

IN THE COURT OF APPEALS OF THE STATE OF NEVADA

* * * *

TESSIE ELMA ALMARIO,

Petitioner,

vs.

EIGHTH JUDICIAL DISTRICT COURT
OF THE STATE OF NEVADA, CLARK
COUNTY, AND THE HONORABLE
DAWN R. THRONE,

Respondents,

And

SHERYL ATTERBERG, ON BEHALF
OF HER ADULT WARD RODNEY
WILKINSON,

Real Party in Interest,

And

PUBLIC EMPLOYEE'S RETIREMENT
SYSTEM OF NEVADA,

Real Party in Interest.

_____ /

Petition for Writ of Mandamus or Prohibition

From the Eighth Judicial District Court, Family Division, Clark County

Honorable Dawn R. Throne, District Court Judge

APPENDIX

VOL. 2

Bradley J. Hofland, Esq.
HOFLAND & TOMSHECK
228 S. 4th Street, First Floor
Las Vegas, Nevada 89101

702-895-6760

Attorney for Petitioner

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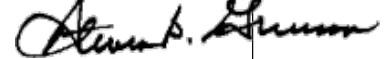
CASE NO.:

District Court Case No.
D-19-596071-D

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Plaintiff from Taking the Video Deposition of Defendant Rodney Wilkinson Pursuant to NRCP 26, for Attorney's Fees and Costs, and for All Other Relief and Countermotion for Attorney's Fees and Costs and Related Relief				
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1 **RPLY**

JAMES W. KWON, ESQ.

2 Nevada Bar No. 8146

JAMES KWON, LLC

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Las Vegas, Nevada 89146

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Attorney for Sheryl Atterberg,

6 *on behalf of Her Adult Ward,*

Defendant, Rodney Wilkinson

7
8 **DISTRICT COURT**
9 **FAMILY DIVISION**
10 **COUNTY OF CLARK, STATE OF NEVADA**

11 TESSIE ELMA ALMARIO,

Plaintiff,

12 vs.

13 SHERYL ATTERBERG, ON BEHALF
OF HER ADULT WARD RODNEY
WILKINSON,

Defendant.

Case No.: D-19-596071-D

Dept.: U

Hearing Date: 2/4/2021

Hearing Time: 1:30 PM

14
15 **REPLY IN SUPPORT OF DEFENDANT'S MOTION TO SET ASIDE**
16 **THE DIVORCE DECREE PURSUANT TO NRCP 60(b)**
17 **AND**
18 **OPPOSITION TO PLAINTIFF'S COUNTERMOTION FOR**
19 **ATTORNEY'S FEES AND RELATED RELIEF**

20 COMES NOW Sheryl Atterberg, Co-Guardian for her Adult Ward,
Defendant, Rodney Wilkinson, through her attorney of record, James W. Kwon,
Esq., of the law firm James Kwon, LLC, and respectfully submits her *Reply in*

1 *Support of Defendant’s Motion to Set Aside Divorce Decree Pursuant to NRCP*
2 *60(b).* Sheryl Atterberg (“Defendant”) is requesting that the Court set aside the
3 Decree of Divorce, filed February 12, 2020 in the above-stated matter, and
4 Defendant Rodney Wilkinson’s Answer, filed January 17, 2020.

5 This Reply is based upon all pleadings and papers on file, the points and
6 authorities contained herein, the Declarations included herewith, and any
7 evidence or oral argument adduced at the time of the hearing on this matter.

8 Dated this 3rd day of February 2021.

9 JAMES KWON, LLC

10 /s/ James W. Kwon, Esq.

11 JAMES W. KWON, ESQ.

12 Nevada Bar No. 8146

13 6280 Spring Mountain Rd., Suite 100

14 Las Vegas, Nevada 89146

15 *Attorney for Sheryl Atterberg, on behalf of*
16 *Her Adult Ward, Defendant, Rodney*
17 *Wilkinson*

18 **MEMORANDUM OF POINTS AND AUTHORITIES**

19 Plaintiff, Tessie Elma Almario fka Tessie Elma Wilkinson (“Tessie”)
20 argues that Defendant, Rodney Wilkinson (“Rodney”), did not lack contractual
capacity when she coerced Rodney into signing the Decree of Divorce, but lacks
any actual evidence supporting her statement including any medical records.
Tessie further argues that Rodney was diagnosed with the onset of dementia in
May 2020 and was therefore, cognizant and maintained contractual capacity at the

1 time that Rodney had notarized the *Decree of Divorce*. However, in the same
2 medical records that diagnosed Rodney with the onset of dementia in May 2020,
3 Rodney had informed medical personnel he is “Married (Notes: Wife does not
4 live with the patient.)” and “Patient would like his wife to come home for a little
5 bit.” See **Exhibit 2** to *Defendant’s Motion*. These statements were taken only three
6 (3) months after the *Decree of Divorce* had been filed, barely four (4) months after
7 Rodney had notarized said *Decree*. To the best of Defendant’s knowledge, Tessie
8 does not have education or experience in the medical field and is not qualified to
9 determine whether Rodney maintained or lacked contractual capacity.

10 As stated in *Defendant’s Motion*, Defendant intends to retain the services
11 of an expert witness, a neurologist named Dr. Paul H. Janda, Esq., to review
12 Rodney’s medical records and prepare an expert report. Dr. Janda’s Curriculum
13 Vitae is attached as **Exhibit A** and includes, but is not limited to:

14 **EDUCATION**

15 **University of Nevada, Las Vegas, William S. Boyd**
School of Law, Las Vegas, NV – doctorate of
jurisprudence, May 2016

16 **Touro University College of Osteopathic Medicine,**
Vallejo, CA - medical degree in May of 2007

17 **University of California at Berkeley, Berkeley, CA** - two
degrees earned: Molecular and Cell Biology, and
18 Psychology - awarded in May of 2001

19 **Stanford University, Stanford, CA** – premedical
curriculum commenced in 1995

20 Contact has been made with Dr. Janda, but, unfortunately, his expert report would

1 not have been ready before the hearing on this matter. Defendant still plans on
2 retaining the services of Dr. Janda to provide an expert report that will show that
3 Rodney lacked contractual capacity when he notarized the *Decree of Divorce* and
4 at the time he signed and filed his *Answer to the Complaint for Divorce*.

5 The simple fact is that Defendant has made allegations which, if proven
6 true, would entitle him to relief. Therefore, this Court must, unless it summarily
7 grants Defendant's Motion based on the pleadings itself, hold an evidentiary
8 hearing. At said evidentiary hearing, Defendant will show via, inter alia, expert
9 testimony from Dr. Janda that Rodney lacked contractual capacity when the
10 Decree was signed.

11 Tessie further argues that the *Decree of Divorce* was fair and equitable.
12 Also previously stated in *Defendant's Motion*, Nevada Policy and Law are clear
13 that a Court must, absent a compelling reason otherwise, make an equitable
14 distribution of the marital estate. Nev. Rev. Stat. Ann. § 125.150. The *Decree of*
15 *Divorce* divided the community assets as follows:

16 IT IS FURTHER ORDERED that the following
17 community property shall be set over and hereby awarded
to Rodney Wilkinson as his sole and separate property:

- 18 1. The Chevrolet Suburban VIN ending in 9469;
- 19 2. All personal property owned prior to the marriage;
- 20 3. Any and all current and future retirement accounts,
savings plans, IRA, pension plans or otherwise in his name
only not otherwise herein named;
4. Any and all wearing apparel, personal ornaments,
and jewelry belonging to him;

1 5. Any and all bank accounts in his name only not
2 otherwise herein named; and

3 6. Any personal items currently in his possession.

4 IT IS FURTHER ORDERED that the following
5 community property shall be set over and hereby awarded
6 to the Tessie Wilkinson as her sole and separate property:

7 1. US Bank account ending in the numbers 8904 with a
8 current approximate value of \$373;

9 2. The real property located at 8382 Hollywood Hills
10 Ave, Las Vegas, Nevada 89178;

11 3. The real property located at 5730 Road 10,
12 Goodland, Kansas 67735;

13 4. The 2012 Chevrolet Corvette VIN ending in 0723;

14 5. The Service Truck VIN 2GCFK29K951206963;

15 6. The 1977 Kenworth Winch Truck VIN 155197SG2;

16 7. The following heavy equipment:

17 a. P & H 140 Ton crane , Model 9125-TC;

18 b. Manitowac 100 ton crane, Model 3900A, SN
19 39670;

20 c. Lima 90 ton crane, Model 990TC;

d. P & H 90 ton crarAc, Model 8115TC, SN
35419;

e. P & H 50 ton crane;

f. P & H 25 ton crane;

g. P & H 70 ton crane;

h. 2 bulldozers;

i. 1977 Kenworth YIN 055097SGL;

j. 1972 Peterbilt ID 41337P, FHP364802;

k. 1955 Mack VIN B70511209;

l. 1955 Kenworth VIN 64338;

m. 1959 Mack VIN B73S1370;

n. 1962 Mack winch truck;

o. 6000 Cherry Picker;

p. 100 ton press;

q. Lo Boy 35 ton Cozad Trailer CC80062;

r. 1993 Western Star Boom Truck Serial No.
2WKIIDCCHIPK931154;

s. 750 Holmes Wrecker Tow Truck;

t. Autocar Winch Truck;

- u. Maritime Hydraulic Drilling Rig;
- v. Any and all tools located at 5730 Road 10, Goodland, Kansas 67735.

14. Any and all rights assigned to Rodney Wilkinson through the contract with Da Fontenot of Synergy Oil Field Services, LLC.

8. All personal property owned prior to the marriage;
9. Any and all current and future retirement accounts, savings plans, IRA, pension plans or otherwise in her name only;
10. Any and all wearing apparel, personal ornaments, and jewelry belonging to her;
11. Any and all bank accounts in her name only; and
12. Any personal items currently in her possession.

The *Decree of Divorce* divided the community debts as follows:

IT IS FURTHER ORDERED that the following community debts shall be set over and hereby awarded to Rodney Wilkinson as his sole and separate debts:

1. The loan on the real property located at 5730 Road 10, Goodland, Kansas 67735;
2. The loan through Dorman Renewable Fuels, LLC in the approximate amount of \$20,000;
3. Any and all tax debts in his name only;
4. Any and all student loan debts in his name only;
5. Any and all credit card debt in his name only;
6. Any and all credit instruments in his name only.

IT IS FURTHER ORDERED that the following community debts shall be set over and hereby awarded to Tessie Wilkinson as her sole and separate debts:

1. The Chase credit account ending in the numbers 9416 with an approximate current balance of \$3,860;
2. The US Bank credit account ending in the numbers 9270 with an approximate current balance of \$4,300;
3. Any and all student loan debts in her name only;
4. Any and all credit card debt in her name only;
5. Any and all credit instruments in her name only.

1 Such a division of assets and debts shocks the conscious. After all we are
2 talking about a marriage wherein Tessie brought no assets into the marriage and
3 contributed absolutely nothing during the 12-year marriage.

4 It is important to note that Tessie did not live with Rodney or even in the
5 same state as Rodney for most of the marriage and had no contact with Rodney
6 from at least February 2013 until sometime in 2019 when, presumably, the million
7 dollars¹ that Tessie had absconded with ran out.

8 Even after a cursory review of the preceding division, a reasonable person
9 with no legal training would determine this division is not fair or equitable by any
10 means. Tessie’s argument that “Rodney disclosed he no longer wanted to own or
11 be responsible for anything – he simply wanted to live at the farmhouse and work”
12 is profoundly ridiculous. *See* page 7, lines 14-15 of Plaintiff’s *Opposition*, filed
13 February 2, 2021. Especially considering that Tessie was awarded the farmhouse
14 in the *Decree of Divorce* and then proceeded to evict Rodney from the farmhouse.
15 ***See Exhibit B.***

16 ///

17 ///

19 ¹ Tessie argues “[w]hat Sheryl conceals from the Court is the parties had just sold some real
20 estate for 2.5 million dollars.” What Tessie conceals from the Court is that the property was
Rodney’s inheritance from the death of his mother and that Tessie had no legal right to any of
the proceeds from the sale of the property.

1 To further evidence Tessie's, not Defendant's, excessive greed, the *Decree*
2 of *Divorce* awarded Tessie spousal support as follows:

3 IT IS FURTHER ORDERED that Tessie Wilkinson
4 shall receive the sum of \$3,000 per month from Rodney
5 Wilkinson for the duration of her life as and for Spousal
Support. This amount shall be due on or before the 10th
day of each month.

6 Tessie not only received over one (1) million dollars from Rodney's inheritance,
7 withdrew thousands upon thousands of dollars of Rodney's inheritance from the
8 parties' joint account before Rodney knew and could close the account, and
9 receive all of the parties assets and none of their debt, Tessie was set to receive
10 \$3,000 a month from Rodney for the rest of "her life" as spousal support resulting
11 from a marriage that lasted less than twelve (12) years and wherein Tessie lived
12 in Nevada for seven (7) of those years. That simply does not make sense.

13 Additional arguments Tessie stated in her *Opposition* that were nonsensical
14 and equally absurd are responded to as follows:

- 15 ■ Rodney did not initiate the divorce, which is evidenced by the fact
16 that Tessie filed the Complaint for Divorce.
- 17 ■ Defendant was not estranged from Rodney. In fact, Defendant called
18 Rodney every month since at least 2007 and visited him every
19 Christmas since Defendant lived out of state. Defendant has called
20 Rodney every day since November 2016. Phone records can provide

1 evidence of this. Rodney even lived with Defendant and her husband
2 for about a month in 2017.

- 3 ▪ Rodney’s Trust does state that under no circumstances should his
4 brother or sister receive any distribution of his assets upon death, but
5 several pages into Rodney’s Trust he had handwritten “Sheryl
6 Atterberg, my sister” and initialed the provision “(c) If neither of the
7 foregoing survive me, then I direct that all trust proceeds be
8 distributed to Sheryl Atterberg, my sister.”
- 9 ▪ Defendant’s co-guardianship provides her with unrestricted powers
10 and duties over Rodney’s person. *See* Exhibit 1, PLT000003 of
11 Plaintiff’s *Appendix of Exhibits*, filed February 2, 2021. Defendant’s
12 co-conservatorship provides her with unrestricted powers and duties
13 over Rodney’s estate. *See* Exhibit 1, PLT000006 of Plaintiff’s
14 *Appendix of Exhibits*.
- 15 ▪ Defendant called Social Services to perform a health and wellness
16 check on Rodney, not Tessie.
- 17 ▪ Defendant has been diligently attempting to rectify Tessie’s
18 manipulation and greed. Defendant was not aware of the *Decree of*
19 *Divorce* until April 2020 when the Sherman County Assessor’s
20 Office provided her with a copy because they were concerned with

1 the inequitable and unfair division of assets and debt in the *Decree*.
2 *See Exhibit C*. After learning of the *Decree*, Defendant contacted an
3 attorney licensed in Nevada who instructed Defendant she needed to
4 obtain guardianship before attempting to set aside the *Decree*.
5 Obtaining guardianship was largely delayed due to Covid-19. Once
6 guardianship was established, said attorney could not assist
7 Defendant with her matter due to health issues.

8 Lastly, Tessie is not entitled to attorney's fees and costs because
9 Defendant's *Motion* was not baseless or filed in bad faith, as evidenced by her
10 foregoing argument.

11 WHEREFORE, Sheryl Atterberg, on behalf of her adult ward, Defendant,
12 Rodney Wilkinson, respectfully requests that Defendant's Motion be granted in
13 its entirety and Plaintiff take nothing by way of her Countermotion.

14 Dated this 3rd day of February 2021.

15 JAMES KWON, LLC

16 /s/ James W. Kwon, Esq.

JAMES W. KWON, ESQ.

Nevada Bar No. 8146

6280 Spring Mountain Rd., Suite 100

Las Vegas, Nevada 89146

17 *Attorney for Sheryl Atterberg, on behalf of*
18 *Her Adult Ward, Defendant, Rodney*
19 *Wilkinson*
20

DECLARATION OF SHERYL ATTERBERG

I, Sheryl Atterberg, being first duly sworn, deposes and states as follows:

1. I am the Co-Guardian for Defendant, Rodney Wilkinson, an Adult Ward, in the aforementioned matter.

2. I have read the foregoing *Reply in Support of Defendant's Motion to Set Aside Divorce Decree Pursuant to NRCP 60(b)* and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based upon information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the foregoing *Motion* are incorporated herein as if set forth in full.

3. Pursuant to NRS 53.045, I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED on this 3rd day of February, 2021.

/s/ Sheryl Atterberg
SHERYL ATTERBERG

DECLARATION OF STEVEN ATTERBERG

I, Steven Atterberg, being first duly sworn, deposes and states as follows:

1. I am the Co-Guardian for Defendant, Rodney Wilkinson, an Adult Ward, in the aforementioned matter.

2. I have read the foregoing *Reply in Support of Defendant's Motion to Set Aside Divorce Decree Pursuant to NRCP 60(b)* and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based upon information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the foregoing *Motion* are incorporated herein as if set forth in full.

3. Pursuant to NRS 53.045, I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

EXECUTED on this 3rd day of February, 2021.

/s/ Steven Atterberg
STEVEN ATTERBERG

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that *Reply in Support of Defendant's Motion to Set Aside Divorce Decree Pursuant to NRCP 60(b)* in the above-captioned case was served this 3rd day of February, 2021 as follows:

[X] pursuant to Rule 9 of the Nevada Electronic Filing and Conversion Rules and Administrative Order 20-17 p. 12 Captioned "In the Administrative matter Regarding All Court Operations in Response to COVID-19," by mandatory electronic service through the Eighth Judicial District Court's electronic filing system:

Dina DeSausa Cabral DinaD@HoflandLaw.com

Bradley J. Hofland, Esq. BradH@HoflandLaw.com

Nikki Woulfe Clerk@HoflandLaw.com

Dated this 3rd day of February 2021.

/s/ Crystal Ann Gorzalski

An employee of the Law firm James Kwon, LLC

EXHIBIT A

EXHIBIT A

2020 WELLNESS WAY SUITE 300. • LAS VEGAS, NV 89106
PHONE (702) 432-2233 • E-MAIL: DRPAULJANDA@LVNEURO.COM

DR. PAUL H. JANDA, ESQ., FAAN
Neurologist/Attorney
Fellow of the American Academy of Neurology

EDUCATION

University of Nevada, Las Vegas, William S. Boyd School of Law, Las Vegas, NV –
doctorate of jurisprudence, May 2016

Touro University College of Osteopathic Medicine, Vallejo, CA - medical degree in May
of 2007

University of California at Berkeley, Berkeley, CA - two degrees earned: Molecular and Cell
Biology, and Psychology - awarded in May of 2001

Stanford University, Stanford, CA – premedical curriculum commenced in 1995

CLINICAL EDUCATION AND TEACHING

Valley Hospital Medical Center

Neurology Residency Program Director

The program director of the neurology residency. Created a comprehensive didactic schedule,
managed attending physicians, coordinated teaching rounds, and continue to formulate a
thorough residency program. 2014 to present.

William S. Boyd School of Law

UNLV Health Law Program Advisory Board Panel Member

Design, assess, implement, and modify a legal education curriculum designed to promote the
development of legal scholarship pertaining to law and healthcare for this top tier law school.
2015 to present.

