY: Gardner Jolley, 266, on behalf of the
16 Trustee Cary and I also have the sister Tara here with me.

17 THE COURT: Okay. We just went -- we -- we never
18 actually confirmed Trustee yet?

19 MR. KIRSCHNER: Yes, we're -- and we did state that
20 in our reply, Your Honor.

21 THE COURT: You did that?

22 MR. KIRSCHNER: We corrected that, confirm --
23 confirming the Trustee.

24 THE COURT: We did already?

1 MR. KIRSCHNER: We're -- we're do -- we did that in
2 our -- in our response. So we -- I don't believe we did in
3 the prior hearing, so we requested for it in supplemental
4 briefing, Your Honor. So yes.

5 THE COURT: Okay. Yeah, the -- I guess we -- we do
6 need to -- so I can have jurisdiction over this, confirm the
7 current Trustee Cary Duckworth as the trustee and take in rem.
8 So now I can talk about it where I couldn't until I took
9 jurisdiction. So we'll do that.

10 MR. KIRSCHNER: Absolutely, Your Honor.

11 THE COURT: We'll do that. Okay. So we -- we're
12 going on as back and forth as to right now the main issue is
13 whether or not the no contest provisions have been violated.
14 And also whether the amendments on those dates as written were
15 invalid due to some type of incapacity claim. I think those
16 are our two main thrusts right now; is that correct?

17 MR. KIRSCHNER: Well, there -- there's more, Your
18 Honor. Actually, they -- and this is Jeremy Kirschner on
19 behalf of the Petitioner. It started with a request for an
20 accounting because we know that there was over a million
21 dollars in personal property that was not accounted for in the
22 statutory or accounting that was requested by a beneficiary.
23 And after the further information wasn't turned over, that's
24 when we sought this Court's assistance in getting information

1 regarding those assets. Though Cary, as the trustee, was
2 asked for the -- that information and did not turn it over.
3 It was just a big question mark next to personal property.

4 And with this estate, it's unusual in that we have a
5 lot of very valuable personal property that is worth tens of
6 thousands -- hundreds of thousands of dollars and collectively
7 over a million dollars that has not been accounted for. So
8 that was what triggered this.

9 Secondly, Your Honor, as far as the invalidity of
10 the documents, it wasn't just capacity. There was also the
11 undue influence and there was a presumption walking into this
12 courtroom today. That presumption was that Cary Duckworth, as
13 a fiduciary under a power of attorney, received a financial
14 benefit from these transactions. And so when we came in, we
15 made that allegation, Your Honor. The burden of proof has
16 shifted to Cary Duckworth coming in to respond to that. Cary
17 Duckworth has provided no evidence of how this transaction was
18 fair and equitable to George Duckworth.

19 In fact, if you look at the transaction, George
20 Duckworth lost the bulk of his life's wealth in a single day
21 to his fiduciary, his power of attorney. George Duckworth
22 lost the house that he lived in. He lost his furnishings. He
23 lost the ability to determine who his personal property went
24 to. Everything about George Duckworth was lost on January

1 23rd, 2019.

2 Now this was done 10 months before Juck -- Duck --
3 George Duckworth died of end stage senile degeneration of the
4 brain. George Duckworth who since 2016 had had family
5 members, care providers, financial providers, all saying that
6 he was lacking in capacity. Someone who had been taking
7 Alzheimer's medication since 2017. And Cary Duckworth, the
8 person who signed under penalty of perjury in his first
9 response that he hadn't blocked access to George Duckworth's
10 long time caregiver and daughter Kyla, turned out we had
11 pictures from the guard gate that shows that yes, he had
12 ordered that George Duckworth be isolated from his daughter.
13 He had ordered that if she attempted to access the property
14 that he was to be called.

15 So we have undue influence. One, we have
16 presumption under the law. We have identified a fiduciary and
17 a financial benefit. We get that. We also have undue
18 influence that Cary Duckworth, in his original one, stated he
19 arranged for these documents to be drafted. Now there's
20 conflicting testimony. His sister Tara has come in and stated
21 that no, no, no, no, she was the one who arranged for these
22 documents to be provided after we pointed out that we get
23 additional statutory presumption of invalidity.

24 We also have Cary Duckworth saying that he was

1 managing all of dad's finances at this time. Cary Duckworth
2 paid the attorney who drafted these documents which changed
3 George -- George Duckworth's estate planning and made Cary
4 the primary beneficiary.

5 THE COURT: Okay. I mean, I understand --

6 MR. KIRSCHNER: We also see --

7 THE COURT: I understand your position. And, again,
8 I have read these things and I've gone through it.

9 MR. KIRSCHNER: Well --

10 THE COURT: And --

11 MR. KIRSCHNER: -- I would say the undue influence,
12 Your Honor, is actually probably one of the strongest ones
13 because we come in from a statutory position of the burden of
14 proof has shifted to Cary Duckworth. If I just stand up and I
15 say we have a fiduciary --

16 THE COURT: Coun -- Counsel.

17 MR. KIRSCHNER: -- and we have a challenged --

18 THE COURT: Counsel.

19 MR. KIRSCHNER: -- transaction. Go ahead, Your
20 Honor. I'm sorry.

21 THE COURT: Thank you. I've read it. I understand
22 the concept. Okay. I don't think I need to be preached to
23 what that means, all right?

