

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

2 In the Matter of the ESTATE OF MARILYN
3 WEEKS SWEET, Deceased.

Supreme Court Case No: 83342

4 CHRISTY KAY SWEET,

District Court Case No. P-20-103340-E

5 Appellant,

6 vs.

7 KATHRYN SWEET and VANESSA
8 JOHNSON, ADMINISTRATORS OF THE
ESTATE OF MARILYN WEEKS SWEET,

9 Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

10 **MOTION TO SUBSTITUTE ADMINISTRATORS AS RESPONDENTS**

11 COME NOW KATHRYN SWEET and VANESSA JOHNSON (“Respondents”), in
12 their capacity as the administrators of the ESTATE OF MARILYN WEEKS SWEET (the
13 “Estate”), by and through their attorney BRIAN H. NELSON of the LAW OFFICES OF BRIAN
14 H. NELSON, and hereby move the court to substitute Respondents as respondents in place of
15 CHRISTOPHER WILLIAM HISGEN (“Mr. Hisgen”) who is now deceased pursuant to NRAP
16 43(a)(1), as Respondents have been named as the administrators of the Estate.

17 This Motion is made and based upon the pleadings and papers on file herein, and the
18 following Memorandum of Points and Authorities.

19 DATED this 10th day of April, 2023.

20 /s/ Brian H. Nelson, Esq.

21 BRIAN H. NELSON, ESQ.

22 Nevada Bar No. 13203

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25 Marilyn Weeks Sweet

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MEMORANDUM OF POINTS AND AUTHORITIES

I. RELEVANT PROCEDURAL HISTORY

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3 1. On July 14, 2021, the District Court entered the ORDER AFFIRMING REPORT
4 AND RECOMMENDATION, ADMITTING WILL TO PROBATE AND TO ISSUE LETTERS
5 TESTAMENTARY.

6 2. On July 14, 2021, Letters Testamentary were issued to Mr. Hisgen.

7 3. On August 4, 2021, CHRISTY SWEET (“Appellant”) filed her NOTICE OF
8 APPEAL.

9 4. On October 20, 2022, the Court of Appeals entered its Opinion affirming the
10 Order.

11 5. On December 12, 2022, Appellant filed her PETITION FOR REVIEW (the
12 “Petition For Review”) which is currently pending.

13 6. On January 12, 2023, Mr. Hisgen passed away.

14 7. On January 27, 2023, Mr. Hisgen’s former counsel filed a MOTION TO
15 EXTEND TIME.

16 8. On February 8, 2023, the Nevada Supreme Court entered its Order requiring that
17 “[c]ounsel for respondent shall have 60 days from the date of this order to (1) file a motion for
18 the substitution of a personal representative or (2) inform this court that respondent has no
19 personal representative.”

20 9. On March 6, 2023, the Probate Commissioner entered his REPORT AND
21 RECOMMENDATIONS that Respondents be appointed as administrators of the Estate.

22 10. On April 7, 2023, the District Court entered an ORDER GRANTING REQUEST
23 FOR JUDICIAL REVIEW AND OBJECTION TO PROBATE COMMISSIONER’S REPORT
24 AND RECOMMENDATIONS which provides for the appointment of Respondents as
25 administrators of the Estate.

1 11. On April 10, 2023, Letters of Administration with Will Annexed were submitted
2 to the Eighth Judicial District Court, Clerk of Court for issuance.

3 12. Respondents now move the Court to substitute Respondents as respondents in this
4 matter.

5 **II. ARGUMENT**

6 **A. The Notice of Appeal is Premature as the NRCP 59 Motion is Pending.**

7 NRAP 43(a)(1) states as follows:

8 **RULE 43. SUBSTITUTION OF PARTIES**

9 (a) Death of a Party.

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

15 In this case, the District Court has appointed, and letters of administration are pending issuance
16 to Respondents. Further, the interests of the Estate should be protected and represented in
17 respect to the pending Petition For Review filed by Appellant. Accordingly, the Court should
18 order Respondents substitution as Respondents and set new deadlines for response to the Petition
19 For Review.

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III. CONCLUSION

For the reasons set forth above, Respondents respectfully requests that this Court enter an order substituting Respondents as respondents in place of Mr. Hisgen.

DATED this 10th day of April, 2023.

/s/ Brian H. Nelson, Esq.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 10TH day of April, 2023, I served a copy of the foregoing **MOTION TO SUBSTITUTE ADMINISTRATORS AS RESPONDENTS** via the Supreme Court of Nevada’s E-filing system, in compliance with Nevada Rules of Appellate Procedure and Rule 9 of the Nevada Electronic Filing and Conversion Rules, to the following counsel of record:

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