Valley Hospital Medical Center

Neurology Residency Program Attending Physician and Core Faculty

Serve as an attending physician in the instruction of neurology residents. Participated in
teaching rounds and board review with the neurology residents. 2012 to present.

UNLV School of Medicine

Clinical Curriculum Committee Member

Chosen to serve on a committee to structure the medical education of students pursuing a
medical education at the medical school. 2016 to present.

UNLV School of Medicine

Clinical Education Subcommittee Member

Serve on a committee to structure the specific formulation of medical education of students
pursuing a medical education at the medical school. 2016 to present.

UNLV School of Medicine

Adjunct Clinical Professor of Neurology

Served as a resource for teaching a variety of academic and clinical experiences in neurology.
2016 to present.

Touro University College of Osteopathic Medicine, Nevada

Adjunct Assistant Professor of Neurology

Lectured neurology subject matter to first year medical students and trained medical students
rotating on the neurology service. 2012 to present.

Touro University College of Osteopathic Medicine, California**Adjunct Assistant Professor of Neurology**

Lectured neurology subject matter to first year medical students and trained medical students rotating on the neurology service. 2012 to present.

Grand Canyon University**Instructor of Neurology**

Served as a neurology instructor to students on their neurology clerkships. 2017 to present.

NEUROVASCULAR TRAINING**Wake Forest University School of Medicine****Neurovascular Interpretation**

Reviewed the principles, applications, and interpretation of Carotid Duplex ultrasound and Transcranial Doppler. Reviewed more than 100 Carotid Duplex cases and 100 Transcranial Doppler cases in accordance with the American Society of Neuroimaging. 2011.

University of California at Los Angeles School of Medicine**UCLA Transcranial Doppler and Cerebral Blood Flow Monitoring Fellowship**

Participated in formal didactics and hands on training to learn the technique, application, and introduction to the interpretation of Carotid Duplex Ultrasound and Transcranial Doppler. 2011.

CLINICAL PRACTICE**Las Vegas Neurology Center****President**

Serve as the first and only neurologist-lawyer in the State of Nevada and also as the founding member and director of this multispecialty neurology practice. The group has inpatient and outpatient components. It is presently comprised of general neurologists, neurointensivists, and neurophysiologists. 2012 to present.

EXPERT WITNESS & EXPERT TESTIMONY**Legal Expert in Neurology**

First-and-only board-certified Neurologist-Attorney in the state of Nevada. Deemed an expert in neurology in the court of law. Rendered expert testimony in various aspects of neurology including, but not limited to, neuroanatomy, traumatic brain injury, and neurodegenerative disease. Testified as the plaintiff's expert in a jury trial awarding the largest single plaintiff verdict in the history of Nevada for \$160 million.

Legislative Expert in Neurology

Testified at the State Assembly and State Senate as the first-and-only board-certified Neurologist-Attorney in the state of Nevada on Assembly Bill 424 to provide evidence based brain death guidelines in state determination of death pertaining to Nevada Revised Statutes Chapter 451.

Neurology Defense Expert**City of Henderson**

Assist the Henderson Attorney's office in the defense of cases involving neurologic complaints, including, but not limited to brain and spine injuries and their sequelae. 2020 to present.

DIRECTORSHIPS & ADMINISTRATIVE ROLES**Valley Health System****Valley Health System Bylaws Committee**

Assist the hospital system in the formulation and maintenance of bylaws for this large health organization. 2020 to present.

American Osteopathic Board of Neurology and Psychiatry

Board of Governors

Have a leadership role to guide the organization in the board certification of neurologists and psychiatrists as well as other executive tasks. 2019 to present.

WellHealth-DaVita Teacher's Health

Medical Director

Serve as the medical director for large insurance plan to strategize and implement evidence-based care for its large patient population. 2018 to present.

State of Nevada Department of Health and Human Services

Subject Matter Expert, State Disaster Medical Advisory Committee

Serve as the expert for neurologic emergency management on this committee designed to promote state preparedness for medial crises. 2017 to present.

ACGME Neurology Residency Appeals Committee

Work to adjudicate appeals in the neurology residency program accreditation process. 2020 to present.

National Board of Osteopathic Medical Examiners

Examination Committee Member

Assist the assessment of medical board examinees in leadership roles, examination question authorship, and evaluation amongst other tasks. 2015 to present.

American Heart Association

President of the Nevada Chapter

Maintained a position on the board of directors to continue to employ and achieve methods to further the community interests of the American Heart Association through leadership meetings and policy implementation and design. 2015 to present.

State of Nevada, Public Defender's Office

Work as a consultant neurologist in the diagnosis and management of patients under the care of the State of Nevada. 2016 to present.

National Football League/Las Vegas Raiders

Serve as a consultant neurologist in the evaluation of professional football players in addition to on-field concussion and outpatient follow-up for neurologic sequelae of football injuries.

Ultimate Fighting Championship

Consultant Neurologist

Serve as the primary neurologist in the management and evaluation of athletes participating in mixed martial arts at a competitive level. 2014 to present.

Valley Hospital Medical Center

Medical Director of Comprehensive Stroke Center and Neurology Programs

Serving as the stroke director for the inpatient stroke service and managed education, protocols, and stroke patient management. 2014 to present.

Centennial Hills Hospital Medical Center

Medical Director of Stroke Center and Neurology Programs

Serving as the stroke director for the inpatient stroke service and launched the hospital's certification as a Primary Stroke Center. Coordinated education, protocols, and stroke patient management. 2012 to present.

Spring Valley Hospital Medical Center

Primary Stroke Team Member

Participated in the coordination of management protocols in the care of acute stroke patients. 2012 to present.

Complex Care Hospital at Tenaya

President of Medical Staff and Medical Director of Neurology

Served as the president of medical staff to partake in administrative duties and additionally served as the stroke director to coordinate education, protocols, and stroke patient management. 2013 to present.

Valley Health System

Medical Staff Performance and Peer Review Committee

Assessed physician performance related issues pertaining to physician professional and personal conduct for this large hospital system. 2013 to present.

Centennial Hills Hospital Medical Center

Medical Staff Performance Committee

Reviewed hospital and physician performance to improve care and outcomes for this hospital and medical center. 2013 to present.

Centennial Hills Hospital Medical Center

Vice Chief of Medicine

Provided medical oversight, expertise and leadership with responsibilities of strategy, development, and implementation of policies and procedures for this hospital and medical center. 2013 to present.

Valley Hospital Medical Center

Pharmacy and Therapeutics Committee

Provided guidance pertaining the implementation of neurology related pharmaceutical agents and therapeutics. 2017 to present.

LECTURES GIVEN

American Society for Bioethics and Humanities

Lectured on the medical legal perspective of intracranial hemorrhages and traumatic brain injury at this annual conference. 2018

Osteopathic Medical Education Conference and Exposition

Lectured on the diagnosis and management of normal pressure hydrocephalus at this national conference. 2018.

American Osteopathic College of Neurologists and Psychiatrists

Annual Meeting

Lectured on the presentation, diagnosis, and management of normal pressure hydrocephalus. 2016.

Southern Association for the History of Medicine and Science

Health Law Conference

Lectured on neurology and the historical attributes about the field. March 2016.

Valley Hospital Medical Center

Graduate Medical Education

Provided multiple lectures on various topics on health law and neurosciences to medical students and physicians in a variety of residency training programs. Monthly.

Touro University College of Osteopathic Medicine

Neurosciences Course

Teach the neuroscience lecture on ischemic and hemorrhagic stroke to the medical students at the university. Annually.

Richard C. Stzab Memorial Symposium

Lectured on neurologic emergencies to a large cohort of hospitalist physicians at this annual conference. 2016.

Osteopathic Medical Education Conference and Exposition

Provided a discussion on normal pressure hydrocephalus at this national conference. 2015.

American College of Osteopathic Internists, Cosmopolitan Hotel

Annual Internal Medicine and Hospitalist Conference

Lectured on neurologic inpatient emergencies and the appropriate code white protocols at this annual internal medicine conference. 2015.

American Osteopathic College of Neurologists and Psychiatrists

Annual Spring Conference

Lectured on seizure semiology and the location of epileptic foci based upon the clinical presentation of the seizure. 2015.

American Osteopathic College of Neurologists and Psychiatrists

Annual Spring Conference

Lectured on carotid body tumor presenting as a reversible cause of syncope with a case report and review of the literature. 2011.

United Healthcare and Health Plan of Nevada

Internal Medicine Conference

Lectured at the internal hospitalist conference on ischemic stroke diagnosis and management. 2014.

Humana Health Care Partners

Internal Medicine and Family Medicine Provider Conference

Lectured at the internal medicine hospitalist conference on the work up and management of ischemic stroke. 2014.

American College of Osteopathic Internists

Annual Summer Conference

Presented on Moyamoya disease and Moyamoya syndrome including a case report as well as a review of the literature. 2008.

Valley Hospital System

Stroke Support Group Provider and Lecturer

Coordinate and lecture to stroke patients and their relatives about stroke and stroke related illnesses. 2012 to present.

RESIDENCY TRAINING

Valley Hospital Medical Center

Neurology Residency

Was the inaugural resident and completed the residency training program in neurology and served as the Chief Resident during the final year of training. February 2009 – January 2012.

Valley Hospital Medical Center

Internal Medicine Residency

Completed seven months of the second year of the internal medicine residency prior to commencing the neurology residency. July 2008 – January 2009.

Valley Hospital Medical Center

Internship

Completed an internal medicine internship year and was awarded with the Intern of the Year. July 2007 – June 2008.

RESEARCH

Cortexym: GAIN Alzheimer's Disease Research Study

Site investigator for a study researching Alzheimer's disease. 2020 to present.

AriBio Alzheimer's Disease Research Study

Site investigator for a study researching Alzheimer's disease. 2019 to present.

Aquestive Therapeutics Epilepsy Research Study

Site investigator for a study researching epilepsy. 2019 to present.

The "Worst Headache of My Life": Dural Arteriovenous Fistula

Poster presentation at the Headache Cooperative of the Pacific Winter Conference. 2020.

Are We Happy Now? Results from Resident Happiness Survey One-Year After

Resident Wellness Initiative

Valley Hospital Medical Center Physician Wellness research study. 2019.

Hand Knob Motor Strip Stroke

Poster Presentation American College of Osteopathic Internists. 2019.

Lithium Toxicity and Subclinical Status Epilepticus

Poster presentation at the American College of Osteopathic Internists. 2019.

Traumatic Brain Injury Case Presentation

Stanford Center for Law and Biosciences

Presented lecture material incorporating neurocritical care, radiology, and legal ramifications in conjunction with UNLV Law Professor Leslie Griffin. March 2017.

Eisai Alzheimer's with ISWARD

Principal site investigator for an Alzheimer's dementia study. 2018.

Acadia/Intype Parkinson's with Psychosis

Principal site investigator for a study involving the treatment of psychosis in patients with Parkinson's disease. 2018.

Synecis Epilepsy Benzodiazepine Sublingual

Principal site investigator for a study involving the assessment of benzodiazepine levels in the sublingual administration of benzodiazepines in patients with epilepsy. 2019.

The Use of Neurostimulants in the Intensive Care Unit

Site investigator for a study involving the use of neurostimulants in the intensive care unit and the outcomes in patient care. 2019.

Poster Presentation at the Neurocritical Care Society

Legislating Brain Death Determination... Nevada's Journey from Confusion to Law

Presented a poster pertaining to my authorship and presentation of AB424 which is a brain death determination statute added to the Nevada Revised Statutes to allow Nevada to be the first state in the union to adopt AAN brain death guidelines. October 2017.

Site Investigator

IMBYTE Study (Management of Parkinson's Disease Psychosis in Actual Practice)

Serving as a principal site investigator for research to assess the efficacy of pimavanserin in Parkinson's disease. 2017 to present.

Site Investigator

IDEAS (Imaging Dementia-Evidence Amyloid Scanning) Study

Served as a principal site investigator for research to assess amyloid scanning in patients with dementia and mild cognitive impairment. 2016 to present.

Research Co-Coordinator

Valley Hospital Medical Center

Facilitating the study of stroke patients' long-term outcomes after being diagnosed with an ischemic stroke and satisfying the NIH criteria via long term inpatient and outpatient follow up, 2015 to present.

Research Assistant

Venkatachalam Veerappan, MD, Valley Hospital Medical Center, Dept. of Neurology. Served as a research assistant and co-author of publications comprised of case reports with literature reviews in the field of neurology, 2007 to 2011.

Research Assistant

James Q. Del Rosso, D.C, Valley Hospital Medical Center, Dept. of Dermatology. Served as a research assistant and co-author of various publications in the field of dermatology with ongoing projects currently in development, 2006 to 2009.

Research Assistant

Parkash J. Gill, MD, University of Southern California, Keck School of Medicine, Dept. of Hematology and Oncology. Elucidated the role of vascular endothelial growth factor in the proliferation of Kaposi's sarcoma, 2001-2002.

Research Assistant

Hsiao Ping-Moore, PhD, University of California at Berkeley, Dept. of Molecular Biology. Performed research and literature searches to investigate the role of calcium influx, via

presynaptic voltage-gated calcium channels, in synaptic transmission mediated by ligand-gated exocytosis, 2001.

Summer Research Fellow

Seth Roberts, PhD. University of California Berkeley, Dept. of Psychology. Participated in the investigation of the correlation between daily activities of living and quality of sleep. Helped create and collect survey data to examine the hypothesis that sedentary lifestyles correlate with poor sleep, 2000.

PUBLICATIONS& POSTERS

- Kim E, Shahinian A, Janda PH, Arismendez A, Zaugg G, Stewart P, McKenzie M. Resolution of Diffusion-Weighted Signal in the Setting of Fentanyl Abuse. American College of Osteopathic Internists. Poster Presented. 2020.
- Shahinian A, Betcher S, Mehta T, Mahajan J, Janda P, Vickers A. Atypical Presentation of Psychogenic Nonepileptic Seizures (PNES) Preceding Multiple Systems Atrophy. Supplements Movement Disorders journal 2020.
- Ferreira A, Shahinian A, Arismendez A, Chopra J, Mehta T, Campbell T, Vickers A, Balsiger R, Janda P. Photo Essay, Journal of Neuro-Ophthalmology.
- Connors L, Janda P. Have We Been Mistaken About Intracranial Hemorrhages All Along? Journal of Hospital Ethics. 2019. Volume 6, Number 2.
- Connors L, Betcher A, Shahinian A, Janda P. Utility of Botulinum Injections in Stiff-Person Syndrome. Case Reports in Neurological Medicine. Volume 2019, Article ID 9317916.
- Torres A, Zaugg G, Tufail N, Janda PH. A Hot Crossed Bun Sign, Orthostatic Syncope & Gait Ataxia Point Towards Probable Multiple Systems Atrophy with Dysarthria and Slowed Fluency Suspicious for Associated Cognitive Impairment. Journal of Cogent Medicine. 2018, Volume 5, Issue 1.
- Connors L, Ahad R, Mudasir Z, Janda PH. Cerebral Venous Sinus Thrombosis in a Patient with Ulcerative Colitis Flare. Case Reports in Neurological Medicine. Volume 2018 (2018), Article ID 5798983
- Betcher AV, Schnure AW, Janda PH, Agrawal R, Dhillon A. Staged Arterial and Venous Embolizations in Treatment of Type IV Intraosseous Dural Arteriovenous Fistula. J Vac Interv Neurol. 2017 Jun;9(4):17-21.
- Tariq A, Janda PH, Dhillon AK. Petrous Apex Cephalocele: Case Report and Review of the Literature. Journal of the American Osteopathic Association, to be submitted for publication.
- Janda PH. *Neurology for the Boards*. Authored a comprehensive neurology board review text that is pending publication.
- Janda PH, Mahajan J, Rituximab in the Treatment of Stiff Person Syndrome: Case Report and Review of the Literature. *Journal of the American Osteopathic Association*, to be submitted for publication.
- Janda PH, Mahajan J, Reversible MRI Findings in Ethylene Glycol Poisoning: Case Report and Review of the Literature. Journal of the American Osteopathic Association, to be submitted for publication.
- Janda PH, Veerappan V, McKenzie ME, Dhudshia NV. Carotid Body Tumor as a Reversible Cause of Syncope: Case Report and Review of the Literature. *Journal of the American Osteopathic Association*. 2011 Nov; 111(11):638-44.
- Janda PH, Bellow J, Veerappan V. Moyamoya Disease: Case Report and Review of the Literature. *Journal of the American Osteopathic Association*. 2009 Oct; 109(10):547-53. Poster presented at the American Academy of Osteopathic Internists.
- Janda PH, Del Rosso JQ, Bhambri S. Phytophotodermatitis. *Cosmetic Dermatology*, 2008;21(2):99-103.

Ehambri S, Del Rosso JQ, Mobini N, Janda PH. Kylie's Disease. *Cosmetic Dermatology*, 2008;21(1):26-28.

Bhambri S, Del Rosso JQ, Janda PH. Juvenile Xanthogranuloma: Case Report and Review of the Literature. *Cosmetic Dermatology*, 2008;21(1):21-24.

PROFESSIONAL MEMBERSHIP

American Bar Association
 State Bar of Nevada
 Nevada Justice Association
 Clark County Bar Association
 National Board of Osteopathic Board Examiners
 American Epilepsy Society
 American Headache Society
 Southern Association for the History of Medicine and Science
 American Heart Association
 American Academy of Neurology
 American Osteopathic College of Neurologists and Psychiatrists
 Nevada Osteopathic Medical Association
 Nevada State Medical Association
 American Medical Association
 American Osteopathic Association
 California Medical Association
 Neurocritical Care Society

HONORS & AWARDS

Power Lawyer Award - 2020
 Lawyers of Distinction Award - 2020
 Fellow of the American Academy of Neurology - 2019 to present
 Top Doctor - Top neurologist, 2019
 Top Doctor - Top neurologist, 2018
 Top Doctor - Top neurologist, 2017
 Favorite Elective Preceptor - Touro University College of Medicine, 2017
 Faculty of the Year - Valley Hospital Medical Center, 2016
 Golden Apple Award for Resident Teaching - Valley Hospital Medical Center, 2015
 Nurse's Choice - Centennial Hills Hospital Medical Center, 2014
 Dean's List - William S. Boyd School of Law, University of Nevada, Las Vegas 2012 and 2013
 Physician Service Excellence Physician MVP - Centennial Hills Hospital Medical Center, 2013
 Chief Resident - Neurology Residency, Valley Hospital Medical Center, 2011-2012
 Outstanding Intern of the Year - Valley Hospital Medical Center, 2008
 Dean's List & Nominee for Student of the Year - Touro University College of Osteopathic Medicine, 2003-2007
 Dean's List and Honor Student Society - University of California at Berkeley, 1997-2001

LICENSURE

Complex Level 1 - PASS, 2005.
 Complex Level 2 PE/CE - PASS, 2007
 Complex Level 3 CE - PASS, 2009
 Neurology Board Certification - AOBNP, obtained on first attempt
 State of Nevada Bar Examination - PASS, obtained on first attempt

MEDIA APPEARANCES

Medical District Media

Was interviewed alongside an ischemic stroke patient successfully treated with alteplase at Valley Hospital Medical Center to promote Las Vegas's Medical District. September 2017.