24 MR. KIRSCHNER: I'm --

1 THE COURT: I read through it.

2 MR. KIRSCHNER: -- sorry about that, Your Honor.

3 MR. KIRSCHNER: I read through it. Mr. Jolley,
4 response.

5 MR. JOLLEY: Well, all I can say is everything in
6 our brief is contrary to what he says. If you want me to go
7 through the main things, I will.

8 THE COURT: No, I've read it. I've read it.

9 MR. JOLLEY: Well, then you know that what the
10 British attorney said about his condition. You know what Tara
11 has said about his condition. And the drug that they're
12 claiming affected him after Kyla left and abandoned her
13 father. The -- the drug -- I can't pronounce it. Menotine
14 (sic)?

15 UNIDENTIFIED VOICE: Memantine.

16 MR. JOLLEY: Memantine. He was getting a very
17 strong one and they hired a concierge doctor after that who
18 reduced it a lot -- oh, I'm sorry. It was very low and he --
19 they went it up and in fact Tara put in her deposition that
20 when he talked to Kyla about it, she said boy, he's doing a
21 lot better since I've seen him. This is when he went to visit
22 his wife at Las Ventanas (ph).

23 THE COURT: Yeah, but -- but, you know, let me --
24 let me cut you there.

1 MR. JOLLEY: Okay.

2 THE COURT: Anytime we got a claims of undue
3 influence/incapacity, don't I have to address that first to
4 see if it's going to be valid enough to impose any type of no
5 contest?

6 MR. JOLLEY: Well, that's why I suggested if you
7 want and I've got the examples of -- remember, the English
8 attorneys said in Janu -- on January 14th that he was pull --
9 fully competent. Okay. And then he went to have new
10 documents done to remove Tara and also to do the change of a
11 power of attorney to remove Kyla. And that was with -- with
12 -- no, it was with Carrie Perdick (ph). And in those -- in
13 one of those documents, she put that he was competent. The
14 same thing happened with Ken Burns (ph).

15 I've also mentioned in my brief that I have a
16 statement by Ken Burns, but I don't want to -- to violate the
17 attorney/client privilege. Now if Ken Burns were alive and he
18 knew this, that if this issue came up --

19 THE COURT: Well --

20 MR. JOLLEY: -- that --

21 THE COURT: But at this point --

22 MR. JOLLEY: -- he would have to be a witness.

23 THE COURT: And Coun -- Counsel --

24 MR. JOLLEY: And --

1 THE COURT: Counsel --
2 MR. JOLLEY: -- so I don't -- pardon?
3 THE COURT: At this point, those are -- they aren't
4 considered in evidence per se and I think I have to go to a
5 situation where we go into receiving evidence to determine
6 capacity and the other evidence that may dictate whether the
7 undue influence claims may be there.
8 MR. JOLLEY: Well, if I provide you with that
9 statement, it might change your mind. And I don't -- if -- if
10 Mr. Kirschner wants to waive that it's not -- it's not a
11 violation of the --
12 THE COURT: Well --
13 MR. JOLLEY: -- attorney/client pri --
14 THE COURT: -- here's where --
15 MR. JOLLEY: -- privilege.
16 THE COURT: -- here's where we have to go. Okay.
17 MR. JOLLEY: Okay.
18 THE COURT: We have to decide and we're going to
19 declare this to be contest of these amendments based upon two
20 prongs; incapacity and/or undue influence. Okay?
21 MR. JOLLEY: Okay.
22 THE COURT: If you believe during the -- during --
23 while the time you are getting your evidence when you're doing
24 your discovery and everything else you believe you have enough

1 for a summary judgment type thing, then we can bring that at
2 that point. But I think we need to open discovery, get this
3 going, and determine on those two prongs how much time you're
4 going to need for discovery, when do you believe you're going
5 to be able to get into the hearing. I -- I guess even further
6 back from that, let's say if you're going to request that I
7 hear this or whether you're going to ask this to be heard by
8 the Judge.

9 MR. JOLLEY: Well, two questions to you. One, it
10 seems to me that if you thought she violated the provisions;
11 the no contest clauses, that you could declare based upon her
12 conduct that would be a violation. If you don't feel
13 comfortable doing that without knowing more about the undue
14 influence and the other, I understand. I -- that was my first
15 question.

16 My second one is I have tried to get Mr. Kirschner
17 to sit down and resolve this matter with us and he won't even
18 respond. I think that what you should order is a mediation.

19 THE COURT: Okay. Mr. Kirschner, do you want to
20 respond to that? Well, no -- no -- let me ask you a first --
21 ask you a first question. I believe that until we determine
22 the issues of the capacity/undue influence I cannot
23 technically rule yet on -- on the issues of the violation of
24 the no contest clause.

1 MR. JOLLEY: Okay.

2 THE COURT: So Mr. Kirschner, do you want to respond
3 to basically anything I put in there as far as whether you
4 want to keep it in my forum or whether you want to keep the
5 Judge and whether you are amenable to pushing this into a -- a
6 settlement conference?

7 MR. KIRSCHNER: To answer those one -- first, Your
8 Honor, I would be comfortable with this Court hearing the
9 matter. Secondly, as to correspondence back and forth between
10 me and Counsel regarding settlement, I don't want to get into
11 a, you know, between Counsel fight. I would just say that
12 there was request for informations that were not responded to.