UNLV Law School Magazine

A Matter of Life and Death

Was featured as the State's first-and-only Neurologist-Attorney in conjunction with my assistance on Senate Bill Ab424 for the adoption of AAN brain death standards in the determination of brain death. October 2017.

Medical District Media

Was interviewed alongside a hemorrhagic stroke patient at Valley Hospital Medical Center to promote Las Vegas's Medical District. September 2017.

Las Vegas Review Journal

Las Vegas Doctor's say Bill Paxton's death from stroke related to heart surgery is a rare...

Interviewed to provided perspective pertaining to stroke risk and its relationship to cardiovascular disease in general. March 2017.

Las Vegas Review Journal

Health experts stress recognizing, treating concussions properly.

Was interviewed as a subject matter expert pertaining to the recognition and treatment of concussions. March 2017.

The Morning Blend on ABC

Educated the public on stroke awareness, prevention, and recognizing the signs of stroke, August 2013.

HOBBIES & INTERESTS

Reading, jogging, and tennis

EXHIBIT B

EXHIBIT B

September 29, 2020

Sheryl Atterburg
400 Alpine Way
Idaho Springs, Colorado 80452

Sheryl,

Since you now have Power of Attorney over Rod's affairs, you need to have him vacate my house at 5730 Road 10 in Goodland Kansas by November 1, 2020.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Tessie Wilkinson", with a long horizontal flourish extending to the right.

TESSIE WILKINSON

ROA000282

Wilkinson
8382 Hollywood Hills Ave
Las Vegas, NV 89178

7020 1290 0001 3063 9621
LAS VEGAS NV 890
29 SEP 2000 4 M 4 L



Rodney Wilkinson
5730 Road 10
Goodland, KS 67735

\$4.050
US POSTAGE
FIRST CLASS
062S0010262495
FROM 89178

67735-872030

EXHIBIT C

EXHIBIT C

Electronically Filed
2/12/2020 11:27 AM
Steven D. Grierson
CLERK OF THE COURT

Steven D. Grierson

1 **DECD**
2 **STEINBERG & DAWSON LAW GROUP**
3 **DANIELLE DAWSON, ESQ.**
4 Nevada Bar No. 11792
5 4270 S. Decatur Blvd., Suite B10
6 Las Vegas, Nevada 89103
7 Telephone: (702) 384-9664
8 Facsimile: (702) 384-9668
9 Email: danielle@steinberglawgroup.com
10 Attorney for Plaintiff

STATE OF KANSAS, COUNTY OF SHERMAN, SS
This Instrument was filed this 21st
day of April 2020 at 1:10 P.M.
and recorded in Microfilm Book 203
at Page 495-510 Incl. FEE \$ 276.00
Billie R. Hoyt
Register of Deeds
Billie R. Hoyt

DISTRICT COURT, FAMILY DIVISION MICROFILM
CLARK COUNTY, NEVADA INDEXED



9 **TESSIE WILKINSON,**

10 Plaintiff,

11 vs.

12 **RODNEY WILKINSON,**

13 Defendant.

CASE NO: D-19-596071-D
DEPT NO: G

14 **DECREE OF DIVORCE**

15 This cause coming before the Court on Request for Summary Disposition, the Plaintiff,
16 **TESSIE WILKINSON**, by and through her attorney, **DANIELLE DAWSON, ESQ.**, of
17 **STEINBERG & DAWSON LAW GROUP**; and the Defendant, **RODNEY WILKINSON**,
18 appearing in proper person.

19 WHEREAS the parties have reached a full resolution to the outstanding issues in this
20 matter.

21 WHEREAS throughout the last several years of marriage, Rodney Wilkinson has
22 divested the community of assets constituting substantial community waste as follows:

- 23 1. Transferred community funds including five years of earnings to Jill Strnad and or
24 Tanika Stevenson;

25 **RECEIVED**

26 FEB 04 2020

27 Department G

28 BOOK 203 PAGE 495

Case Number: D-19-596071-D

Other: ☐ Decedent - Will of Probation ☒ Stated/Withdrawn
☐ Inventory (Statutory) Omission ☐ Without Judicial Confirming
☐ Testament Judgment ☐ By ADM
☐ Transferred ☐ Total Disposition: ☐ Judgment Reached by Trial
☐ Disposed After Trial Start

- 1 2. Divested the community of gold coins valued at over \$100,000 by gifting them to
- 2 Jill Strnad;
- 3 3. Divested the community of a 2004 Corvette by gifting it to Tanika Stevenson;
- 4 4. Transferred ownership of a \$1,000,000 life insurance policy on himself to Jill
- 5 Strnad;
- 6

7 Therefore,

8 **IT IS FURTHER STIPULATED** that the following community property shall be set
9 over and hereby awarded to Rodney Wilkinson as his sole and separate property:

- 10 1. The Chevrolet Suburban VIN ending in 9469;
- 11 2. All personal property owned prior to the marriage;
- 12 3. Any and all current and future retirement accounts, savings plans, IRA, pension
- 13 plans or otherwise in his name only not otherwise herein named;
- 14 4. Any and all wearing apparel, personal ornaments, and jewelry belonging to him;
- 15 5. Any and all bank accounts in his name only not otherwise herein named; and
- 16 6. Any personal items currently in his possession.
- 17
- 18

19 **IT IS FURTHER STIPULATED** that the following community property shall be set
20 over and hereby awarded to the Tessie Wilkinson as her sole and separate property:

- 21 1. US Bank account ending in the numbers 8904 with a current approximate value of
- 22 \$373;
- 23 2. The real property located at 8382 Hollywood Hills Ave, Las Vegas, Nevada
- 24 89178;
- 25 3. The real property located at 5730 Road 10, Goodland, Kansas 67735;
- 26 4. The 2012 Chevrolet Corvette VIN ending in 0723;
- 27
- 28

- 1 5. The Service Truck VIN 2GCFK29K951206963;
- 2 6. The 1977 Kenworth Winch Truck VIN 155197SG2;
- 3 7. The following heavy equipment:
- 4 a. P & H 140 Ton crane , Model 9125-TC;
- 5 b. Manitowac 100 ton crane, Model 3900A, SN 39670;
- 6 c. Lima 90 ton crane, Model 990TC;
- 7 d. P & H 90 ton crane, Model 8115TC, SN 35419;
- 8 e. P & H 50 ton crane;
- 9 f. P & H 25 ton crane;
- 10 g. P & H 70 ton crane;
- 11 h. 2 bulldozers;
- 12 i. 1977 Kenworth VIN 055097SGL;
- 13 j. 1972 Peterbilt ID 41337P, FHP364802;
- 14 k. 1955 Mack VIN B705T1209;
- 15 l. 1955 Kenworth VIN 64338;
- 16 m. 1959 Mack VIN B73S1370;
- 17 n. 1962 Mack winch truck;
- 18 o. 6000 Cherry Picker;
- 19 p. 100 ton press;
- 20 q. Lo Boy 35 ton Cozad Trailer # CC80062;
- 21 r. 1993 Western Star Boom Truck Serial No. 2WKPDCCCHIPK931154;
- 22 s. 750 Holmes Wrecker Tow Truck;
- 23 t. Autocar Winch Truck;
- 24
- 25
- 26
- 27
- 28

1 u. Maritime Hydraulic Drilling Rig;

2 v. Any and all tools located at 5730 Road 10, Goodland, Kansas 67735.

3 8. Any and all rights assigned to Rodney Wilkinson through the contract with Dan
4 Fontenot of Synergy Oil Field Services, LLC.

5 9. All personal property owned prior to the marriage;

6 10. Any and all current and future retirement accounts, savings plans, IRA, pension
7 plans or otherwise in her name only;

8 11. Any and all wearing apparel, personal ornaments, and jewelry belonging to her;

9 12. Any and all bank accounts in her name only; and

10 13. Any personal items currently in her possession.

11
12 **IT IS FURTHER STIPULATED** that the following community debts shall be set over
13 and hereby awarded to Rodney Wilkinson as his sole and separate debts:

14 1. The loan on the real property located at 5730 Road 10, Goodland, Kansas 67735;

15 2. The loan through Dorman Renewable Fuels, LLC in the approximate amount of
16 \$20,000;

17 3. Any and all tax debts in his name only;

18 4. Any and all student loan debts in his name only;

19 5. Any and all credit card debt in his name only;

20 6. Any and all credit instruments in his name only.

21
22 **IT IS FURTHER STIPULATED** that the following community debts shall be set over
23 and hereby awarded to Tessie Wilkinson as her sole and separate debts:

24 1. The Chase credit account ending in the numbers 9416 with an approximate
25 current balance of \$3,860;

2. The US Bank credit account ending in the numbers 9270 with an approximate current balance of \$4,300;
3. Any and all student loan debts in her name only;
4. Any and all credit card debt in her name only;
5. Any and all credit instruments in her name only.


IT IS FURTHER STIPULATED that each party shall bear their own attorney's fees and costs in this matter.


IT IS FURTHER STIPULATED that Tessie Wilkinson shall return to her maiden name to wit: Tessie Elma Almario.

IT IS SO STIPULATED.

DATED this 21 day of January 2020.

DATED this 17th day of January, 2020.


DANIELLE DAWSON, ESQ.
Nevada Bar No. 11792
Attorney for Plaintiff


RODNEY WILKINSON
Defendant in Proper Person

ORDER

UPON THE FOREGOING STIPULATION of the parties, and this appearing to be a proper case therefor:

THAT the Court has complete jurisdiction in the premises, both as to the subject matter thereof as well as the parties thereto;

THAT the Plaintiff now is, and has been, an actual bona fide resident of the County of Clark, State of Nevada, and has been actually domiciled therein for more than six (6) weeks immediately preceding the verification of the Complaint for Divorce in this action;

1 **THAT** the parties were duly and legally married on March 22, 2008 in Burlington,
2 Colorado and have been since that time, and are at the present time, husband and wife.

3 **THAT** the Plaintiff believes that all of the allegations contained in her Complaint for
4 Divorce are true and that the Plaintiff is entitled to the relief sought subject to the terms as set
5 forth in this Decree of Divorce;
6

7 **THAT** the parties have waived Findings of Fact, Conclusions of Law, written Notice of
8 Entry of Judgment, and to move for a new Trial in said cause;

9 **THAT** there are no minor children born the issue of this marriage. No minor children
10 were adopted and Plaintiff is not now pregnant.

11 **NOW, THEREFORE**, by reason of the law in such cases made and provided, and the
12 Court deeming this a proper case therefore,
13

14 **IT IS HEREBY ORDERED** that the bonds of matrimony heretofore and now existing
15 between Plaintiff and Defendant be, and the same are hereby wholly dissolved, and an absolute
16 Decree of Divorce is hereby granted to the Plaintiff and each of the parties hereto is hereby
17 restored to the status of a single, unmarried person.
18

19 **IT IS FURTHER ORDERED** that the following community property shall be set over
20 and hereby awarded to Rodney Wilkinson as his sole and separate property:

- 21 1. The Chevrolet Suburban VIN ending in 9469;
- 22 2. All personal property owned prior to the marriage;
- 23 3. Any and all current and future retirement accounts, savings plans, IRA, pension plans or
24 otherwise in his name only not otherwise herein named;
- 25 4. Any and all wearing apparel, personal ornaments, and jewelry belonging to him;
- 26 5. Any and all bank accounts in his name only not otherwise herein named; and
27
- 28

1 6. Any personal items currently in his possession.

2 **IT IS FURTHER ORDERED** that the following community property shall be set over
3 and hereby awarded to the Tessie Wilkinson as her sole and separate property:

- 4 1. US Bank account ending in the numbers 8904 with a current approximate value of
5 \$373;
6
7 2. The real property located at 8382 Hollywood Hills Ave, Las Vegas, Nevada
8 89178;
9
10 3. The real property located at 5730 Road 10, Goodland, Kansas 67735;
11 4. The 2012 Chevrolet Corvette VIN ending in 0723;
12 5. The Service Truck VIN 2GCFK29K951206963;
13 6. The 1977 Kenworth Winch Truck VIN 155197SG2;
14 7. The following heavy equipment:
15 a. P & H 140 Ton crane , Model 9125-TC;
16 b. Manitowac 100 ton crane, Model 3900A, SN 39670;
17 c. Lima 90 ton crane, Model 990TC;
18 d. P & H 90 ton crane, Model 8115TC, SN 35419;
19 e. P & H 50 ton crane;
20 f. P & H 25 ton crane;
21 g. P & H 70 ton crane;
22 h. 2 bulldozers;
23 i. 1977 Kenworth VIN 055097SGL;
24 j. 1972 Peterbilt ID 41337P, FHP364802;
25 k. 1955 Mack VIN B705T1209;
26
27
28

- 1 l. 1955 Kenworth VIN 64338;
- 2 m. 1959 Mack VIN B73S1370;
- 3 n. 1962 Mack winch truck;
- 4 o. 6000 Cherry Picker;
- 5 p. 100 ton press;
- 6 q. Lo Boy 35 ton Cozad Trailer # CC80062;
- 7 r. 1993 Western Star Boom Truck Serial No. 2WKPDCCCHIPK931154;
- 8 s. 750 Holmes Wrecker Tow Truck;
- 9 t. Autocar Winch Truck;
- 10 u. Maritime Hydraulic Drilling Rig;
- 11 v. Any and all tools located at 5730 Road 10, Goodland, Kansas 67735.
- 12
- 13 14. Any and all rights assigned to Rodney Wilkinson through the contract with Dan
- 14 Fontenot of Synergy Oil Field Services, LLC.
- 15
- 16 8. All personal property owned prior to the marriage;
- 17
- 18 9. Any and all current and future retirement accounts, savings plans, IRA, pension
- 19 plans or otherwise in her name only;
- 20
- 21 10. Any and all wearing apparel, personal ornaments, and jewelry belonging to her;
- 22
- 23 11. Any and all bank accounts in her name only; and
- 24
- 25 12. Any personal items currently in her possession.
- 26
- 27 **IT IS FURTHER ORDERED** that in the event that any property has been omitted from
- 28 this Decree that would have been community property or otherwise jointly-held property under
- applicable law as of the date hereof, the concealing or possessory Party will transfer or convey to
- the other Party, at the other Party's election:

1 (1) The full market value of the other Party's interest on the date of this Decree, plus
 2 statutory interest through and including the date of transfer or conveyance; or

3 (2) The full market value of the other Party's interest at the time that Party discovers that
 4 he has an interest in such property, plus statutory interest through and including the date
 5 of transfer or conveyance; or
 6

7 (3) An amount of the omitted property equal to the other Party's interest herein, if it is
 8 reasonably susceptible to division.

9 **IT IS FURTHER ORDERED** that, except as otherwise specified herein, any and all
 10 property acquired or income received by either party from and after the date of entry of this
 11 Decree shall be the sole and separate property of that party, and each party respectively grants to
 12 the other all such further acquisitions of property as the sole and separate property of the one so
 13 acquiring the same. Each party shall have an immediate right to dispose of, or bequeath by Will,
 14 his respective interest in and to any and all property belonging to him from and after the date
 15 hereof, and such rights shall extend to all of the future acquisitions of property as well as to all
 16 property set over to either of the parties hereto by this Decree.
 17

18 **IT IS FURTHER ORDERED** that the following community debts shall be set over and
 19 hereby awarded to Rodney Wilkinson as his sole and separate debts:
 20

- 21 1. The loan on the real property located at 5730 Road 10, Goodland, Kansas 67735;
- 22 2. The loan through Dorman Renewable Fuels, LLC in the approximate amount of
- 23 \$20,000;
- 24 3. Any and all tax debts in his name only;
- 25 4. Any and all student loan debts in his name only;
- 26 5. Any and all credit card debt in his name only;
- 27
- 28

1 6. Any and all credit instruments in his name only.

2 **IT IS FURTHER ORDERED** that the following community debts shall be set over and
3 hereby awarded to Tessie Wilkinson as her sole and separate debts:

4 1. The Chase credit account ending in the numbers 9416 with an approximate
5 current balance of \$3,860;

6 2. The US Bank credit account ending in the numbers 9270 with an approximate
7 current balance of \$4,300;

8 3. Any and all student loan debts in her name only;

9 4. Any and all credit card debt in her name only;

10 5. Any and all credit instruments in her name only.

11
12 **IT IS FURTHER ORDERED** that if any claim, action or proceeding is brought seeking
13 to hold the other party liable on account of any debt, obligation, liability act or omission assumed
14 by the other Party, such party will, at his or her sole expense, defend the other against any such
15 claim or demand and that he or she will indemnify, defend, and hold harmless the other Party.

16
17 **IT IS FURTHER ORDERED** that Tessie Wilkinson shall receive the sum of \$3,000 per
18 month from Rodney Wilkinson for the duration of her life as and for Spousal Support. This
19 amount shall be due on or before the 10th day of each month.

20
21 **IT IS FURTHER ORDERED** that if any claim, action or proceeding is brought seeking
22 to hold the other party liable on account of any debt, obligation, liability act or omission assumed
23 by the other Party, such party will, at his sole expense, defend the other against any such claim or
24 demand and that he will indemnify, defend, and hold harmless the other Party.

25
26 **IT IS FURTHER ORDERED** that each Party shall execute any and all legal documents,
27 certificates of title, bills of sale, deeds or other evidence transfer necessary to effectuate this
28

1 Decree and the division of community assets within thirty (30) days of the entry of this Decree,
2 except as otherwise provided herein. Should either party fail to execute any of said documents to
3 transfer interest to the other, then this Decree shall constitute a full transfer of the interest of one
4 to the other, as herein provided. It is further agreed that pursuant to NRCP 70, the Clerk of the
5 Court shall be deemed to have hereby been appointed and empowered to sign, on behalf of the
6 non-signing party, any of the said documents of transfer which have not been executed by the
7 party otherwise responsible for such.
8

9 **IT IS FURTHER ORDERED** that it is hereby mutually understood and agreed by and
10 between the parties hereto that this Decree of Divorce is deemed to be a final, conclusive and
11 integrated agreement between the parties, and that except as herein specified, each party hereto is
12 hereby released and absolved from any and all liabilities and obligations for the future and past
13 acts and duties of the other, and that each of the said parties hereby releases the other from any
14 and all liabilities, future accounts, alimony and support or otherwise, or debts or obligations of
15 any kind or character incurred by the other except as provided herein provided, it being
16 understood that his instrument is intended to settle finally and conclusively the rights of the
17 parties hereto in all respects arising out of their marital relationship except as provided herein.
18

19 **IT IS FURTHER ORDERED** that the provisions in this Decree are fair and reasonable
20 and the parties agree to be bound by all its terms. The parties further acknowledge that they have
21 made an independent investigation into the existence and value of the assets and liabilities
22 divided hereunder, and the tax consequences, if any. The parties hereby waive any and all claims
23 against Danielle Dawson, Esq. of Steinberg Law Group related to the value and/or existence of
24 any asset divided hereunder or the tax consequences resulting therefrom. The parties further
25 acknowledge that they did not receive tax advice from Danielle Dawson, Esq. and have been
26
27
28

1 advised to seek the advice of a tax expert for any tax related questions they may have. The
2 parties have further been advised to seek the advice of independent counsel regarding these
3 terms.