13 As far as settlement goes, Your Honor, I think that
14 a mediation may work in this situation and I'm not adverse to
15 it. I haven't passed it by my client yet, but I think that
16 might do some good moving forward. But we also need that
17 accounting, Your Honor, because you can't go into a settlement
18 blind and if there's seven figures in personal property that's
19 missing that Mr. Cary Duckworth will not account for, how do
20 you negotiate when the Trustee won't account for assets?

21 MR. JOLLEY: Can I respond to that?

22 THE COURT: Yes.

23 MR. JOLLEY: Okay. If you look at Section 903 which
24 is in the directives, you'll see that it says that if you're

1 not a beneficiary, you're not entitled to have information
2 relating to that. We have demanded that she give us a list of
3 personal property which she hasn't done. We have asked her --
4 we can't close the English estate because of her conduct. And
5 I won't go through it, Your Honor. You know what was in the
6 brief. And so it was our position that we didn't have to do
7 that because we were claiming that she wasn't providing the
8 information to us and so we had no duty to spend the money to
9 do the personal property when the way it is now under the
10 First Amendment she can't get anything if she's violated the
11 -- the law. Now the fact is before I became involved, if
12 you'll remember, Ken Burns died.

13 THE COURT: Yes.

14 MR. JOLLEY: Okay. And I know Ken Burns talked to
15 them about having someone valuate the property and they quit
16 working on that because of the pandemic. The woman -- the
17 woman that started it said I don't want to go to that house as
18 long as there's a pandemic on.

19 Now, if you -- if you want to require that they do
20 that, the only thing I would say is that the cost for that
21 will come out of the Trust because that's what would happen
22 normally --

23 THE COURT: Sure.

24 MR. JOLLEY: -- to do an appraisal like that. I can

1 tell you it's not worth a million dollars. And nothing --
2 nothing has been done, the 300,000 that he was entitled to
3 get, he hasn't taken. He hasn't taken any trustee fees and he
4 hasn't got rid of it. The fact is is they were -- we were
5 just talking about that. It's -- the garage is full of all --
6 a lot of these things they would like to get rid of but
7 they're scared to death to even throw anything away that there
8 will be complaints.

9 So I don't think we have to do the inventory based
10 upon the positions that we've taken right now and their
11 refusal to provide us information regarding the bank accounts
12 in England and the tax returns and the albums they have of the
13 photo albums, the -- whether -- as far as we know, she's got a
14 bunch of jewelry that belonged to the mother. But we don't
15 know because she won't --

16 THE COURT: Okay.

17 MR. JOLLEY: -- respond.

18 THE COURT: Yeah, I'll -- I'll agree to this point,
19 that you do need to get the valuations done and certainly
20 that's a -- a -- Trust valuation and a Trust expense. I will
21 also agree that if there's been nothing forthcoming with
22 regard to the claims of real -- even if she's denying, saying
23 none of it is yours, then at least you account for that. But
24 if -- until and such time she does account for what they made

1 the demands for, you can't -- he can't do a proper accounting
2 until that's been responded to by Kayla (sic).

3 MR. KIRSCHNER: And -- and Your -- Your Honor, to --
4 two different points, quickly. As -- as far as the valuation
5 with the personal property, I would agree that if the
6 valuations were performed within the accounting period or if
7 they'd sought that information prior to us filing a petition
8 to compel that additional information, that that would have
9 been a Trust expense. And that was something that we tried
10 outside of court to request additional information from them
11 for.

12 But, the moment that we had to bring this petition,
13 that ceased to be a Trust expense and that's a Cary Duckworth
14 expense individually. And this was an issue we brought up
15 long ago, right after we got this accounting. We brought it
16 up within days of it, that there was a massive glaring hole as
17 to the personal property. And we just never got a response
18 back to it. And we --

19 THE COURT: Okay.

20 MR. KIRSCHNER: -- didn't -- and we still, even
21 after we filed this petition, didn't get a response --

22 THE COURT: Okay.

23 MR. KIRSCHNER: -- back --

24 THE COURT: Okay.

1 MR. KIRSCHNER: -- other than you're disinherited.
2 THE COURT: They have made --
3 MR. KIRSCHNER: I --
4 THE COURT: -- a demand of an account. If -- if she
5 refuses to even respond, then they're not -- then they don't
6 have to. And if you're going to put forth and say I don't
7 have anything, you're not getting anything, it's all mine,
8 then they'll -- they'll know -- then they respond from there,
9 okay?
10 MR. KIRSCHNER: And -- and as far as --
11 THE COURT: And then until --
12 MR. KIRSCHNER: -- personal property --
13 THE COURT: -- they respond in some manner, they
14 have no responsibility to re -- put that out there if you're
15 not getting any information from you.
16 MR. KIRSCHNER: And -- and as far as personal
17 property of the mother, Your Honor, my client's belongings
18 were sent into a pod in an eviction --
19 THE COURT: I don't need to --
20 MR. KIRSCHNER: -- that was done --
21 THE COURT: -- hear this. I need you to respond to
22 them how you're take -- what position you're taking.
23 MR. KIRSCHNER: Well, I will tell you I will provide
24 an affidavit to them that my only property that my client has

1 of her mother's is a little Buddha statue and the remaining
2 property was not turned over to her when she was evicted from
3 the property. And I'll provide them an affidavit as to that,
4 Your Honor.