4 **IT IS FURTHER ORDERED** that each party acknowledges that they have read this
5 Decree of Divorce and fully understand the contents and accept the same as equitable and just,
6 that the parties agree this Decree of Divorce has been reached via negotiation and in the spirit of
7 compromise, and that there has been no promise, agreement or understanding of either of the
8 parties to the other except as set forth herein, which have been relied upon by either as a matter
9 of inducement to enter into this agreement, and each party hereto has had the time and
10 opportunity to be advised by an attorney and has been encouraged to do so. The parties further
11 acknowledge that this stipulated Decree of Divorce is a global resolution of their case and that
12 each provision herein is made in consideration of all the terms in the Decree of Divorce as a
13 whole. The parties further acknowledge that they have entered into this stipulated Decree of
14 Divorce without undue influence or coercion, or misrepresentation, or for any other cause except
15 as stated herein.

16 **IT IS FURTHER ORDERED** that should it be necessary for either Party to enforce the
17 terms of this Decree, the prevailing party shall be entitled to recover their attorneys' fees and
18 costs.

19 **IT IS FURTHER ORDERED** that the parties shall submit the information required in
20 NRS 125B.055, NRS 125.130 and NRS 125.230 on a separate form to the Court and the Welfare
21 Division of the Department of Human Resources within ten days from the date this Decree is
22 filed. Such information shall be maintained by the Clerk in a confidential manner and not part of
23 the public record. The parties shall update the information filed with the Court and the Welfare
24


1 Division of the Department of Human Resources within ten days should any of that information
2 become inaccurate.


3 **IT IS FURTHER ORDERED** that Tessie Wilkinson shall return to her maiden name to
4 wit: Tessie Elma Almario.

5 **DATED** this 11th day of February, 2020.

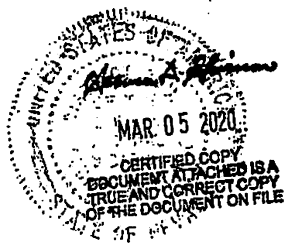
6
7
8 
9 DISTRICT COURT JUDGE
Rhonda K. Forsberg

10 **STEINBERG & DAWSON LAW GROUP**

11
12 
13 **DANIELLE DAWSON, ESQ.**
14 Nevada Bar No. 11792
15 4270 S. Decatur Blvd., Suite B10
16 Las Vegas, Nevada 89103
17 Attorney for Defendant

18 
19 **RODNEY WILKINSON**
20 613 Eagle Drive Apt 36
21 Newtown, ND 58763
22 Defendant in Proper Person

23
24
25
26
27
28 
TESSIE WILKINSON



VERIFICATION OF TESSIE WILKINSON

I, Tessie Wilkinson, being duly sworn under the penalties of perjury, depose and say:

I am the Plaintiff herein, and I have read the foregoing Stipulated Decree of Divorce and know the contents thereof; that the same is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

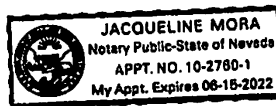

TESSIE WILKINSON

STATE OF NEVADA)
) ss.
COUNTY OF CLARK)

SUBSCRIBED and SWORN to before me this 21 day of January, 2020.



Notary Public



VERIFICATION OF RODNEY WILKINSON

I, Rodney Wilkinson, being duly sworn under the penalties of perjury, deposes and says:

I am the Defendant herein, and I have read the foregoing Stipulated Decree of Divorce and know the contents thereof; that the same is true to the best of my own knowledge, except as to those matters therein stated upon information and belief, and as to those matters, I believe them to be true.

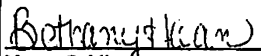
I understand that the foregoing document has been prepared by Danielle Dawson, Esq., of the Law Firm of Steinberg & Dawson Law Group, who represents the interests of the Plaintiff, Tessie Wilkinson, in the within action, and does not represent my interests in this matter.

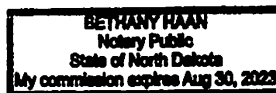
I have been informed of my right to retain my own counsel.


RODNEY WILKINSON

STATE OF North Dakota
) ss.
 COUNTY OF Mauritius

SUBSCRIBED and SWORN to before Me this 17 day of January, 2020.


 Notary Public



[Skip to Main Content](#) [Logout My Account My Cases Search Menu New Family Record Search Refine Search Close](#)

[Location : Family Courts](#) [Images Help](#)

R. GISTER OF ACTIONS

[CASE No. D-19-596071-D](#)

Tessie E Wilkinson, Plaintiff vs. Rodney Wilkinson, Defendant.

§
§
§
§
§
§

Case Type: **Divorce - Complaint**
 Subtype: **Complaint No Minor(s)**
 Date Filed: **09/09/2019**
 Location: **Department U**
 Cross-Reference Case Number: **D596071**

PARTY INFORMATION

Defendant **Wilkinson, Rodney**
 613 Eagle Drive Apt 36
 Newton, ND 58763

Lead Attorneys
James W. Kwon
Retained
 702-515-1200(W)

Plaintiff **Wilkinson, Tessie E Now Known**
As Almario, Tessie Elma
 8382 Hollywood Hills Ave
 Las Vegas, NV 89178

Bradley J. Hofland
Retained
 702-895-6760(W)

EVENTS ☐ ORDERS OF THE COURT

02/04/2021 [All Pending Motions](#) (1:30 PM) (Judicial Officer Throne, Dawn R.)

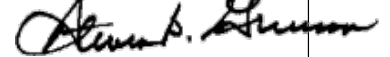
Minutes

02/04/2021 1:30 PM

- DEFENDANT'S MOTION TO SET ASIDE THE DIVORCE DECREE PURSUANT TO NRCP 60(b)...PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO SET ASIDE THE DECREE OF DIVORCE PURSUANT TO NRCP 60(b) AND COUNTERMOTION FOR ATTORNEY'S FEES AND RELATED RELIEF Attorney Hofland appeared by video for Plaintiff. Plaintiff appeared by video. Attorney Kwon appeared by video for Defendant. Defendant appeared telephonically. Argument by counsel. The COURT FINDS that the Court has jurisdiction to consider Defendant's motion under 60(b). It is this Court's Decree of Divorce. The COURT FINDS that Defendant's motion is timely based on the guardians ability to act on Defendant's behalf if he was not competent during 2020. The Court noted that the civil case has nothing to do with this case. The guardians, on behalf of the ward, can file a civil suit for civil damages if there was fraud separate and apart from what this Court's authority would be. COURT ORDERED: Defendant's motion is GRANTED under 60(b)3 and 60(b)6. A prima facie case has been made and an evidentiary hearing is GRANTED. The time shall be divided between both counsel. Defendant shall issue a new JOINT PRELIMINARY INJUNCTION and serve it. Neither party shall dispose of any assets. Plaintiff shall file a General FINANCIAL DISCLOSURE FORM (FDF) by February 26, 2021 and serve that. Defendant's guardians can fill out a General FDF of what Defendant's living expenses are and any income and counsel shall file that and serve that by February 26, 2021. Discovery is open. The Court's staff shall issue a Trial Management Order. If the evidence shows that Defendant was competent at the time of signing in 2020, the Plaintiff's request for ATTORNEY FEES shall be considered. Calendar Call SET for 7/7/21 @ 11:00 A.M. Non-Jury Trial SET for 7/16/21 @ 9:00 A.M. (Stack 1 - Full Day) (Defendant's competency at the time of signing and how much Plaintiff knew about it.) Attorney Kwon shall prepare the Order from today's hearing and counsel shall review and sign off.

[Return to Register of Actions](#)

ROA000301



1 **RPRI**

2 JAMES W. KWON, ESQ.

3 Nevada Bar No. 8146

4 JAMES KWON, LLC

5 6280 Spring Mountain Rd., Suite 100

6 Las Vegas, Nevada 89146

7 P: (702) 515-1200

8 F: (702) 515-1201

9 jkwon@jwklawfirm.com

10 *Attorney for Defendant*

11
12
13 **EGHTH JUDICIAL DISTRICT COURT**
14 ***FAMILY DIVISION***
15 **COUNTY OF CLARK, STATE OF NEVADA**
16

17 TESSIE E. WILKINSON a/k/a TESSIE
18 ELMA ALMARIO,

19 Plaintiff,

20 vs.

21 SHERYL ATTERBERG, ON BEHALF
22 OF HER ADULT WARD RODNEY
23 WILKINSON,

24 Defendant.

Case No.: D-19-596071-D

Dept.: U

REQUEST FOR ISSUANCE OF
JOINT PRELIMINARY
INJUNCTION

17 Sheryl Atterberg, on behalf of her adult ward, Defendant, Rodney Wilkinson,
18 by and through her attorney of record, James W. Kwon, Esq., of the law firm of

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

James Kwon, LLC, respectfully request that the Court issue a Joint Preliminary Injunction in the above-entitled action pursuant to EDCR 5.518.

DATED this 4th day of February, 2021.

JAMES KWON, LLC

/s/ James W. Kwon, Esq.

JAMES W. KWON, ESQ.

Nevada Bar No. 8146

6280 Spring Mountain Rd., Suite 100

Las Vegas, Nevada 89146

Attorney for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of February, 2021, pursuant to NRCP 5, I caused service of a true and correct copy of the foregoing *Request for Issuance of Joint Preliminary Injunction* to be made electronically via the Eighth Judicial District Court electronic filing system upon the following parties at the e-mail addresses listed below:

Dina DeSausa Cabral DinaD@HoflandLaw.com

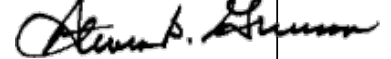
Bradley J. Hofland, Esq. BradH@HoflandLaw.com

Nikki Woulfe Clerk@HoflandLaw.com

DATED this 4th day of February, 2021.

/s/ Crystal Ann Gorzalski

An employee of JAMES KWON, LLC



1 JPI

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA

4 TESSIE E WILKINSON, PLAINTIFF

CASE NO: D-19-596071-D

5 VS.

DEPARTMENT U

6 RODNEY WILKINSON, DEFENDANT.

7
8 **JOINT PRELIMINARY INJUNCTION**

9
10 **Notice: This injunction is effective upon the requesting party when issued and against**
11 **the other party when served. This injunction shall remain in effect from the time of**
12 **its issuance until trial or until dissolved or modified by the court.**

13 **TO: Plaintiff and Defendant:**

14 PURSUANT TO EIGHTH JUDICIAL COURT RULE 5.518, YOU, AND ANY
15 OFFICERS, AGENTS, SERVANTS, EMPLOYEES OR A PERSON IN ACTIVE
16 CONCERT OR PARTICIPATION WITH YOU, ARE HEREBY PROHIBITED AND
17 RESTRAINED FROM:

18 1. Transferring, encumbering, concealing, selling or otherwise disposing of any of your
19 joint, common or community property of the parties or any property which is the
20 subject of a claim of community interest, except in the usual course of conduct or for
21 the necessities of life or for retention of counsel for the case in which this Injunction
22 is obtained; or cashing, borrowing against, canceling, transferring, disposing of, or
23 changing the beneficiaries of;

- 24 a. Any retirement benefits or pension plan held for the benefit (or election for
25 benefit) of the parties or any minor child; or
26 b. Any insurance coverage, including life, health, automobile, and disability
27 coverage;

28 without the written consent of the parties or the permission of the court.

- 1 2. Molesting, harassing, stalking, disturbing the peace of or committing an assault or
2 battery on the person of the other party or any child, stepchild, other relative or family
3 pet of the parties.
4 3. Relocating any child of the parties under the jurisdiction of the State of Nevada from
5 the state without the prior written consent of all parties with custodial rights or the
6 permission of the court.

7 DATED this 9th day of February, 2021:

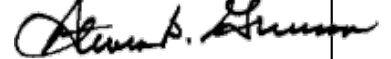
8 
9 Rebecca L. Burton

10 Presiding Judge, Family Division

11 February 9, 2021



17 CERTIFIED COPY
18 ELECTRONIC SEAL (NRS 1.190(3))
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**DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

TESSIE E. WILKINSON,

Plaintiff

Case No.: D-19-596071-D

Dept. U

vs.

RODNEY WILKINSON,

Defendant.

**CASE AND EVIDENTIARY HEARING/NON-JURY TRIAL
MANAGEMENT ORDER**

TO COUNSEL AND LITIGANTS IN PROPER PERSON: This Order sets forth critical dates and times for the major proceedings in this case. It is the responsibility of the attorneys for the litigants or the litigants where appearing in proper person, to meet the deadlines and to appear for the following required proceedings:

Non-Jury Trial Date/Evidentiary Hearing Date:

FRIDAY, JULY 16, 2021 at 9:00AM (stack #1)

Calendar Call Date:

WEDNESDAY, JULY 7, 2021 at 11:00AM

Discovery Cutoff Date:

WEDNESDAY, JUNE 16, 2021 by 5:00PM

Pre-Memorandum/Brief due date:

FRIDAY, JULY 2, 2021 by 5:00PM

1 *The failure to appear for the Evidentiary Hearing Date may result in a*
2 *dismissal of the case, a default judgment against the non-appearing party, or*
3 *other appropriate sanctions, consistent with EDCR 2.69.*
4

5 **IT IS HEREBY ORDERED** that failure by counsel or litigants to meet
6 the requirements of NRCP 16.2 and/or 16.205, the above deadlines, failure to
7 appear as required by this Order, failure to substantially prepare or to participate
8 in the proceedings in good faith, including failure at a Settlement Conference
9 (SC) to submit settlement proposals and to participate in settlement negotiations
10 in good faith, may result in sanctions, and the party or attorney may be required to
11 pay reasonable expenses and attorney's fees incurred due to noncompliance with
12 this Order, (see NRCP 37(b)(2)(B), (C), (D), NRCP 16(f), EDCR 2.68, EDCR
13 2.69, EDCR 5.88). The failure to appear for a particular proceeding pursuant to
14 this Order may result in a dismissal of the case, a default judgment against the
15 non-appearing party, or other appropriate sanctions.
16
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20 **DISCOVERY PLAN**

21 The parties shall participate in the discovery process in good faith and may
22 utilize all discovery methods provided in NRCP 26 through NRCP 36,
23 commencing 30 days after service of the summons and complaint. Each party
24 shall provide to the other party the required disclosures provided in NRCP 16.2(b)
25 or NRCP 16.205.
26
27
28

1 Any objection to the authenticity or genuineness of documents provided to
2 the other party must be made in writing within 21 calendar days of the date the
3 receiving party receives them. Absent such an objection, the documents shall be
4 presumed authentic and genuine and shall not be excluded from evidence on these
5 grounds.
6

7
8 Each party shall provide to other party the name and, if known, the address
9 and telephone number of each individual who may be called as a witness at any
10 stage of the proceedings, including for impeachment or rebuttal, identifying the
11 subjects of the information for which the individual may be called. All fact
12 witnesses must be designated by no later than 21 days before the discovery
13 cutoff.
14

15
16 Each party shall disclose to other party the identity of any person who may
17 be used at trial to present expert testimony. These disclosures must be made
18 within 30 days after the financial disclosure form is required to be filed and
19 served under Rule 16.2(b)(2) or, if the evidence is intended solely to contradict or
20 rebut evidence on the same subject matter identified by another party, within 21
21 days after the disclosure made by the other party. The parties shall supplement
22 these disclosures when required under Rule 26(e)(1).
23

24
25 Failure to timely disclose all Experts and Witnesses or to timely provide
26 Expert Reports and Exhibits shall result in their exclusion at the Evidentiary
27 Hearing absent good cause shown.
28

1 Each party shall provide the other party a copy of each document or other
2 exhibit, including summaries of other evidence, which a party expects to offer as
3 evidence at trial in any manner. These disclosures must be made by no later than
4 7 days after the close of discovery. Not less than 14 days before trial, a party may
5 serve any objection, together with the grounds therefore, that may be made to the
6 admissibility of materials identified. Objections not so disclosed, other than
7 objections under NRS 48.025 and 48.035, shall be deemed waived unless excused
8 by the court for good cause shown.

12 CALENDAR CALL/CONTINUANCES

14 **IT IS FURTHER ORDERED** that all attorneys for litigants and **litigants**
15 **in proper person** must appear by Video Conference (BlueJeans) in **Department**
16 **U** for the calendar call at the date and time set forth above.

18 Such conferences are conducted pursuant to NRCP 16.2 and/or
19 16.205, EDCR 2.68, EDCR 2.69, and EDCR 5.88. Counsel or proper person
20 litigants are to provide the following to opposing counsel/proper person
21 litigant, copying the Court with the following prior to the calendar call:
22 witness and exhibit lists, one set of original exhibits ready for marking by the
23 Clerk (with two courtesy copies: one for the other party, one for the Court),
24 and any other discovery items sought to be introduced at trial.

1 Pursuant to Administrative Order 20-10, exhibits will need to be
2 submitted electronically ***4 days before Calendar Call***. In order to initiate the
3 electronic evidence submission request for a Non-Jury Trial or Evidentiary
4 Hearing, you must send an email to FCEvidence@ClarkCountyCourts.us.
5 Upon the email request, you will receive a link with instructions as to how
6 and where to upload the evidence (the link will only be available for 24
7 hours). *See Court's Exhibit #1 for more information.*

8
9
10
11 **DO NOT FILE EXHIBITS WITH THE COURT**

12 ***Failure to provide foregoing may result in such exhibits or evidence***
13 ***being excluded or other appropriate court-imposed sanctions against***
14 ***counsel or party in proper person.***

15
16 **IT IS FURTHER ORDERED** that this case will be tried in such an order
17 as the Court directs. A half-day setting is three hours, and a full-day setting is six
18 hours. The available time is divided equally between the parties. Requests for
19 continuances shall be in writing and served upon opposing counsel/party if in
20 proper person, and a hearing shall be held on the merits at least three (3) days
21 prior to the time of trial. Sanctions may be imposed if undue delay is exercised in
22 bringing motions to continue or any other action that will disturb the trial date.
23 For good cause shown, where both counsel or parties stipulate at the calendar call,
24 and where the Court does not disagree, the Court has the discretion to grant an
25 oral request for a continuance.
26
27
28

1
2
3 **PRE-TRIAL MEMORANDUM/BRIEF**

4 **IT IS FURTHER ORDERED** that the Brief or Pre-Trial Memorandum
5 shall be filed **four days** before the calendar call. A courtesy copy of same shall be
6 delivered to the Judge's chambers electronically
7 (DeptULC@clarkcountycourts.us) and served on opposing counsel the same day.
8 The Pre-Trial Memorandum shall substantially comply with the form attached
9 hereto, including the marital balance sheet. *See Court's Exhibit #2 for more*
10 *information. Failure to submit the Brief or Memorandum 4 days before*
11 *Calendar Call, absent the Court's approval, may result in the date being*
12 *vacated and the matter being rescheduled in ordinary course.*
13
14

15 **DISCOVERY DEADLINE**

16 Discovery deadline shall be thirty days (30) prior to the date, unless
17 stipulated in writing otherwise.
18

19 **SETTLEMENT DURING PENDENCY OF THE ACTION**

20 If this case is settled during the pendency of this action, counsel for the parties
21 or litigants in proper person shall exercise due diligence in advising the department
22 and the clerk by providing a Stipulation and Order to that effect, so that any future
23 hearing dates can be vacated.
24

25 Dated this 10 day of February, 2021.

26 
27 _____
28 **DAWN R. THRONE**
District Court Judge

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CERTIFICATE OF SERVICE

☒ I hereby certify that on the above file stamp date a copy of the foregoing Case and Evidentiary Hearing/Non-Jury Trial Management Order was ESERVED, EMAIL or MAIL pursuant to NEFCR 9 to be served by ESERVED, EMAIL to the following attorneys/parties to:

BRADLEY J. HOFLAND, ESQ.
bradh@hoflandlaw.com
Attorney for Plaintiff

JAMES W. KWON, ESQ.
james@jwklawfirm.com
Attorney for Defendant

/s/ Suzanna Zavala
Suzanna Zavala
Judicial Executive Assistant to the
Honorable Dawn R. Throne

COURT'S EXHIBIT 1

DIRECTIONS FOR COMPLETING EXHIBIT LIST

****EXHIBITS ARE NOT FILED****

****FOR EVIDENTIARY HEARINGS AND TRIALS****

Please contact the Clerk's office at FCEvidence@clarkcountycourts.us to receive a link to download your Exhibits.