5 THE COURT: Put out the numbers and respond. Tell
6 them this is what we are claiming is -- belongs to the -- the
7 Trust or estate and not mine. Okay. Once you --

8 MR. KIRSCHNER: Well, absolutely.

9 THE COURT: Once they respond --

10 MR. KIRSCHNER: Your --

11 THE COURT: -- to that, then you're going to be
12 required Mr. Jolley to file an accounting.

13 MR. JOLLEY: Well, the -- the other thing that I
14 wanted to point out is we also need to know what were in those
15 bank accounts in England because that estate is open and we
16 can't close it because of her conduct and I've gone through
17 that. But she needs to tell us exactly what's in those bank
18 accounts in England.

19 MR. KIRSCHNER: She did. Your Honor, there's --
20 there's two sides to that. That passes under English
21 intestate law and the accounts that were in England would have
22 passed under English intestate law. And that's a separate
23 question from turning over assets that were related to the
24 Trust . And that's something that they have English Counsel

1 that -- to dispute over, Your Honor.

2 MR. JOLLEY: Your Honor, that's -- but you got to
3 realize what happens if we could close the estate, 75 percent
4 goes to George who's dead. It would then go to the estate in
5 Jan -- his will says it all goes in the Trust. So this is
6 really a Trust asset whether Mr. Kirschner likes it or not
7 because that's where it's going to end up, 75 percent, unless
8 she continues to refuse to give up on her claims to those
9 assets. She can say all she wants, but she's never -- never,
10 ever said that she was not making a claim and the first letter
11 we got in October of 2018 said she was making a claim against
12 the assets.

13 THE COURT: Okay.

14 MR. JOLLEY: All of the assets.

15 THE COURT: Okay. I -- I'm going to order that --
16 that whoever has that information should be disclosed to the
17 values and amounts required under what is there, as far as the
18 English accounts.

19 MR. KIRSCHNER: And Your Honor, would that also be
20 part of the mother's estate which should have been opened up
21 here in -- in Las Vegas with her will that's been outstanding
22 and has not been launched? Because that was one of our
23 complaints and the reason why we wanted to have some of those
24 questions answered in a probate proceeding for the mother's

1 will is that they never opened up an ancillary estate here in
2 Las Vegas and they have the original will.

3 MR. JOLLEY: As far as I know, the will was filed.

4 THE COURT: Well --

5 MR. JOLLEY: According to my --

6 THE COURT: -- if -- if it --

7 MR. JOLLEY: -- file, it was --

8 THE COURT: -- it's been lodged --

9 MR. JOLLEY: -- filed with --

10 THE COURT: -- it's different. If there are assets
11 which require some type of probate here in the states and
12 requires here in the state of Nevada, then there should be
13 some kind of probate open.

14 MR. KIRSCHNER: Yes, sir.

15 MR. JOLLEY: I don't think there are any.

16 THE COURT: Yeah.

17 MR. JOLLEY: And Mr. Kirschner, tell me what assets
18 go into her estate.

19 MR. KIRSCHNER: I would say that if there's a claim
20 that there are assets from England being brought over from her
21 estate, we're going to need an ancillary estate here. Also,
22 if there's any personal property that wasn't otherwise put
23 inside the Trust, then we would need that estate opened up
24 here in Las Vegas which is something that we've been

1 requesting for quite some time, to lodge that will and to open
2 up that estate because there's going to be a host of other
3 legal issues that are going to be as part of that estate here
4 in Las Vegas. And it's not just the personal property.
5 There's also going to be some legal claims that need to be
6 made --

7 MR. JOLLEY: I don't --

8 MR. KIRSCHNER: -- which is the reason why we --

9 MR. JOLLEY: -- see one document where Kirschner has
10 ever said that he had -- that there -- assets that should be
11 going into --

12 THE COURT: Yeah.

13 MR. JOLLEY: -- the estate. And I've --

14 THE COURT: You guy --

15 MR. JOLLEY: -- gone through everything.

16 THE COURT: You guys argue that out, okay? That's
17 not before me right now. Okay.

18 MR. KIRSCHNER: Yes, Your Honor.

19 THE COURT: I've made my rulings as to this part.
20 You give the information of -- of the personal property. I'm
21 requiring that whatever values of these accounts in England
22 are to be valued or at least shown what they are and that once
23 the information is given to Mr. Jolley, I'm requiring that an
24 accounting come forward.