On the following form put either Plaintiff or Defendant on the line before the word EXHIBITS. Put your case number in the appropriate space.

If you are the Plaintiff, all of your exhibits will be identified by NUMBERS.
(Example: Exhibit 1, Exhibit 2, etc.)

If you are the Defendant, all of your exhibits will be identified by LETTERS OF THE ALPHABET. (Example: Exhibit A, Exhibit B, etc.)

You must identify each section of your exhibits and mark them with a divider which identifies the exhibit. Exhibits are not to be bunched together in one group of papers and are to be numbered in the lower right corner.

Example: Exhibit 1 or Exhibit A

3 pages of bank statements would be tabbed with the appropriate number or letter and submitted together.

2 pages of employment information would be tabbed with the appropriate number or letter and submitted together.

Exhibits must be downloaded and submitted to the opposing party by the Discovery cut-off date.

COURT'S EXHIBIT 2

PRE-TRIAL MEMORANDUM

I.

STATEMENT OF ESSENTIAL FACTS

- A. Names and ages of the parties.
- B. Date of Marriage.
- C. Resolved issues, including agreed resolution.
- D. Statement of unresolved issue.

II.

CHILD CUSTODY

- A. Names, birth dates, and ages of the children.
- B. Statement of provisions setting forth your requested custody and visitation order. If some issues of legal and/or physical custody are resolved, note the resolution and define the disputed areas. Specific suggested order provisions are requested.

III.

CHILD SUPPORT

A. Prepare and attach an Affidavit of Financial Conditions. If one has been previously prepared, an updated and current form is required only if there are changes to prior affidavits. However, the most current affidavit is required to be attached.

B. Set forth with specificity the amount of support requested to be paid and a brief statement of any special factors which you believe impact the amount of support to be paid.

IV.

SPOUSAL SUPPORT

A. State whether spousal support is requested and if so, whether the support requested is permanent or rehabilitative.

B. If spousal support is requested, state the amount of support requested and if rehabilitative, the duration for which support is requested.

C. Set forth the factors, in brief, that you request the Court consider in establishing the amount of support or in denying or limiting the amount of support requested by the other party.

D. If an Affidavit of Financial Conditions has not been submitted, and support is requested, each party must submit and attach a current Affidavit of Financial Conditions or attach a copy of any previously filed Affidavit providing that the previously filed affidavit is current.

V.

PROPERTY AND DEBTS

A. Prepare a list of all substantial property in accordance with the property Exhibit attached hereto. This Exhibit is required to be complete to the best information of the parties.

B. Prepare a list of all secured and unsecured indebtedness including the creditors names, amount owed, and property secured by the obligation in accordance with the debt Exhibit attached hereto.

C. Define all contested legal and factual issues intended to be presented to the Court at time of trial regarding property and debts.

VI.

ATTORNEY'S FEES

If request is made for payment of attorney=s fees and

costs, provide the amount of fees and costs incurred to date. Note additionally the amount of fees that have been paid and the amount remaining due and owing.

VII.

LIST OF WITNESSES

Other than the parties and resident witness, list all witnesses intended to be called by you. Further provide a brief summary of the witnesses= anticipated testimony.

VIII.

LIST OF EXHIBITS

List and identify specifically each item of evidence intended to be introduced by you at the time of trial.

IX.

UNUSUAL LEGAL OR FACTUAL ISSUES PRESENTED

List all other unusual legal or factual issues that you anticipate will be raised at trial. Sufficiently explain the issues presented so that the Court may understand the issues presented clearly. Citations of authorities should also be provided.

X.

LENGTH OF TRIAL

Length of Trial: _____

This Memorandum is a form only but should be followed where possible. Additional sections may be included at the discretion of the party. The intention is to provide the Court with a clear indication of the resolved and unresolved issues to expedite the trial time and to assist the Court in reaching a fair and speedy decision.

_____ v. _____

ASSET SCHEDULE

ASSET	Your opinion regardi ng value (gross)	Manner in which title is held	Name of Creditor with secured obligation on asset & loan balance	PROPOSED DISTRIBUTION
<u>Example:</u> Home 4444 Fourth St. Las Vegas, NV	\$100,00 0	Joint tenanc y	AAA Mortgage Co. \$45,000	Sell and divide proceeds

_____ v. _____

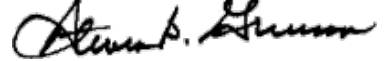
DEBT SCHEDULE

CREDITOR	AMOUNT OWED	Assets securing obligation	PROPOSED RESOLUTION
<u>Example:</u> ABC Creditor Inc.	\$25,000	First Trust Deed on residence at 123 6th Street, Las Vegas, NV	Debt paid from proceeds of sale

FDF

Name: James Kwon, Esq. of James Kwon, LLC
Address: 6280 Spring Mountain Rd., Suite 100
Las Vegas, Nevada 89146
Phone: (702) 515-1200
Email: jkwon@jwklawfirm.com
Attorney for Defendant
Nevada State Bar No. 8146

Electronically Filed
2/25/2021 6:23 PM
Steven D. Grierson
CLERK OF THE COURT



Eighth Judicial District Court
Clark County, Nevada

<u>Tessie Elma Almario fka Tessie Wilkinson</u> Plaintiff,	Case No. <u>D-19-596071-D</u>
vs. <u>Sheryl Atterberg, on Behalf of Her Adult Ward,</u> Defendant. <u>Rodney Wilkinson,</u>	Dept. <u>U</u>

GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

1. What is your full name? (*first, middle, last*) Rodney Wilkinson
2. How old are you? 65
3. What is your date of birth? 2/28/1955
4. What is your highest level of education? High School

B. Employment Information:

1. Are you currently employed/ self-employed? (☒ *check one*)
☒ No
☐ Yes If yes, complete the table below. Attached an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)

2. Are you disabled? (☒ *check one*)
☐ No
☒ Yes

If yes, what is your level of disability? Incapacitated
What agency certified you disabled? Lincoln County Court, CO
What is the nature of your disability? Incapacitated

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: N/A Date of Hire: N/A Date of Termination: N/A
Reason for Leaving: N/A

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending _____ my gross year to date pay is _____.

B. Determine your Gross Monthly Income.

Hourly Wage

	×		=	\$0.00	×	52	=	\$0.00	÷	12	=	\$0.00
Hourly Wage		Number of hours worked per week		Weekly Income		Weeks		Annual Income		Months		Gross Monthly Income

Annual Salary

	÷	12	=	\$0.00
Annual Income		Months		Gross Monthly Income

C. Other Sources of Income.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			
Bonuses			
Car, Housing, or Other allowance:			
Commissions or Tips:			
Net Rental Income:			
Overtime Pay			
Pension/Retirement:			
Social Security Income (SSI):	Monthly	\$1,186.00	\$1,186.00
Social Security Disability (SSD):			
Spousal Support			
Child Support			
Workman's Compensation			
Other:			
Total Average Other Income Received			\$1,186.00
Total Average Gross Monthly Income (add totals from B and C above)			\$1,186.00

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (automatically deducted from paycheck)	
2.	Federal Health Savings Plan	
3.	Federal Income Tax	
4.	Health Insurance Amount for you: _____ For Opposing Party: _____ For your Child(ren): _____	0.00
5.	Life, Disability, or Other Insurance Premiums	
6.	Medicare	
7.	Retirement, Pension, IRA, or 401(k)	
8.	Savings	
9.	Social Security	
10.	Union Dues	
11.	Other: (Type of Deduction)	
Total Monthly Deductions (Lines 1-11)		0.00

Business/Self-Employment Income & Expense Schedule**A. Business Income:**

What is your average gross (pre-tax) monthly income/revenue from self-employment or businesses?
\$ _____

B. Business Expenses: Attach an additional page if needed.

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising			
Car and truck used for business			
Commissions, wages or fees			
Business Entertainment/Travel			
Insurance			
Legal and professional			
Mortgage or Rent			
Pension and profit-sharing plans			
Repairs and maintenance			
Supplies			
Taxes and licenses (include est. tax payments)			
Utilities			
Other:			
Total Average Business Expenses			0.00

Personal Expense Schedule (Monthly)

A. Fill in the table with the amount of money you spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	Monthly Amount I Pay	For Me ☞	Other Party ☞	For Both ☞
Alimony/Spousal Support				
Auto Insurance				
Car Loan/Lease Payment				
Cell Phone				
Child Support (not deducted from pay)				
Clothing, Shoes, Etc...				
Credit Card Payments (minimum due)				
Dry Cleaning				
Electric				
Food (groceries & restaurants)				
Fuel				
Gas (for home)				
Health Insurance (not deducted from pay)				
HOA				
Home Insurance (if not included in mortgage)				
Home Phone				
Internet/Cable				
Lawn Care				
Membership Fees				
Mortgage/Rent/Lease	1,030.00	✓		
Pest Control				
Pets				
Pool Service				
Property Taxes (if not included in mortgage)				
Security				
Sewer				
Student Loans				
Unreimbursed Medical Expense				
Water				
Other: Prescription	10.00	✓		
Total Monthly Expenses	1,040.00			

Household Information

- A. Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	Child's DOB	Whom is this child living with?	Is this child from this relationship?	Has this child been certified as special needs/disabled?
1 st					
2 nd					
3 rd					
4 th					

- B. Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	1 st Child	2 nd Child	3 rd Child	4 th Child
Cellular Phone				
Child Care				
Clothing				
Education				
Entertainment				
Extracurricular & Sports				
Health Insurance (if not deducted from pay)				
Summer Camp/Programs				
Transportation Costs for Visitation				
Unreimbursed Medical Expenses				
Vehicle				
Other:				
Total Monthly Expenses	0.00	0.00	0.00	0.00

- C. Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	Age	Person's Relationship to You (i.e. sister, friend, cousin, etc....)	Monthly Contribution

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value		Total Amount Owed		Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Wells Fargo Checking Account	\$ 825.80	-	\$	=	\$ 825.80	Rodney
2.	as of 2.13.2021	\$	-	\$	=	\$ 0.00	
3.		\$	-	\$	=	\$ 0.00	
4.		\$	-	\$	=	\$ 0.00	
5.		\$	-	\$	=	\$ 0.00	
6.		\$	-	\$	=	\$ 0.00	
7.		\$	-	\$	=	\$ 0.00	
8.		\$	-	\$	=	\$ 0.00	
9.		\$	-	\$	=	\$ 0.00	
10.		\$	-	\$	=	\$ 0.00	
11.		\$	-	\$	=	\$ 0.00	
12.		\$	-	\$	=	\$ 0.00	
13.		\$	-	\$	=	\$ 0.00	
14.		\$	-	\$	=	\$ 0.00	
15.		\$	-	\$	=	\$ 0.00	
Total Value of Assets (add lines 1-15)		\$ 825.80	-	\$ 0.00	=	\$ 825.80	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Mike Dorman/Crane Lien	\$ 20,000.00	Rodney
2.		\$	
3.		\$	
4.		\$	
5.		\$	
6.		\$	
Total Unsecured Debt (add lines 1-6)		\$ 20,000.00	

CERTIFICATION

Attorney Information: *Complete the following sentences:*

1. I (have/have not) HAVE retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of \$ 10,000.00 on my behalf.
3. I have a credit with my attorney in the amount of \$ _____.
4. I currently owe my attorney a total of \$ _____.
5. I owe my prior attorney a total of \$ _____.

IMPORTANT: Read the following paragraphs carefully and initial each one.

SA I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements I may be subject to punishment, including contempt of court.

_____ I have attached a copy of my 3 most recent pay stubs to this form.

_____ I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed.

SA I have not attached a copy of my pay stubs to this form because I am currently unemployed. ***Guardians' Initial Report including the Inventory for the Adult Ward, Rodney Wilkinson, is attached hereto as Exhibit A.***

/s/ Sheryl Atterberg
Signature

2/25/2021
Date

CERTIFICATE OF SERVICE

I hereby declare under the penalty of perjury of the State of Nevada that the following is true and correct:

That on (date) 2/25/2021, service of the General Financial Disclosure Form was made to the following interested parties in the following manner:

☐ Via 1st Class U.S. Mail, postage fully prepaid addressed as follows:

☒ Via Electronic Service, in accordance with the Master Service List, pursuant to NEFCR 9, to:

DinaD@HoflandLaw.com; BradH@HoflandLaw.com; Clerk@HoflandLaw.com

☐ Via Facsimile and/or Email Pursuant to the Consent of Service by Electronic Means on file

herein to: _____

Executed on the 25 day of February, 2021.

/s/ Crystal Ann Gorzalski

Signature

EXHIBIT A

EXHIBIT A

<input checked="" type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court <u>Lincoln Co.</u> County, Colorado Court Address: <u>103 THIRD AVE, HUGO, CO 80821</u>		▲ COURT USE ONLY ▲ Case Number: <u>2020 PK 30016</u> Division <u>1</u> Courtroom
In the Interest of: <u>RODNEY EDWARD WILKINSON</u> Protected Person		
Attorney or Party Without Attorney (Name and Address): <u>SHERYL ATTERBERG</u> <u>P.O. BOX 4109, IDAHO SPRINGS, CO 80452</u> Phone Number: <u>720-810-8177</u> E-mail: FAX Number: <u>-</u> Atty. Reg. #: <u>2 N/A</u>		
CONSERVATOR'S FINANCIAL PLAN WITH INVENTORY AND MOTION FOR APPROVAL		

☒ INITIAL REPORT
 INVENTORY VALUES AS OF DATE OF APPOINTMENT

☐ AMENDED REPORT
 INVENTORY VALUES AS OF DATE _____ (MM/DD/YYYY)

DATE OF APPOINTMENT 11/23/2020 (MM/DD/YYYY)
 FILING DUE DATE 02/15/2021 (MM/DD/YYYY)

I, SHERYL ATTERBERG (conservator), move this court to approve this ☒ Initial ☐ Amended
 Conservator's Financial Plan with Inventory.

As grounds therefore, the conservator states the following:

1. The information contained in the Financial Plan with Inventory is true and complete. The proposed plan is necessary to protect and manage the income and assets of the Protected Person.
2. The Financial Plan is based on the actual needs and best interest of the protected person.

I understand that I am required to maintain supporting documentation for all receipts and disbursements including detailed billing statements from any professional. The court or any interested person as identified in the Order Appointing Conservator may request copies at any time.

I understand that I must provide copies of this Financial Plan with Inventory to the protected person and any others as identified in the Order Appointing Conservator, within 10 days of filing with the court and will indicate having done so by completing the certificate of service at the end of this form. (§ 15-14-404(4), C.R.S.)

Unless the court receives a timely objection to this motion, this matter will be considered unopposed and reviewed by the court.

Notice to interested persons. Interested persons have the responsibility to protect their own rights and interests within the time and in the manner provided by the Probate Code, including the appropriateness of disbursements, the compensation of fiduciaries, attorneys, and others, and the distribution of estate assets. Interested persons may file an objection with the court. The court may not review or adjudicate these or other matters unless specifically requested to do so by an interested person.

PART A: CONTACT INFORMATION

Protected Person's Information:

☐ Check if updated information from petition

Name: RODNEY EDWARD WILKINSON Age: 65

(Include Name of Living Center or Nursing Home, if applicable)

Street Address: ASPEN LEAF ASSESTED LIVING 2050 6th ST

City: LIMON State: CO Zip Code: 80828

Mailing Address, if differnty: P.O. Box 4109

City: IDAHO SPRINGS State: CO Zip Code: 80452

Primary Phone: 719-775-9412 Alternate Phone: _____

Conservator's Information:

☐ Check if updated information from petition

Name: SHERYL ATTERBERG Age: 60

Have you had any criminal charges filed against you or convictions entered since the last report? ☐ Yes ☒ No

If Yes, explain: _____

Occupation: ENGINEER Your Relationship to protected person: SISTER

Street Address: 400 ALPINE WAY

City: IDAHO SPRINGS State: CO Zip Code: 80452

Mailing Address, if different: PO BOX 4109

City: IDAHO SPRINGS State: CO Zip Code: 80452

Primary phone 720-810-8177 Alternate Telephone: 303-567-4554

Email address: SHERYLATERBERG@YAHO.O.COM

Co-Conservator's Information: (if applicable) ☐ Check If Updated Information from Petition

Name: STEVEN ATTERBERG Age: 63

Have you had any criminal charges filed against you or convictions entered since the last Petition? ☐ Yes ☒ No

If Yes, explain: _____

Occupation: RETIRED Your Relationship to Protected Person: BROTHER-IN-LAW

Street Address: 400 ALPINE WAY

City: IDAHO SPRINGS State: CO Zip Code: 80452

Mailing Address, if different: PO BOX 4109

City: IDAHO SPRINGS State: CO Zip Code: 80452

Primary phone 720-810-6100 Alternate Telephone: 303-567-4554

Email address: K9UL@ICLOUD.COM

PART B: CONSERVATORSHIP ISSUES

1. Are the assets in the estate identified to date sufficient to provide for the present and future care of the Protected Person? ☒ Yes ☐ No If No, describe why and what steps should be taken. If you would like the Court to take action, you must file a motion with the Court.

2. Should there be a change in scope of the Conservatorship? ☐ Yes ☒ No If Yes, describe why and what steps should be taken. If you would like the Court to take action, you *must* file a motion with the Court.
3. ☐ Bond has been set in the amount of \$ _____. Surety has been posted.
☐ The setting of bond was deferred pending filing of this Conservator's Financial Plan with Inventory and Motion for Approval. The Conservator now requests that bond be set in the amount of \$ _____.
☒ Bond has been waived by the Court.

INSTRUCTIONS ON HOW TO COMPLETE THIS FORM

The Financial Plan and Inventory must be filed with the Court pursuant to §§15-14-418 and 15-14-419, C.R.S.

Steps 1 and 2 are a projection of the Protected Person's annual income and expenses. Enter both the anticipated monthly and annual amounts in the respective columns.

Step 3 is an inventory of the Protected Person's assets. Provide a detailed description of the asset as well as the current fair market value.

Step 4 summarizes all costs and expenses incurred by the estate related to this proceeding.

Step 5 summarizes all debts of the estate. Provide a detailed description as well as the remaining amount due.

Step 6 and 7 are a summary. Transfer the respective income and expense totals from Steps 1 and 2 as well as the asset and liability totals in steps 3 through 5 to the appropriate lines in Step 7 to calculate the net income and net worth.

PART C: FINANCIAL PLAN

List all expected sources of receipts/income and disbursements/expenses in the charts below. If a specific category is not applicable, indicate "0" in the projected monthly and annual amounts columns. You will use these amounts when you file the initial Conservator's Report.

Step 1: Projected Receipts/Income

Indicate the amount of cash receipts/income received on both a monthly and annual basis. If an income amount (such as wages) is to be received on a monthly basis, multiply the amount by 12 to determine the projected annual amount. If an income amount (such as dividends) is to be received on an annual basis, divide the amount by 12 to determine the projected monthly amount.

Description of Receipt/Income Category	Projected Monthly Amount	Projected Annual Amount
Asset Not Previously Reported	N/A	N/A
Business Income		
Court Order Repayment		
Disability/Unemployment/Worker's Compensation		
Distribution – Annuity		
Distribution – Pensions/Retirement Plan		
Distribution - Trust	N/A	N/A

Farm/Ranch Income	N/A	N/A
Gifts from Others		
Inheritance		
Insurance Settlement/Benefit		
Interest/Dividends		
Loan Repayment		
Oil/Gas/Mineral Royalties		
Other Public Assistance		
Other Receipts/Income		
Proceeds from Sale of Assets		
Rental Income		
Reverse Mortgage Payment	N/A	N/A
Social Security	1186.00	14,232.00
Tax Refunds	N/A	N/A
VA Benefits		
Wages	N/A	N/A
Total Receipts/Income Enter the total projected monthly and annual amounts in Step 6.	1186.00	14,232.00

Step 2: Projected Disbursements/Expenses

Indicate the cash disbursement/expense amount on both a monthly and annual basis. If an expense (such as utilities) is to be paid on a monthly basis, multiply the amount by 12 to determine the projected annual amount. If an expense (such as property taxes) is to be paid on an annual basis, divide the amount by 12 to determine the projected monthly amount.

Description of Disbursement/Expense Category	Projected Monthly Amount	Projected Annual Amount
Assisted Living/Care Facility	1030.00	12,360.00
Bank/Investment Account Fees	N/A	N/A
Caregiver/In-Home Provider		
Charitable Contributions		
Clothing		
Collectibles		
Debt Repayment (excluding CC)		
Debt Repayment (Credit Card)		
Distributions-Protected Person		
Education/Tuition/Student Loan	N/A	N/A

Entertainment/Movies	N/A	N/A
Equipment		
Farm/Ranch Expense		
Fees--Accountant/CPA		
Fees-Conservator--Non Prof		
Fees--Conservator--Professional		
Fees--Court Visitor		
Fees-Guardian--Non Prof		
Fees-Guardian--Professional		
Fees-Guardian Ad Litem (GAL)		
Fees-Investment Acct Management		
Fees-Legal for Conservator		
Fees-Legal for Guardian		
Fees--Legal for GAL		
Fees--Legal for Protected Person		
Fees--Other Professional		
Funeral		
Gifts		
Groceries/Hygiene/Household Supplies		
HOA Fees		
Hobbies		
Home Furnishings		
Insurance -- Home/Renter		
Insurance -- Life		
Insurance -- Long Term Care		
Insurance -- Other		
Jewelry		
Livestock		
Loan Interest		
Loans		
Medical-Doctor/Prof/Hospital		
Medical- Furnishings/Supplies		
Medical-Insurance		
Medical-Medicab/Transportation	N/A	N/A
Medical-Medications	10.00	120.00
Medical-Other	N/A	MA
Mortgage		
Motor Vehicle - Insurance		
Motor Vehicle -- Loan Payments	N/A	N/A

Motor Vehicle – Registration/Other	N/A	N/A
Motor Vehicle – Repairs/Maint/Fuel		
Moving Expenses		
Other Disbursement/Expense		
Other Transportation		
Pet Care		
Property Repairs/Maintenance		
Rent		
Restaurants/Dining Out		
School Supplies		
Services - Cleaning		
Services - Personal Care		
Subscriptions/Dues		
Taxes – FICA and Medicare		
Taxes – Income		
Taxes – Property and Assessments		
Travel/Vacations		
Utilities (Including Phone/Cell)	N/A	N/A
Total Disbursements/Expenses Enter the total projected monthly and annual amounts in Step 6.	\$ 1040.00	\$ 12,480.00

INVENTORY

Step 3: Current Assets

Report the fair market value of each category of asset in the chart below as of date of appointment. By indicating "None", you are stating affirmatively that the Protected Person does not have assets in that category.

Note: If additional space is needed, separate sheets may be used. If additional items are discovered after the initial inventory has been completed, a supplemental inventory listing those additional item(s) must be completed.

Cash on Hand, Bank, Checking, Savings, Certificate of Deposits, and Health Accounts (Name of Bank or Financial Institution)	Payable on Death	Type of Account	Account # (last 4-digits only)	Balance
<input type="checkbox"/> None <i>WELLS FARGO</i>	<i>(SELF)</i>			<i>Statement BALANCE</i>
<i>CASH ON HAND</i>	<i>ESTATE</i>	<i>CHECKING</i>	<i>4607</i>	<i>AS OF 2-13-2021</i> \$ 825.80
Total				\$ 825.80

Stocks, Bonds, Mutual Funds, Securities, Annuities and Investment Accounts (Name of Joint Owner or Transfer on Death Beneficiary)	Number of Shares or Identify Account Number (last 4-digits only)	Current Value
<input checked="" type="checkbox"/> None		
		\$
Total		\$

Life Insurance (Name of Company/Beneficiary)	Type of Policy	Face Amount of Policy	Cash Value
<input checked="" type="checkbox"/> None			
			\$
Total			\$

Pension, Profit Sharing and Retirement Funds (Name of Beneficiary)	Type of Plan (401(k), IRA, 457, PERA, Military, etc.)	Account # (last 4-digits only, if applicable)	Current Account Value (Note: Distributions should be listed in Step 1 above)
<input checked="" type="checkbox"/> None			
			\$
Total			\$

Motor Vehicles and Recreation Vehicles (Including Motorcycles, ATV's, Boats, etc.) (Names of Joint Owners)	Year	Make and Model	Estimated Value (Value = what you could sell it for in its current condition)
<input checked="" type="checkbox"/> None			
			\$
Total			\$

Real Estate (Indicate address) (Name any Joint Owners)	Type of Property (Home, Rental, Land, etc.)	Estimated Value (Value = what you could sell it for in its current condition)
<input checked="" type="checkbox"/> None		
		\$

Total		\$

General Household and Other Personal Property <input type="checkbox"/> None	Estimated Value (Value = what you could sell it for in its current condition)
General Household and Other Personal Property (Total value except for items listed below.)	\$ / 0 00.00
Separately list and value items of significant value below, for example: Jewelry, Antiques, Collectibles, Artwork, etc.	
Total	\$ 1,000.00

Miscellaneous Assets (List each one separately and be specific.) <input checked="" type="checkbox"/> None	Estimated Value (Value = what you could sell it for in its current condition)
	\$
Total	\$
Total Assets	\$
Enter this amount in Step 7.	

Step 4: Accrued Liabilities to Professionals

The conservator requests that the accrued expenses of this proceeding as of date of appointment as detailed below be approved by the court as identified in Step 2.

Type of Professional and Name of Individual	Amount Billed
Account Management - Professional	\$ N/A
Accountant/CPA	/
Conservator-Non Professional	
Conservator-Professional	
Court Visitor	
Guardian-Non Professional	
Guardian - Professional	
Guardian Ad Litem (GAL)	
Legal Fees - Conservator	
Legal Fees - Guardian	
Legal Fees - GAL	
Legal Fees - Protected Person	\$ /x

Other Professional Fees	
Total Accrued Expenses Enter totals below in Step 5 - Inventory of Liabilities/Debts.	\$ <u>0</u>

Step 5: Other Current Liabilities/Debts

Report the value of each liability/debt in the chart below as of date of appointment as identified in Step 2.

Description of Liability/Debt <input type="checkbox"/> None	Name of Creditor	Account Number (last 4-digits only)	Balance
Accrued expenses associated with this proceeding (Total Step 4 above)			\$
Mortgage (principal due only)			
Motor Vehicle Loan			
2 nd Mortgage/Home Improvement			
Student Loan/Tuition			
Credit Card			
Federal Taxes			
State / Local Taxes <u>PROPERTY TAX</u>	<u>SHERMAN COUNTY, KS</u>	<u>5730</u>	<u>2019.20</u>
Other Loan/Liability/Debt (Please list)	<u>MIKE DORMAN (CRANE LIEN)</u>		<u>20,000.00</u>
HELOC			
Reverse Mortgage			
Total Liabilities/Debt Enter this amount in Step 7.	\$		<u>22,019.20</u>

Summary

Step 6: Summary of Financial Plan (Receipts/Income Minus Disbursements/Expenses)

Summarize the Financial Plan below after completing the detailed accounting information in Step 1 and Step 2.

	Projected Monthly Amount	Projected Annual Amount
(A) Receipts/Income (Total from Step 1)	\$ <u>11,86.00</u>	\$ <u>14,232.00</u>
(B) Disbursements/Expenses (Total from Step 2)	\$ <u>1040.00</u>	\$ <u>12,480.00</u>
Net Income: (A) minus (B)	\$ <u>146</u>	\$ <u>1752.00</u>

Step 7: Summary of Inventory

Summarize the Inventory below after completing the detailed accounting information in Step 3 and Step 5.

(A) Total Assets (Total from Step 3)	\$ <u>1,825.00</u>
(B) Total Liabilities/Debt (Total from Step 5)	\$ <u>22,019.20</u>

Net Worth: (A) minus (B)

\$-20,193.40

- ☒ By checking this box, I am acknowledging I am filling in the blanks and not changing anything else on the form.
☐ By checking this box, I am acknowledging that I have made a change to the original content of this form.

IMPORTANT

This document must be signed and dated by all conservators and served on the protected person and all interested parties, as indicated by the attached certificate of service.

A conservator is required to file an amended "Financial Plan" whenever there is a change in circumstances that requires a substantial deviation from the existing plan. In addition, if the conservator finds other property not included in the original "Inventory", or if the value of the listed property is inaccurate or misleading, the conservator must prepare and file an amended "Inventory" with the court. Copies of these amendments must be provided to all interested parties. § 15-14-418(5) C.R.S. § 15-14-419(2) C.R.S.

THIS SECTION MUST BE COMPLETED CORRECTLY AND SIGNED OR THE DOCUMENT MAY BE REJECTED.

Colorado Law **REQUIRES** that the Conservator's Financial Plan with Inventory and Motion for Approval be served on the **PROTECTED PERSON AND INTERESTED PERSONS** pursuant to the Order Appointing Conservator, including minors 12 years of age or older (§ 15-14-404(4), C.R.S.). In the space below under the Certificate of Service, list the names, addresses, and method of delivery for each party listed on the Order Appointing Conservator and provide each party with a copy of this document.

VERIFICATION

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

Executed on the 13th day of
(date)

FEBRUARY, 2021
(month) (year)

at IDAHO SPRINGS, CO
(city or other location, and state OR country)

SHENYL ATTERBERG
(printed name)

[Signature]
(Signature of Conservator/Successor)

N/A -
Attorney Signature, (if any)

Executed on the 13th day of
(date)

FEBRUARY, 2021
(month) (year)

at IDAHO SPRINGS, CO
(city or other location, and state OR country)

STEVEN ATTERBERG
(printed name)

[Signature]
(Signature of Co-Conservator/Successor, if any)

2-13-2021
Date

CERTIFICATE OF SERVICE

I certify that on 2-15-2021 (date), a copy of this CONSERVATOR'S FINANCIAL PLAN WITH INVENTORY AND MOTION FOR APPROVAL (name of document) was served as follows on each of the following:

ROA000339

Name and Address	Relationship to Decedent, Ward, or Protected Person	Manner of Service*
RODNEY EDWARD WILKINSON 2050 6th STREET LIMON, CO 80828	PROTECTED PERSON	HAND DELIVERY

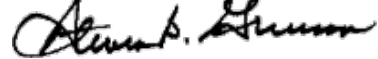
*Insert one of the following: hand delivery, first-class mail, certified mail, e-service, or fax.

Shaf Kay Retinsky
Signature

FDF

Name: Bradley J. Hofland
Address: 228 S. 4th Street, 1st Floor
Las Vegas, Nevada 89101
Phone: (702) 895-6760
Email: bradh@hoflandlaw.com
Attorney for Plaintiff Tessie Elma Almario
Nevada State Bar No. 6343

Electronically Filed
3/5/2021 2:25 PM
Steven D. Grierson
CLERK OF THE COURT



Eighth Judicial District Court
Clark County, Nevada

<u>Tessie Elma Almario</u> Plaintiff, vs. <u>Sheryl Atterberg behalf of Rodney Wilkinson</u> Defendant.	Case No. <u>D-19-596071-D</u> Dept. <u>U</u>
--	---

GENERAL FINANCIAL DISCLOSURE FORM

A. Personal Information:

1. What is your full name? (*first, middle, last*) Tessie Elma Wilkinson
2. How old are you? 58
3. What is your date of birth? 9/12/1962
4. What is your highest level of education? High School

B. Employment Information:

1. Are you currently employed/ self-employed? (☒ check one)
☒ No
☐ Yes If yes, complete the table below. Attached an additional page if needed.

Date of Hire	Employer Name	Job Title	Work Schedule (days)	Work Schedule (shift times)

2. Are you disabled? (☒ check one)
☒ No
☐ Yes If yes, what is your level of disability? _____
What agency certified you disabled? _____
What is the nature of your disability? _____

C. Prior Employment: If you are unemployed or have been working at your current job for less than 2 years, complete the following information.

Prior Employer: Self Employed Date of Hire: 2003 Date of Termination: 1/2013
Reason for Leaving: sold farm

Monthly Personal Income Schedule

A. Year-to-date Income.

As of the pay period ending _____ my gross year to date pay is _____.

B. Determine your Gross Monthly Income.

Hourly Wage

	×		=	\$0.00	×	52	=	\$0.00	÷	12	=	\$0.00
Hourly Wage		Number of hours worked per week		Weekly Income		Weeks		Annual Income		Months		Gross Monthly Income

Annual Salary

	÷	12	=	\$0.00
Annual Income		Months		Gross Monthly Income

C. Other Sources of Income.

Source of Income	Frequency	Amount	12 Month Average
Annuity or Trust Income			
Bonuses			
Car, Housing, or Other allowance:			
Commissions or Tips:			
Net Rental Income:	monthly		\$650.00
Overtime Pay			
Pension/Retirement:			
Social Security Income (SSI):			
Social Security Disability (SSD):			
Spousal Support			
Child Support			
Workman's Compensation			
Other:			
Total Average Other Income Received			\$650.00

Total Average Gross Monthly Income (add totals from B and C above)	\$650.00
---	-----------------

D. Monthly Deductions

	Type of Deduction	Amount
1.	Court Ordered Child Support (automatically deducted from paycheck)	
2.	Federal Health Savings Plan	
3.	Federal Income Tax	
4.	Health Insurance Amount for you: _____ For Opposing Party: _____ For your Child(ren): _____	0.00
5.	Life, Disability, or Other Insurance Premiums	
6.	Medicare	
7.	Retirement, Pension, IRA, or 401(k)	
8.	Savings	
9.	Social Security	
10.	Union Dues	
11.	Other: (Type of Deduction)	
Total Monthly Deductions (Lines 1-11)		0.00

Business/Self-Employment Income & Expense Schedule**A. Business Income:**




What is your average gross (pre-tax) monthly income/revenue from self-employment or businesses?
\$ _____

B. Business Expenses: Attach an additional page if needed.

Type of Business Expense	Frequency	Amount	12 Month Average
Advertising			
Car and truck used for business			
Commissions, wages or fees			
Business Entertainment/Travel			
Insurance			
Legal and professional			
Mortgage or Rent			
Pension and profit-sharing plans			
Repairs and maintenance			
Supplies			
Taxes and licenses (include est. tax payments)			
Utilities			
Other:			
Total Average Business Expenses			0.00

Personal Expense Schedule (Monthly)

A. Fill in the table with the amount of money **you** spend each month on the following expenses and check whether you pay the expense for you, for the other party, or for both of you.

Expense	Monthly Amount I Pay	For Me 	Other Party 	For Both 
Alimony/Spousal Support				
Auto Insurance	56.00	✓		
Car Loan/Lease Payment				
Cell Phone	50.00	✓		
Child Support (not deducted from pay)				
Clothing, Shoes, Etc...				
Credit Card Payments (minimum due)	321.00	✓		
Dry Cleaning				
Electric	35.00	✓		
Food (groceries & restaurants)	50.00	✓		
Fuel	60.00	✓		
Gas (for home)	30.00	✓		
Health Insurance (not deducted from pay)				
HOA				
Home Insurance (if not included in mortgage)	102.00	✓		
Home Phone				
Internet/Cable				
Lawn Care				
Membership Fees				
Mortgage/Rent/Lease				
Pest Control				
Pets				
Pool Service				
Property Taxes (if not included in mortgage)				
Security				
Sewer	20.00	✓		
Student Loans				
Unreimbursed Medical Expense				
Water	15.00	✓		
Other:				
Total Monthly Expenses	739.00			

Household Information

- A. Fill in the table below with the name and date of birth of each child, the person the child is living with, and whether the child is from this relationship. Attached a separate sheet if needed.

	Child's Name	Child's DOB	Whom is this child living with?	Is this child from this relationship?	Has this child been certified as special needs/disabled?
1 st					
2 nd					
3 rd					
4 th					

- B. Fill in the table below with the amount of money you spend each month on the following expenses for each child.

Type of Expense	1 st Child	2 nd Child	3 rd Child	4 th Child
Cellular Phone				
Child Care				
Clothing				
Education				
Entertainment				
Extracurricular & Sports				
Health Insurance (if not deducted from pay)				
Summer Camp/Programs				
Transportation Costs for Visitation				
Unreimbursed Medical Expenses				
Vehicle				
Other:				
Total Monthly Expenses	0.00	0.00	0.00	0.00

- C. Fill in the table below with the names, ages, and the amount of money contributed by all persons living in the home over the age of eighteen. If more than 4 adult household members attached a separate sheet.