1 MR. KIRSCHNER: Yes, Your Honor. And for discovery,
2 can we have a hundred and twenty days on discovery, Your
3 Honor?

4 THE COURT: Yeah, I'm thinking that's --

5 MR. KIRSCHNER: Probably on the low side.

6 THE COURT: -- prob -- probably on the low side. If
7 you're going to come back on a capacity --

8 MR. KIRSCHNER: Yeah.

9 THE COURT: -- you got to get doctors, you got to
10 get all those medicals. You got to get everything else.
11 So --

12 MR. KIRSCHNER: A hundred and eighty days, Your
13 Honor.

14 THE COURT: -- you're probably looking more to --
15 yeah, a hundred and eighty to six months out.

16 MR. JOLLEY: Can you hold on a minute, Your Honor?
17 I wanted to ask my clients a question.

18 (COUNSEL AND CLIENT CONFER BRIEFLY)

19 THE COURT: Make sure you're muted.

20 MR. JOLLEY: Your Honor.

21 THE COURT: Yes?

22 MR. JOLLEY: As far as the personal property, most
23 of it is in the garage at the --

24 UNIDENTIFIED VOICE: Corta Bella (ph).

1 MR. JOLLEY: Cor -- Corta Bella and also in a
2 storage unit. And -- and Kyla knows that. If she wants to
3 come and go through those two, she's entitled to take anything
4 she wants out of those, anything. In other words, they're not
5 going to make a claim to any of it. We know for instance
6 there's a -- an old piano that's in there that she may have
7 wanted and it may be worth some money, but she needs to go
8 through instead of us wasting all the time taking care of all
9 the -- a bunch of stuff that shouldn't -- isn't worth valuing.

10 THE COURT: Well, you know --

11 MR. JOLLEY: And she can have it all. Well --

12 THE COURT: When it comes to personal property, both
13 on trusts and estates, I kind of do this as -- as a 706 tax
14 return does. If you got one item worth 5,000 by itself, then
15 that should be valued separately or if there's a collection of
16 the same type of items worth \$10,000, that should be valued
17 separately. But if it's just everything else, it doesn't come
18 up to a heck of a lot. You don't need to value them
19 separately.

20 MR. JOLLEY: That's fine. We'll value anything that
21 would -- that we think is of value, you know, that's not in
22 the -- in the -- can you go through and check and see if
23 there's anything you think --

24 UNIDENTIFIED VOICE: Kyla knows what we're dealing

1 with. There's a bunch of crap and there might be some things
2 worth something. She can have all of it.

3 MR. JOLLEY: I -- I understand, but anyway, we'll
4 put a value on the things that aren't, you know, anything that
5 is -- isn't in that warehouse and in the garage, but why spend
6 the money having someone go through it when we don't -- she --
7 she can have anything in there and if there's something of
8 value --

9 THE COURT: Okay.

10 MR. JOLLEY: -- then we'll put a value --

11 THE COURT: Then -- then --

12 MR. JOLLEY: -- on it.

13 THE COURT: -- we'll -- then make that offer to her,
14 Mr. Kirschner, that -- that she can go into those, you know,
15 those premises and take whatever she wishes to have, so --

16 UNIDENTIFIED VOICE: Get an appraisal.

17 MR. KIRSCHNER: I -- I appreciate the offer and I
18 will definitely take that back to my client, Your Honor.

19 THE COURT: Okay. I think that's where we're going
20 to go for now. We'll -- we'll set this out on a hundred and
21 eight days of discovery with the goal then to come in in about
22 seven months from now for an evidentiary hearing. When would
23 that put us?

24 THE CLERK: The beginning of April, let me find her

1 the date.

2 THE COURT: Okay. Let's tentatively set an
3 evidentiary hearing for second week in April on a Wednesday.
4 What is that?

5 THE CLERK: That will be the 14th.

6 THE COURT: The 14th of April. Make sure you file a
7 tax return before.

8 MR. JOLLEY: Your -- Your Honor --

9 MR. KIRSCHNER: Thank you.

10 MR. JOLLEY: -- one -- one thing. Are -- are you --
11 are you just saying you'll suggest mediation; you're not
12 requiring a mediation?

13 THE COURT: Well, I need to get verification back
14 from Mr. Kirschner. Is he willing to submit it in?

15 MR. JOLLEY: What if he --

16 MR. KIRSCHNER: I can --

17 MR. JOLLEY: -- isn't?

18 MR. KIRSCHNER: -- Your -- Your Honor, I think that
19 once we get that accounting, I can submit some supplemental
20 briefing re -- regarding our position on mediation. I'm --
21 I'm going to assume that once we have the values in,
22 mediation's going to be a lot easier. We just need to get
23 those valuations in on the Trust property.

24 THE COURT: Okay. Mr. Jolley, how long can we get

1 these valuation, accountings, inventory type things?
2 UNIDENTIFIED VOICE: With COVID, it's going to be a
3 long time.
4 MR. JOLLEY: Well, we don't know because of the --
5 the COVID, but we'll get back with you with a -- a date
6 because they didn't want to come in and do it because of
7 the --
8 THE COURT: Sure.
9 MR. JOLLEY: -- pandemic.
10 THE COURT: Well, I'm getting recent appraisals from
11 other people, so you may want to switch if they're not willing
12 to come in, so --
13 MR. JOLLEY: Okay. Should I -- 60 days, 30 days?
14 THE COURT: I think 60 is reasonable.
15 MR. JOLLEY: Okay. Well, why don't we put 60, but
16 Your Honor, give me a chance to file --
17 THE COURT: Sure.
18 MR. JOLLEY: -- something if they have --
19 THE COURT: Find --
20 MR. JOLLEY: -- trouble getting --
21 THE COURT: Find other things --
22 MR. JOLLEY: -- someone to --
23 THE COURT: -- but we'll --
24 MR. JOLLEY: -- do it.