Name	Age	Person's Relationship to You (i.e. sister, friend, cousin, etc...)	Monthly Contribution

Personal Asset and Debt Chart

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value	Total Amount Owed	Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Las Vegas Home	\$ 366,000.00	- \$	= \$ 366,000.00	
2.	Goodland, KS Home	\$ 335,000.00	- \$	= \$ 335,000.00	
3.	2012 Chevrolet Corvette	\$ 20,000.00	- \$	= \$ 20,000.00	
4.	Service Truck	\$ 15,000.00	- \$	= \$ 15,000.00	
5.	50 Ton P&H Crane*	\$	- \$	= \$ 0.00	
6.	25 Ton P&H Crane*	\$	- \$	= \$ 0.00	
7.	70 Ton P&H Crane*	\$	- \$	= \$ 0.00	
8.	Bulldozer*	\$	- \$	= \$ 0.00	
9.	1972 Peterbilt Truck*	\$	- \$	= \$ 0.00	
10.	1955 Mack Truck*	\$	- \$	= \$ 0.00	
11.	1959 Mack Truck*	\$	- \$	= \$ 0.00	
12.	1962 Mack Winch Truck*	\$	- \$	= \$ 0.00	
13.	1977 Kenworth*	\$	- \$	= \$ 0.00	
14.	Misc. presses and tools	\$ 10,000.00	- \$	= \$ 10,000.00	
15.	US Bank Checking Account	\$ 10.00	- \$	= \$ 10.00	
Total Value of Assets (add lines 1-15)		\$ 746,010.00	- \$ 0.00	= \$ 746,010.00	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	Bank of America Visa	\$ 1,495.00	
2.	Macy's Amex	\$ 5,400.00	
3.	Chase Visa	\$ 2,637.00	
4.	US Bank Visa	\$ 5,915.00	
5.		\$	
6.		\$	
Total Unsecured Debt (add lines 1-6)		\$ 15,447.00	

*The equipment is old, the value is minimal and Plaintiff does not have the titles to the equipment.

Personal Asset and Debt Chart**

A. Complete this chart by listing all of your assets, the value of each, the amount owed on each, and whose name the asset or debt is under. If more than 15 assets, attach a separate sheet.

Line	Description of Asset and Debt Thereon	Gross Value	Total Amount Owed	Net Value	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.	9125-TC Crane	\$ -	\$ -	= \$ 0.00	
2.	Model 3900A Manitowac Crane	\$ -	\$ -	= \$ 0.00	
3.	Model 990TC Lime Crane	\$ -	\$ -	= \$ 0.00	
4.	Model 8115TC Crane	\$ -	\$ -	= \$ 0.00	
5.	Maritime Hydraulic Drilling Rig	\$ -	\$ -	= \$ 0.00	
6.	1977 Kenworth	\$ -	\$ -	= \$ 0.00	
7.	LoBoy 35 Ton Cozad Trailer	\$ -	\$ -	= \$ 0.00	
8.	1993 Western Star Boom Truck	\$ -	\$ -	= \$ 0.00	
9.	750 Holmes Wrecker Tow Truck	\$ -	\$ -	= \$ 0.00	
10.	Autocar Winch Truck	\$ -	\$ -	= \$ 0.00	
11.		\$ -	\$ -	= \$ 0.00	
12.		\$ -	\$ -	= \$ 0.00	
13.		\$ -	\$ -	= \$ 0.00	
14.		\$ -	\$ -	= \$ 0.00	
15.		\$ -	\$ -	= \$ 0.00	
Total Value of Assets (add lines 1-15)		\$ 0.00	- \$ 0.00	= \$ 0.00	

B. Complete this chart by listing all of your unsecured debt, the amount owed on each account, and whose name the debt is under. If more than 5 unsecured debts, attach a separate sheet.

Line #	Description of Credit Card or Other Unsecured Debt	Total Amount owed	Whose Name is on the Account? You, Your Spouse/Domestic Partner or Both
1.		\$	
2.		\$	
3.		\$	
4.		\$	
5.		\$	
6.		\$	
Total Unsecured Debt (add lines 1-6)		\$ 0.00	

**Assets are not in Plaintiff's possession and believed to be in North Dakota, in Defendant's possession of sold by Defendant

CERTIFICATION

Attorney Information: Complete the following sentences:

1. I (have/have not) have retained an attorney for this case.
2. As of the date of today, the attorney has been paid a total of \$ \$3,500.00 on my behalf.
3. I have a credit with my attorney in the amount of \$ _____.
4. I currently owe my attorney a total of \$ _____.
5. I owe my prior attorney a total of \$ _____.

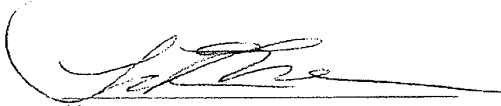
IMPORTANT: Read the following paragraphs carefully and initial each one.

TZW I swear or affirm under penalty of perjury that I have read and followed all instructions in completing this Financial Disclosure Form. I understand that, by my signature, I guarantee the truthfulness of the information on this Form. I also understand that if I knowingly make false statements I may be subject to punishment, including contempt of court.

_____ I have attached a copy of my 3 most recent pay stubs to this form.

_____ I have attached a copy of my most recent YTD income statement/P&L statement to this form, if self-employed.

TZW I have not attached a copy of my pay stubs to this form because I am currently unemployed.


Signature

03/05/2021

Date

CERTIFICATE OF SERVICE

I hereby declare under the penalty of perjury of the State of Nevada that the following is true and correct:

That on (date) 3/5/2021, service of the General Financial Disclosure Form was made to the following interested parties in the following manner:

☐ Via 1st Class U.S. Mail, postage fully prepaid addressed as follows:

☒ Via Electronic Service, in accordance with the Master Service List, pursuant to NEFCR 9, to:

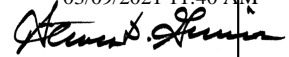
James Kwon, Esq.; jkwon@jwklawfirm.com

☐ Via Facsimile and/or Email Pursuant to the Consent of Service by Electronic Means on file

herein to: _____

Executed on the 5th day of March, 2021.

/s/ Nikki woulfe
Signature


CLERK OF THE COURT

ORDR

JAMES W. KWON, ESQ.

Nevada Bar No. 8146

JAMES KWON, LLC

6280 Spring Mountain Rd., Suite 100

Las Vegas, Nevada 89146

P: (702) 515-1200

F: (702) 515-1201

jkwon@jwkfirm.com

Attorney for Sheryl Atterberg,

on behalf of Her Adult Ward,

Defendant, Rodney Wilkinson

**EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
COUNTY OF CLARK, STATE OF NEVADA**

TESSIE ELMA ALMARIO,

Plaintiff,

vs.

SHERYL ATTERBERG, ON BEHALF
OF HER ADULT WARD RODNEY
WILKINSON,

Defendant.

Case No.: D-19-596071-D

Dept.: U

Date of Hearing: February 4, 2021

Time of Hearing: 1:30 PM

ORDER FROM FEBRUARY 4, 2021 MOTION HEARING

This matter having come before the Court on February 4, 2021 at 1:30 p.m.
on *Defendant's Motion to Set Aside the Divorce Decree Pursuant to NRCP 60(b)*,
entered January 25, 2021 and heard on Order Shortening Time; *Plaintiff's*
Opposition to Defendant's Motion to Set Aside the Divorce Decree Pursuant to
NRCP 60(b) and Countermotion for Attorney's Fees and Related Relief, entered

1 February 2, 2021; *Appendix of Exhibits in Support of Plaintiff's Opposition to*
2 *Defendant's Motion to Set Aside the Divorce Decree Pursuant to NRCP 60(b) and*
3 *Countermotion for Attorney's Fees and Related Relief*, entered February 2, 2021;
4 *Reply in Support of Defendant's Motion to Set Aside the Divorce Decree Pursuant*
5 *to NRCP 60(b) and Opposition to Plaintiff's Countermotion for Attorney's Fees*
6 *and Related Relief*, entered February 3, 2021, with Sheryl Atterberg on behalf of
7 her Adult Ward, Defendant, Rodney Wilkinson, appearing telephonically;
8 Defendant's attorney of record, James W. Kwon, Esq., of the law firm James
9 Kwon, LLC, appearing by video; Plaintiff, Tessie Almario fka Tessie Wilkinson,
10 appearing by video; and Plaintiff's attorney of record, Bradley J. Hofland, Esq., of
11 Hofland & Tomsheck, appearing by video, the Court having reviewed the papers
12 and pleadings on file herein, having heard oral argument, and good cause
13 appearing, therefore,

14 **THE COURT HEREBY NOTES** that argument by counsel was heard.

15 **THE COURT FURTHER NOTES** that the civil case involving the same
16 parties has nothing to do with the divorce case. The guardians, on behalf of the
17 adult ward, can file a civil suit for civil damages if there was fraud separate and
18 apart from what this Court's authority would be.

19 **THE COURT HEREBY FINDS** that the Court has jurisdiction to consider
20 Defendant's motion under NRCP 60(b).

1 **THE COURT FURTHER FINDS** that it is this Court's Decree of Divorce.

2 **THE COURT FURTHER FINDS** that Defendant's motion is timely based
3 on the guardians' ability to act on Defendant's behalf if he was not competent
4 during 2020.

5 **IT IS HEREBY ORDERED** that Defendant's motion is GRANTED under
6 NRCP 60(b)(3) and NRCP 60(b)(6).

7 **IT IS FURTHER ORDERED** that a prima facie case has been made and
8 an evidentiary hearing is GRANTED. The time shall be divided between both
9 counsel.

10 **IT IS FURTHER ORDERED** that Defendant shall issue a new Joint
11 Preliminary Injunction and serve it. Neither party shall dispose of any assets.

12 **IT IS FURTHER ORDERED** that Plaintiff shall file and serve a General
13 Financial Disclosure Form by February 26, 2021.

14 **IT IS FURTHER ORDERED** that Defendant's guardians can fill out a
15 General Financial Disclosure Form of what Defendant's living expenses are and
16 any income and counsel shall file and serve that by February 26, 2021. Defendant's
17 guardians shall attach the Inventory that they are required to file in the guardianship
18 case.

19 **IT IS FURTHER ORDERED** that Discovery is open.

20 **IT IS FURTHER ORDERED** that the Court's staff shall issue a Trial

1 Management Order.

2 **IT IS FURTHER ORDERED** that if the evidence shows that Defendant
3 was competent at the time of the signing in 2020, Plaintiff's request for attorney's
4 fees shall be considered.

5 **IT IS FURTHER ORDERED** that Calendar Call is set for July 7, 2021 at
6 11:00 a.m.

7 **IT IS FURTHER ORDERED** that a Non-Jury Trial is set for July 16, 2021
8 at 9:00 a.m. The Trial is set on Stack 1 for a full day and will determine Defendant's
9 competency at the time of signing the Decree of Divorce and how much Plaintiff
10 knew about Defendant's competency.

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

1 **IT IS FURTHER ORDERED** that Attorney Kwon shall prepare the Order
2 from today's hearing and counsel shall review and sign off.

3 **IT IS SO ORDERED.**

4 EXECUTED this ____ day of _____, 2021.

Dated this 9th day of March, 2021



DISTRICT COURT JUDGE

AAB 661 A820 D1A5

Dawn R. Throne

District Court Judge

hg

5
6
7
8 *Respectfully submitted by:*
DATED this 8th day of March, 2021.

9 JAMES KWON, LLC

Approved as to form and content by:
DATED this 8th day of March, 2021.

HOFLAND & TOMSHECK

10 /s/ James W. Kwon, Esq.
11 JAMES W. KWON, ESQ.
12 Nevada Bar No. 8146
13 6280 Spring Mountain Road, Suite 100
14 Las Vegas, Nevada 89146
15 Attorneys for Sheryl Atterberg, on behalf of
16 her Adult Ward, Defendant, Rodney Wilkinson

/s/ Bradley J. Hofland, Esq.
BRADLEY J. HOFLAND, ESQ.
Nevada Bar No. 6343
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
Attorney for Plaintiff,
Tessie Almario fka Tessie Wilkinson

Crystal Gorzalski

From: Brad Hofland <BradH@hoflandlaw.com>
Sent: Monday, March 8, 2021 3:00 PM
To: Crystal Gorzalski; Dina DeSousa Cabral; Clerk
Cc: James Kwon
Subject: RE: Wilkinson v. Wilkinson (D-19-596071-D)

You have my consent to affix my electronic signature to the proposed Order from the February 4, 2021 hearing.

Bradley J. Hofland, Esq.
Hofland & Tomsheck
228 S. 4th St. 1st Floor
Las Vegas, NV 89101
Telephone (702) 895-6760
Facsimile (702) 731-6910

Hofland & Tomsheck

ATTORNEYS AND COUNSELORS AT LAW

NOTICE: The above information is for the sole use of the intended recipient and contains information belonging to Hofland & Tomsheck, which is confidential and may be legally privileged. If you are not the intended recipient, or believe that you have received this communication in error, you are hereby notified that any printing, copying, distribution, use or taking of any action in reliance on the contents of this e-mail information is strictly prohibited. If you have received this e-mail in error, please immediately (1) notify the sender by reply e-mail; (2) call our office at (702) 895-6760 to inform the sender of the error; and (3) destroy all copies of the original message, including ones on your computer system and all drives.

In accordance with Internal Revenue Service Circular 230, we advise you that if this e-mail contains any tax advice, such tax advice was not intended or written to be used and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer.

From: Crystal Gorzalski <cgorzalski@jwklawfirm.com>
Sent: Wednesday, March 3, 2021 2:40 PM
To: Brad Hofland <BradH@hoflandlaw.com>; Dina DeSousa Cabral <DinaD@hoflandlaw.com>; Clerk <clerk@hoflandlaw.com>
Cc: James Kwon <jkwon@jwklawfirm.com>
Subject: Wilkinson v. Wilkinson (D-19-596071-D)

Mr. Hofland,

Attached is the order from the February 4th hearing for your review. Please respond with any changes you would like made. Otherwise, please respond with your signature page or your consent to affix your electronic signature. Due to the recent correspondence from the Court, please provide your approval or changes that need to be made no later than 5:00 p.m. tomorrow, Thursday, March 4th or we will submit the order without your approval. Thank you for your time.

Kindest regards,

Crystal Ann Gorzalski
Law Clerk to James Kwon, Esq.

James Kwon, LLC

NEW ADDRESS AS OF JANUARY 27, 2020:
6280 Spring Mountain Road, Suite 100
Las Vegas, Nevada 89146

T: 702.515.1200 / F: 702.515.1201 / E: cgorzalski@jwklawfirm.com

CONFIDENTIALITY NOTE:

The information contained in this electronic message is legally privileged and confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that you should not further disseminate, distribute, or copy this message. In addition, if you have received this message in error, please notify us immediately and return the original message to us at the address above via the United State Postal Service.

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

4
5
6 Tessie E Wilkinson, Plaintiff

CASE NO: D-19-596071-D

7 vs.

DEPT. NO. Department U

8 Rodney Wilkinson, Defendant.

9
10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/9/2021

15 Bradley Hofland

Bradh@hoflandlaw.com

16 Dina DeSousa Cabral

DinaD@hoflandlaw.com

17 James Kwon, Esq.

jkwon@jwklawfirm.com

18 Nikki Woulfe

clerk@hoflandlaw.com

19 Legal Assistant

LegalAssistant@jwklawfirm.com

20 Crystal Ann Gorzalski

cgorzalski@jwklawfirm.com

21
22 If indicated below, a copy of the above mentioned filings were also served by mail
23 via United States Postal Service, postage prepaid, to the parties listed below at their last
24 known addresses on 3/10/2021

25 James Kwon

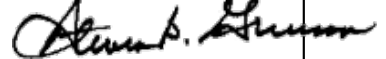
James Kwon, LLC

Attn: James Kwon, Esq

6280 W. Spring Mountain Rd., #100

Las Vegas, NV, 89146

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ROA000357



1 **NEOJ**
2 JAMES W. KWON, ESQ.
3 Nevada Bar No. 8146
4 JAMES KWON, LLC
5 6280 Spring Mountain Rd., Suite 100
6 Las Vegas, Nevada 89146
7 P: (702) 515-1200
8 F: (702) 515-1201
9 jkwon@jwklawfirm.com
10 *Attorney for Sheryl Atterberg, on Behalf of*
11 *Her Adult Ward, Defendant, Rodney Wilkinson*

8 **EGHTH JUDICIAL DISTRICT COURT**
9 **FAMILY DIVISION**
10 **COUNTY OF CLARK, STATE OF NEVADA**

10 TESSIE E. WILKINSON a/k/a TESSIE
11 ELMA ALMARIO,

Plaintiff,

12 vs.

13 SHERYL ATTERBERG, ON BEHALF
14 OF HER ADULT WARD RODNEY
15 WILKINSON,

Defendant.

Case No.: D-19-596071-D

Dept.: U

NOTICE OF ENTRY OF ORDER

16 PLEASE TAKE NOTICE that an *Order from February 4, 2021 Motion*
17 *Hearing* was entered by this Court on March 9, 2021. A copy of said Order is
18 attached hereto as Exhibit A.
19

20 Dated this 9th day of March, 2021.

JAMES KWON, LLC

/s/ James W. Kwon, Esq.

JAMES W. KWON, ESQ.

Nevada Bar No. 8146

6280 Spring Mountain Road, Suite 100

Las Vegas, Nevada 89146

*Attorney for Sheryl Atterberg, on Behalf of Her
Adult Ward, Defendant, Rodney Wilkinson*

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Dina DeSausa Cabral DinaD@HoflandLaw.com

Bradley J. Hofland, Esq. BradH@HoflandLaw.com

Nikki Woulfe Clerk@HoflandLaw.com

/s/ Crystal Ann Gorzalski
An employee of JAMES KWON, LLC

6280 SPRING MOUNTAIN ROAD, SUITE 100
LAS VEGAS, NEVADA 89146
TEL.: (702) 515-1200 - FAX: (702) 515-1201

EXHIBIT A

EXHIBIT A

1 **ORDR**
JAMES W. KWON, ESQ.
2 Nevada Bar No. 8146
JAMES KWON, LLC
3 6280 Spring Mountain Rd., Suite 100
Las Vegas, Nevada 89146
4 P: (702) 515-1200
F: (702) 515-1201
5 jkwon@jwklawfirm.com
Attorney for Sheryl Atterberg,
6 on behalf of Her Adult Ward,
Defendant, Rodney Wilkinson

7
8 **EIGHTH JUDICIAL DISTRICT COURT**
FAMILY DIVISION
9 **COUNTY OF CLARK, STATE OF NEVADA**

10 TESSIE ELMA ALMARIO,
Plaintiff,

Case No.: D-19-596071-D
Dept.: U

11 vs.

12 SHERYL ATTERBERG, ON BEHALF
OF HER ADULT WARD RODNEY
13 WILKINSON,
Defendant.

Date of Hearing: February 4, 2021
Time of Hearing: 1:30 PM

14
15 **ORDER FROM FEBRUARY 4, 2021 MOTION HEARING**

16 This matter having come before the Court on February 4, 2021 at 1:30 p.m.
17 on Defendant's Motion to Set Aside the Divorce Decree Pursuant to NRCP 60(b),
18 entered January 25, 2021 and heard on Order Shortening Time; Plaintiff's
19 Opposition to Defendant's Motion to Set Aside the Divorce Decree Pursuant to
20 NRCP 60(b) and Countermotion for Attorney's Fees and Related Relief, entered

1 February 2, 2021; *Appendix of Exhibits in Support of Plaintiff s Opposition to*
2 *Defendant's Motion to Set Aside the Divorce Decree Pursuant to NRCP 60(b) and*
3 *Countermotion for Attorney's Fees and Related Relief*, entered February 2, 2021;
4 *Reply in Support of Defendant's Motion to Set Aside the Divorce Decree Pursuant*
5 *to NRCP 60(b) and Opposition to Plaintiff's Countermotion for Attorney's Fees*
6 *and Related Relief*, entered February 3, 2021, with Sheryl Atterberg on behalf of
7 her Adult Ward, Defendant, Rodney Wilkinson, appearing telephonically;
8 Defendant's attorney of record, James W. Kwon, Esq., of the law firm James
9 Kwon, LLC, appearing by video; Plaintiff, Tessie Almario fka Tessie Wilkinson,
10 appearing by video; and Plaintiff's attorney of record, Bradley J. Hofland, Esq., of
11 Hofland & Tomsheck, appearing by video, the Court having reviewed the papers
12 and pleadings on file herein, having heard oral argument, and good cause
13 appearing, therefore,

14 **THE COURT HEREBY NOTES** that argument by counsel was heard.