1 THE COURT: -- we'll -- can we put that on for 60 so
2 that we put kind of a return status type date about 70 --
3 MR. JOLLEY: That's fine.
4 THE COURT: -- 75 days out.
5 MR. JOLLEY: Okay.
6 MR. KIRSCHNER: And, Your Honor, could we also have
7 -- can -- just to be clear, can we have that as the personal
8 property and the furnishings that were transferred on January
9 23rd?
10 THE COURT: Well, again, you got to do your full
11 account and you'll get a chance to respond to the accounting
12 if we see what goes from there.
13 MR. JOLLEY: But the fur --
14 MR. KIRSCHNER: Thank you, Your Honor.
15 THE COURT: So we'll just --
16 MR. JOLLEY: -- the furniture --
17 THE COURT: -- we're -- we're going to go sta --
18 MR. JOLLEY: -- when they deliver it --
19 THE COURT: -- we're going to go status in 75 days.
20 THE CLERK: That will be --
21 MR. JOLLEY: Your -- Your Honor --
22 THE COURT: Yes?
23 THE CLERK: -- the 11 --
24 MR. JOLLEY: The furniture was given to him back in

1 while George was still alive --
2 THE COURT: Okay. If it -- and --
3 MR. JOLLEY: -- and it -- it's -- it was -- it
4 specifically says in there that if -- there -- it is not a
5 setoff for the furniture --
6 THE COURT: Okay.
7 MR. JOLLEY: -- that went to him. It's a setoff for
8 the value of the house --
9 THE COURT: Okay.
10 MR. JOLLEY: -- but not --
11 THE COURT: Here -- here's the thing.
12 MR. JOLLEY: -- not the furni --
13 THE COURT: Anything -- actions that were done as
14 far as accounting up through date of death would -- only one
15 to the title of that was the person -- you know, the -- the
16 decedent now. And so that -- that's off. The accounting is
17 to come from date of death forward.
18 MR. JOLLEY: Okay.
19 THE CLERK: So December 4th.
20 MR. KIRSCHNER: Your Honor, we asked for the
21 accounting from the date that he became trustee of the Trust
22 and there was a claim that he became trustee of the Trust as
23 of January 23rd of 2019 --
24 THE COURT: Yeah, I understand --

1 MR. KIRSCHNER: -- which is the --
2 THE COURT: -- what you're saying.
3 MR. KIRSCHNER: -- the very same date the amendment
4 was signed, Your Honor.
5 THE COURT: I -- I understand what you're saying,
6 but until you establish that he wasn't deemed incompetent, the
7 only one that could require an accounting is the -- is the
8 beneficiary.
9 MR. KIRSCHNER: And, Your Honor, I -- I want to say
10 just not the incompetency. I would like to pay attention to
11 the undue influence because we have the presumption that this
12 is --
13 THE COURT: Yes.
14 MR. KIRSCHNER: -- void --
15 THE COURT: And I -- I note that.
16 MR. KIRSCHNER: -- because they haven't --
17 THE COURT: I note that.
18 MR. KIRSCHNER: -- disputed that.
19 THE COURT: I noted that. I just didn't put it in
20 there. Okay.
21 MR. KIRSCHNER: Okay.
22 THE COURT: I don't need to be --
23 MR. KIRSCHNER: And -- and --
24 THE COURT: -- told again.

1 MR. KIRSCHNER: -- because we have -- Your --
2 THE COURT: Okay?
3 MR. KIRSCHNER: -- Your Honor, because we have the
4 presumption of invalidity that has not been --
5 THE COURT: Now --
6 MR. KIRSCHNER: -- disputed --
7 THE COURT: Now -- now --
8 MR. KIRSCHNER: -- at this point, and I think --
9 THE COURT: Now -- now --
10 MR. KIRSCHNER: -- it's appropriate to include --
11 THE COURT: -- we're going to go forward.
12 MR. KIRSCHNER: -- the accounting.
13 MR. JOLLEY: It's certainly --
14 THE COURT: I ruled --
15 MR. JOLLEY: -- been true --
16 THE COURT: -- that way and it's going to be from
17 date of death forward. If -- if and when something like that
18 comes about and it's proven, then it may go back, but at this
19 point, no.
20 MR. KIRSCHNER: Thank you very much, Your Honor.
21 THE COURT: We'll -- we'll be back just more of a
22 status on December --
23 THE CLERK: 4th.
24 THE COURT: December 4th.

1 MR. KIRSCHNER: December 4th. Okay.

2 THE COURT: Okay?

3 MR. JOLLEY: Okay.

4 THE COURT: I do need an order just confirming I'm
5 taking jurisdiction though.

6 MR. KIRSCHNER: All right. I will prepare, Your
7 Honor.

8 THE COURT: All right.

9 MR. JOLLEY: And would you run it by me before you
10 send it to the Judge?

11 MR. KIRSCHNER: Absolutely.

12 THE COURT: All right. Thank you.

13 MR. KIRSCHNER: Thank you very much.

14 (TO OTHER MATTERS)

15 (PROCEEDINGS CONCLUDED AT 10:46:28)

16 * * * * *

17 ATTEST: I do hereby certify that I have truly and
18 correctly transcribed the digital proceedings in the above-
19 entitled case to the best of my ability.

20

21

Adrian Medrano

22

23

Adrian N. Medrano

24

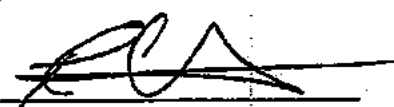
1 **AFFIDAVIT OF SERVICE**

2 STATE OF Nevada)
3) ss.
4 COUNTY OF Clark)

5 **Richard Etienne, License # 1506**, being duly sworn, says: that at all times herein affiant
6 was and is over 18 years of age, not a party to nor interested in the proceeding in which this
7 affidavit is made. That affiant received the **Subpoena Duces Tecum & Notice of Taking**
8 **Deposition** on the **12th** day of **October 2020** and served the same on **14th** day of **October**
9 **2020** by delivering to **Wynn c/o Carlos Villapando at 3131 Las Vegas Nevada 89129.**

10
11 I declare under penalty of perjury under the law of the State of Nevada that the foregoing is
12 true and correct.

13 EXECUTED this **17th** day of **October 2020.**

14 
15 _____
16 Richard Etienne # 1506
17 5940 S. Rainbow Blvd.
18 Las Vegas NV 89118

19 No Notary Required per NRS 53.045
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EXHIBIT “D”

Assignment of Personal Property

For value received we, George M. Duckworth and Maureen D. Duckworth of Las Vegas, Nevada, hereby assign, transfer, and convey to:

George M. Duckworth and Maureen D. Duckworth, Trustees of The Duckworth Family Trust dated the 12th day of March, 2015 and any amendments thereto.

All of our right, title, and interest in all of our tangible personal property. Our tangible personal property shall include, without limitation, all of our jewelry, clothing, household furniture, furnishings and fixtures, chinaware, silver, photographs, works of art, books, boats, automobiles, sporting goods, electronic equipment, musical instruments, artifacts relating to our hobbies, and all other tangible articles of personal property that we now own or hereafter acquire, regardless of how they are acquired, or the record title in which they are held.

Dated: March 12TH, 2015

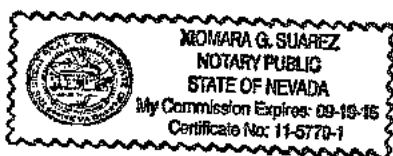
George M. Duckworth
GEORGE M. DUCKWORTH, ASSIGNOR

Dated: March 12TH, 2015

Maureen D. Duckworth
MAUREEN D. DUCKWORTH, ASSIGNOR

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

This instrument was acknowledged before me on the 12th day of March, 2015, by
George M. Duckworth and Maureen D. Duckworth.



Xiomara G. Suarez
Notary Public
My commission expires 09/19/2016

Heather S. Lumin
CLERK OF THE COURT

ORDR

R. Gardner Jolley, Esq. NSB #266
JOLLEY URG A WOODBURY & HOLTHUS
50 S. Stephanie Street, Suite 202
Henderson, Nevada 89012
nt@juwlaw.com
Telephone: (702) 699-7500
Facsimile: (702) 699-7555

and

DAWSON & LORDAHL PLLC
Elizabeth Brickfield, Esq. NSB #6236
Melissa R. Douglas, Esq. NSB #9545
8925 West Post Road, Suite 210
Las Vegas, Nevada 89148
Telephone: (702) 476-6440
Facsimile: (702) 476-6442
Ebrickfield@dlnevadalaw.com
Mdouglas@dlnevadalaw.com
Counsel for Cary Duckworth, Trustee

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of:

THE DUCKWORTH FAMILY TRUST,

Dated March 12, 2015.

Case No.: P-20-103183-T
Dept. No.: 26/PC-1

Date of Hearing: December 3, 2020
Time of Hearing: 9:30 AM

**ORDER DENYING OBJECTION TO PROBATE COMMISSIONER'S REPORT
AND RECOMMENDATIONS**

Attorneys for Objector: Kyla Duckworth – Jeremy Kirschner, Esq. of the law firm Jeremy Kirschner & Associates, PLLC

Attorneys for Opposition: Cary Duckworth, Trustee – R. Gardner Jolley, Esq. of the law firm Jolley Urga Woodbury & Holthus and Elizabeth Brickfield, Esq. of the law firm Dawson & Lordahl PLLC

Appearance by Beneficiary: Tara Duckworth – Liane K. Wakayama, Esq. of the law firm Hayes Wakayama

JOLLEY URG A WOODBURY & HOLTHUS
ATTORNEYS AT LAW
50 S. STEPHANIE STREET, SUITE 202, HENDERSON, NV 89012
TELEPHONE: (702) 699-7500 FAX: (702) 699-7555

1 This matter came on for hearing on the 3rd day of December 2020. The Probate
2 Judge having reviewed the Pleadings and papers on file herein, considered the oral
3 arguments of Counsel and good cause appearing, the Court finds that the Probate
4 Commissioner's findings of facts and conclusions of law were not clearly erroneous, the
5 Probate Commissioner Report and Recommendation shall be and is adopted by the Court
6 in its entirety as the finding and orders of the Court.
7

8 DATED this ____ day of December, 2020.
9

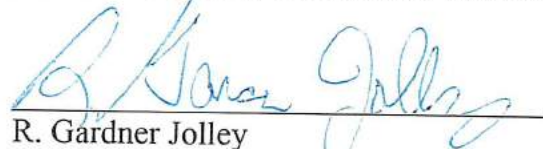
Dated this 9th day of December, 2020


PROBATE COURT JUDGE

D5B C17 3272 BE5F
Gloria Sturman
District Court Judge

10 Respectfully submitted:
11

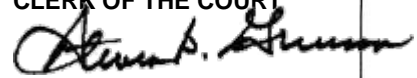
12 JOLLEY URGAL WOODBURY & HOLTHUS
13

14 
15 R. Gardner Jolley
16 50 S. Stephanie Street, Suite 202
17 Henderson, Nevada 89012
18 *Attorney for Cary Duckworth as Trustee*
19 *of the Duckworth Family Trust*
20
21

22 Approved to as to Form and Content

23 JERIMY KIRSCHNER & ASSOCIATES, PLLC
24

25 
26 Jeremy L. Kirschner
27 550 Painted Mirage Rd., Suite 320
28 Las Vegas, Nevada 89149
Attorney for Petitioner



1 **SUPPL**
2 R. Gardner Jolley
3 Nevada Bar No. 266
4 Email: nt@juwlaw.com
5 JOLLEY URG A WOODBURY & HOLTHUS
6 330 S. Rampart Boulevard, Suite 380
7 Las Vegas, Nevada 89145
8 (702) 699-7500 Telephone
9 (702) 699-7555 Facsimile
10 *Attorneys for Trustee*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

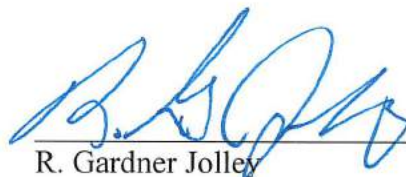
13 In the Matter of) Case No. P-20-103183-T
14) Dept No. 26
15 THE DUCKWORTH FAMILY TRUST)
16)
17 Dated March 12, 2015) **Hearing Date: August 7, 2020**
18) **Hearing Time: 9:30 a.m.**
19)
20)

21 **ATTACHED AS EXHIBIT G AS A SUPPLEMENT TO THE EXHIBITS TO THE**
22 **OPPOSITION FILED JULY 30, 2020 IS THE ASSIGNMENT OF PERSONAL**
23 **PROPERTY OF GEORGE M. AND MAUREEN D. DUCKWORTH TO THE**
24 **TRUSTEE'S OF THE DUCKWORTH FAMILY TRUST DATED MARCH 12, 2015 AND**
25 **ANY AMENDMENTS THERETO**

26 George and Maureen assigned all of the personal property to the Trust including jewelry
27 and all other tangible articles of personal property that they owned or thereafter acquired,
28 regardless of how they are acquired, or the record titled in which they are held.

DATED this 5th day of August, 2020.

JOLLEY URG A WOODBURY & HOLTHUS



R. Gardner Jolley
Attorney #266
330 S. Rampart Boulevard, Suite 380
Las Vegas, Nevada 89145
Attorneys for Trustee

CERTIFICATE OF SERVICE

I hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years and not a party to this action. My business address is Jolley Urga Woodbury & Holthus, 330 S. Rampart Boulevard, Suite 380, Las Vegas, Nevada, 89145.

On this day I served the **Attached as Exhibit G as a Supplement to the Exhibits to the Opposition Filed July 30, 2020 is the Assignment of Personal Property of George M. and Maureen D. Duckworth to the Trustees of the Duckworth Family Trust Dated March 12, 2015 and any Amendments Thereto** in this action or proceeding electronically with the Clerk of the Court via the Odyssey E-File and Serve system, which will cause this document to be served upon the following counsel of record:

Jerimy L. Kirschner, Esq.
JERIMY KIRSCHNER & ASSOCIATES, PLLC
5550 Painted Mirage Road, Suite 320
Las Vegas, Nevada 89149
Attorney for Kyla Duckworth

I certify under penalty of perjury that the foregoing is true and correct, and that I executed this Certificate of Service on August 5, 2020, at Las Vegas, Nevada.


An employee of JOLLEY URGALAW WOODBURY & HOLTHUS

EXHIBIT “G”

Assignment of Personal Property

For value received we, George M. Duckworth and Maureen D. Duckworth of Las Vegas, Nevada, hereby assign, transfer, and convey to:

George M. Duckworth and Maureen D. Duckworth, Trustees of The Duckworth Family Trust dated the 12th day of March, 2015 and any amendments thereto.

All of our right, title, and interest in all of our tangible personal property. Our tangible personal property shall include, without limitation, all of our jewelry, clothing, household furniture, furnishings and fixtures, chinaware, silver, photographs, works of art, books, boats, automobiles, sporting goods, electronic equipment, musical instruments, artifacts relating to our hobbies, and all other tangible articles of personal property that we now own or hereafter acquire, regardless of how they are acquired, or the record title in which they are held.

Dated: March 12th, 2015

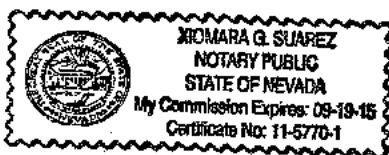
George M. Duckworth
GEORGE M. DUCKWORTH, ASSIGNOR

Dated: March 12th, 2015

Maureen D. Duckworth
MAUREEN D. DUCKWORTH, ASSIGNOR

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

This instrument was acknowledged before me on the 12th day of March, 2015, by George M. Duckworth and Maureen D. Duckworth.



Xiomara G. Suarez
Notary Public
My commission expires 09/19/2015