15 **THE COURT FURTHER NOTES** that the civil case involving the same
16 parties has nothing to do with the divorce case. The guardians, on behalf of the
17 adult ward, can file a civil suit for civil damages if there was fraud separate and
18 apart from what this Court's authority would be.

19 **THE COURT HEREBY FINDS** that the Court has jurisdiction to consider
20 Defendant's motion under NRCP 60(b).

1 **THE COURT FURTHER FINDS** that it is this Court's Decree of Divorce.

2 **THE COURT FURTHER FINDS** that Defendant's motion is timely based
3 on the guardians' ability to act on Defendant's behalf if he was not competent
4 during 2020.

5 **IT IS HEREBY ORDERED** that Defendant's motion is GRANTED under
6 NRCP 60(b)(3) and NRCP 60(b)(6).

7 **IT IS FURTHER ORDERED** that a prima facie case has been made and
8 an evidentiary hearing is GRANTED. The time shall be divided between both
9 counsel.

10 **IT IS FURTHER ORDERED** that Defendant shall issue a new Joint
11 Preliminary Injunction and serve it. Neither party shall dispose of any assets.

12 **IT IS FURTHER ORDERED** that Plaintiff shall file and serve a General
13 Financial Disclosure Form by February 26, 2021.

14 **IT IS FURTHER ORDERED** that Defendant's guardians can fill out a
15 General Financial Disclosure Form of what Defendant's living expenses are and
16 any income and counsel shall file and serve that by February 26, 2021. Defendant's
17 guardians shall attach the Inventory that they are required to file in the guardianship
18 case.

19 **IT IS FURTHER ORDERED** that Discovery is open.

20 **IT IS FURTHER ORDERED** that the Court's staff shall issue a Trial

1 Management Order.

2 **IT IS FURTHER ORDERED** that if the evidence shows that Defendant
3 was competent at the time of the signing in 2020, Plaintiff's request for attorney's
4 fees shall be considered.

5 **IT IS FURTHER ORDERED** that Calendar Call is set for July 7, 2021 at
6 11:00 a.m.

7 **IT IS FURTHER ORDERED** that a Non-Jury Trial is set for July 16, 2021
8 at 9:00 a.m. The Trial is set on Stack 1 for a full day and will determine Defendant's
9 competency at the time of signing the Decree of Divorce and how much Plaintiff
10 knew about Defendant's competency.

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IT IS FURTHER ORDERED that Attorney Kwon shall prepare the Order from today's hearing and counsel shall review and sign off.

IT IS SO ORDERED.

EXECUTED this ____ day of _____, 2021.

Dated this 9th day of March, 2021



DISTRICT COURT JUDGE
AAB 661 A820 D1A5
Dawn R. Throne
District Court Judge

hg

Respectfully submitted by:
DATED this 8th day of March, 2021.

Approved as to form and content by:
DATED this 8th day of March, 2021.

JAMES KWON, LLC

HOFLAND & TOMSHECK

/s/ James W. Kwon, Esq.
JAMES W. KWON, ESQ.
Nevada Bar No. 8146
6280 Spring Mountain Road, Suite 100
Las Vegas, Nevada 89146
*Attorneys for Sheryl Atterberg, on behalf of
her Adult Ward, Defendant, Rodney Wilkinson*

/s/ Bradley J. Hofland, Esq.
BRADLEY J. HOFLAND, ESQ.
Nevada Bar No. 6343
228 South 4th Street, 1st Floor
Las Vegas, Nevada 89101
*Attorney for Plaintiff,
Tessie Almario fka Tessie Wilkinson*

Crystal Gorzalski

From: Brad Hofland <BradH@hoflandlaw.com>
Sent: Monday, March 8, 2021 3:00 PM
To: Crystal Gorzalski; Dina DeSousa Cabral; Clerk
Cc: James Kwon
Subject: RE: Wilkinson v. Wilkinson (D-19-596071-D)

You have my consent to affix my electronic signature to the proposed Order from the February 4, 2021 hearing.

Bradley J. Hofland, Esq.
Hofland & Tomsheck
228 S. 4th St. 1st Floor
Las Vegas, NV 89101
Telephone (702) 895-6760
Facsimile (702) 731-6910

Hofland & Tomsheck

ATTORNEYS AND COUNSELORS AT LAW

NOTICE: The above information is for the sole use of the intended recipient and contains information belonging to Hofland & Tomsheck, which is confidential and may be legally privileged. If you are not the intended recipient, or believe that you have received this communication in error, you are hereby notified that any printing, copying, distribution, use or taking of any action in reliance on the contents of this e-mail information is strictly prohibited. If you have received this e-mail in error, please immediately (1) notify the sender by reply e-mail; (2) call our office at (702) 895-6760 to inform the sender of the error; and (3) destroy all copies of the original message, including ones on your computer system and all drives.

In accordance with Internal Revenue Service Circular 230, we advise you that if this e-mail contains any tax advice, such tax advice was not intended or written to be used and it cannot be used, by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer.

From: Crystal Gorzalski <cgorzalski@jwklawfirm.com>
Sent: Wednesday, March 3, 2021 2:40 PM
To: Brad Hofland <BradH@hoflandlaw.com>; Dina DeSousa Cabral <DinaD@hoflandlaw.com>; Clerk <clerk@hoflandlaw.com>
Cc: James Kwon <jkwon@jwklawfirm.com>
Subject: Wilkinson v. Wilkinson (D-19-596071-D)

Mr. Hofland,

Attached is the order from the February 4th hearing for your review. Please respond with any changes you would like made. Otherwise, please respond with your signature page or your consent to affix your electronic signature. Due to the recent correspondence from the Court, please provide your approval or changes that need to be made no later than 5:00 p.m. tomorrow, Thursday, March 4th or we will submit the order without your approval. Thank you for your time.

Kindest regards,
Crystal Ann Gorzalski
Law Clerk to James Kwon, Esq.

James Kwon, LLC

NEW ADDRESS AS OF JANUARY 27, 2020:

6280 Spring Mountain Road, Suite 100

Las Vegas, Nevada 89146

T: 702.515.1200 / F: 702.515.1201 / E: cgorzalski@jwklawfirm.com

CONFIDENTIALITY NOTE:

The information contained in this electronic message is legally privileged and confidential information intended only for the use of the individual or entity named above. If you are not the intended recipient, you are hereby notified that you should not further disseminate, distribute, or copy this message. In addition, if you have received this message in error, please notify us immediately and return the original message to us at the address above via the United State Postal Service.

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Tessie E Wilkinson, Plaintiff

CASE NO: D-19-596071-D

7 vs.

DEPT. NO. Department U

8 Rodney Wilkinson, Defendant.
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 3/9/2021

15 Bradley Hofland

Bradh@hoflandlaw.com

16 Dina DeSousa Cabral

DinaD@hoflandlaw.com

17 James Kwon, Esq.

jkwon@jwklawfirm.com

18 Nikki Woulfe

clerk@hoflandlaw.com

19 Legal Assistant

LegalAssistant@jwklawfirm.com

20 Crystal Ann Gorzalski

cgorzalski@jwklawfirm.com
21

22 If indicated below, a copy of the above mentioned filings were also served by mail
23 via United States Postal Service, postage prepaid, to the parties listed below at their last
24 known addresses on 3/10/2021

25 James Kwon

James Kwon, LLC
Attn: James Kwon, Esq
6280 W. Spring Mountain Rd., #100
Las Vegas, NV, 89146
26
27
28

ROA000368

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Location : [Family Courts](#) [Images Help](#)

R. GISTER OF ACTIONS

[CASE No. D-19-596071-D](#)

Tessie E Wilkinson, Plaintiff vs. Rodney Wilkinson, Defendant.

§
§
§
§
§
§

Case Type: **Divorce - Complaint**
 Subtype: **Complaint No Minor(s)**
 Date Filed: **09/09/2019**
 Location: **Department U**
 Cross-Reference Case Number: **D596071**

PARTY INFORMATION

Defendant **Wilkinson, Rodney**
 613 Eagle Drive Apt 36
 Newton, ND 58763

Lead Attorneys
James W. Kwon
Retained
 702-515-1200(W)

Plaintiff **Wilkinson, Tessie E *Now Known***
As Almario, Tessie Elma
 8382 Hollywood Hills Ave
 Las Vegas, NV 89178

Bradley J. Hofland
Retained
 702-895-6760(W)

EVENTS ☐ ORDERS OF THE COURT

04/28/2021 [Motion](#) (10:00 AM) (Judicial Officer Throne, Dawn R.)
Plaintiff's Notice of Motion and Motion for Expert Examination/Evaluation

Minutes

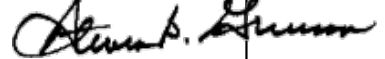
04/28/2021 10:00 AM

- MOTION: PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR EXPERT EXAMINATION/EVALUATION. BlueJeans/video hearing. Dina De Sousa, Esq., Nevada Bar No.: 15032, present on behalf of Plaintiff. The Court noted the papers and pleadings on file. Discussion/argument regarding Independent Medical Examiner (IME)/psychiatry (Plaintiff), neurologist (Defendant), and discovery related matters. The Court noted Nevada Rules of Civil Procedure (NRCP) 35, as there are logistical issues (as Defendant is in another state). The Court further noted that the Colorado Courts have deemed Defendant incompetent. The Court clarified what is relevant in this post divorce action and therefore, COURT ORDERED, as follows: The parties FINANCIAL STATUS at the time leading up to the DIVORCE and entry of DECREE OF DIVORCE is relevant. Request for PSYCHIATRIST to become involved in this matter is GRANTED. Both experts shall have access to the MEDICAL RECORDS in this case. PER STIPULATION, Independent Medical Examination (IME) to be completed. Counsel shall discuss logistical issues and to be included in their Stipulation and Order. Health Insurance Portability and Accountability Act (HIPAA) to be signed as deemed necessary. Ms. De Sousa shall prepare the Order from today's hearing and Mr. Kwon shall countersign.

05/19/2021 10:30 AM

[Parties Present](#)
[Return to Register of Actions](#)

ROA000369



1 MPOR
JAMES W. KWON, ESQ.
2 Nevada Bar No. 8146
JAMES KWON, LLC
3 6280 Spring Mountain Rd., Suite 100
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4 P: (702) 515-1200
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5 jkwon@jwklawfirm.com
Attorney for Sheryl Atterberg,
6 on behalf of Her Adult Ward,
Defendant, Rodney Wilkinson

8 EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
9 COUNTY OF CLARK, STATE OF NEVADA

10 TESSIE E. WILKINSON a/k/a TESSIE
ELMA ALMARIO,

Plaintiff,

11 vs.

12 SHERYL ATTERBERG, ON BEHALF
OF HER ADULT WARD, RODNEY
13 WILKINSON,

Defendant.

Case No.: D-19-596071-D

Dept.: U

HEARING REQUESTED

15 **DEFENDANT'S MOTION FOR PROTECTIVE ORDER PRECLUDING**
16 **PLAINTIFF FROM TAKING THE VIDEO DEPOSITION OF**
17 **DEFENDANT RODNEY WILKINSON PURSUANT TO NRCP 26,**
FOR ATTORNEY'S FEES AND COSTS, AND FOR ALL OTHER
RELATED RELIEF

18 **NOTICE: YOU MAY FILE A WRITTEN RESPONSE TO THIS MOTION WITH THE**
19 **CLERK OF THE COURT AND PROVIDE THE UNDERSIGNED WITH A COPY OF**
20 **YOUR RESPONSE WITHIN FOURTEEN (14) DAYS OF YOUR RECEIPT OF THIS**
MOTION. FAILURE TO FILE A WRITTEN RESPONSE WITH THE CLERK OF
THE COURT WITHIN FOURTEEN (14) DAYS OF YOUR RECEIPT OF THIS
MOTION MAY RESULT IN THE REQUESTED RELIEF BEING GRANTED BY THE
COURT WITHOUT A HEARING PRIOR TO THE SCHEDULED HEARING DATE.

1 **DEFENDANT'S MOTION FOR PROTECTIVE ORDER PRECLUDING**
2 **PLAINTIFF FROM TAKING THE VIDEO DEPOSITION OF**
3 **DEFENDANT RODNEY WILKINSON PURSUANT TO NRCP 26,**
4 **FOR ATTORNEY'S FEES AND COSTS, AND FOR ALL OTHER**
5 **RELATED RELIEF**

6 COMES NOW Sheryl Atterberg, as Co-Guardian for and on behalf of her
7 Adult Ward, Defendant, Rodney Wilkinson, by and through their attorney of
8 record, James W. Kwon, Esq., of the law firm James Kwon, LLC, and respectfully
9 submits *Defendant's Motion for Protective Order Precluding Plaintiff from*
10 *Taking the Video Deposition of Defendant Rodney Wilkinson Pursuant to NRCP*
11 *26, For Attorney's Fees and Costs, and For All Other Related Relief.*

12 This *Motion* is based upon all pleadings and papers on file in this matter,
13 the memorandum of points and authorities delineated herein, the Declarations
14 included herewith, any exhibits provided hereto, and any oral argument that the
15 Court may entertain at the time of hearing.

16 Dated this 18 day of May 2021.

17 JAMES KWON, LLC

18 
19 JAMES W. KWON, ESQ.

20 Nevada Bar No. 8146

6280 Spring Mountain Rd., Suite 100

Las Vegas, Nevada 89146

Attorney for Sheryl Atterberg,

on behalf of Her Adult Ward,

Defendant, Rodney Wilkinson

MEMORANDUM OF POINTS AND AUTHORITIES

I.

COMPLIANCE WITH EDCR 5.501

EDCR 5.501(a) requires that the parties hold a Meet and Confer prior to any family division matter motion is filed, the movant must attempt to resolve the issues in dispute with the other party. A Meet and Confer was held on Monday, May 17, 2021 at 3:00 p.m., wherein the undersigned and Ms. DeSousa for Plaintiff discussed, among other issues in dispute, Plaintiff taking the video deposition of Defendant. The parties were unable to resolve their issues regarding said dispute, which resulted in an impasse. This *Motion* follows.

II.

SUMMARY OF RELEVANT FACTS

On or about November 23, 2020, the Eighteenth Judicial District Court in the County of Lincoln, the State of Colorado, in Case No. 2020PR30016, entered an *Order Appointing Guardian for Adult* in which Sheryl Atterberg and Steven Atterberg were appointed *permanent* co-guardians for Defendant, Rodney Wilkinson (hereinafter “Rodney”). See **Exhibit B**, specifically WILK000321. In said *Order*, “the court finds, determines and orders:”

The evidence is clear and convincing that [Rodney] is an incapacitated person and [Rodney’s] needs cannot be met by less restrictive means, including the use of appropriate and reasonably available technological assistance.

1 *Id.* The court further delineated the nature and extent of Rodney’s incapacity as
2 follows:

3 [Rodney] is not capable of completely caring for himself.
4 Due to his strokes and Traumatic brain Injuries he
5 “forgets” simply tasks such as how to use a microwave
6 or other household appliances. [Rodney] cannot always
7 remember to feed himself or to visit his medical doctors
8 and take prescriptions on time.

9 *Id.* Additionally, “[t]he powers and duties of the guardian are unrestricted.” See
10 **Exhibit B**, specifically WILK000323. On or about November 23, 2020, *Letters*
11 *of Permanent Co-Guardianship for an Adult* were issued by the Clerk of the Court
12 for the Eighteenth Judicial District Court in the County of Lincoln, the State of
13 Colorado, in Case No. 2020PR30016. See **Exhibit B**, specifically WILK000324.

14 On or about November 23, 2020, the Eighteenth Judicial District Court in
15 the County of Lincoln, the State of Colorado, in Case No. 2020PR30016, the court
16 entered an *Order Appointing Permanent Conservator for Adult* in which Sheryl
17 Atterberg and Steven Atterberg were appointed *permanent* co-conservators for
18 Rodney. In said *Order*, the court determined:

19 **The court finds by clear and convincing evidence that**
20 **a basis exists for a conservatorship because:**

The protected person is unable to manage property and
business affairs because of an *inability to effectively*
receive or evaluate information or to make or
communicate decisions, even with the use of
appropriate and reasonably available technological
assistance.

1 See **Exhibit B**, specifically WILK000325. On or about December 1, 2020,
2 *Amended Letters of Permanent Co-Conservatorship for an Adult* were issued by
3 the Clerk of the Court for the Eighteenth Judicial District Court in the County of
4 Lincoln, the State of Colorado, in Case No. 20PR30016. See **Exhibit B**,
5 specifically WILK000328.

6 In Dr. Paul H. Janda, Esq.'s Expert Report dated April 17, 2021 (hereinafter
7 "Expert Report"), Dr. Paul H. Janda, Esq. (hereinafter "Dr. Janda") stated that:

8 [Rodney] is a 66-year-old male, with: (1) major
9 neurocognitive disorder secondary to vascular dementia;
10 (2) depression; (3) history of stroke; (4) insomnia; (5)
psychosis / agitation; (6) traumatic brain injury (TBI);
and mixed dementia.

11 See **Exhibit C**, submitted under seal, Expert Report by Dr. Paul H. Janda, Esq.,
12 FAAN dated April 17, 2021, specifically WILK000336. Rodney has been
13 diagnosed with "obvious cognitive deficits and a history of traumatic brain
14 injury." See **Exhibit A**, submitted under seal, Goodland Regional Medical Center
15 medical records for Rodney Wilkinson dated August 15, 2020. Rodney was
16 diagnosed with Dementia less than three months after the Decree's entry. A
17 diagnosis that determined Rodney's Dementia was so far advanced that he
18 required a permanent guardian as he was incapable of caring for himself. Rodney
19 has also been identified as potentially having schizophrenia and behavioral
20 disturbance.

1 According to the Expert Report, Rodney's medical records from the
2 Medical Center for Aurora, dated June 13, 2020, stated:

3 Reviewed discharge note on 06/13 from Swedish
4 medical center where *a MOCA was done and [Rodney]
scored 15.*

5 See Exhibit C, specifically WILK000338. According to Montreal Cognitive
6 Assessment (MoCA) Test for Dementia by Andrew Rosenzweig, M.D., updated
7 on September 23, 2020, the Montreal Cognitive Assessment (MoCA) evaluates
8 different types of cognitive abilities and assists in helping to diagnose dementia.

9 See Exhibit F. According thereto:

10 Scoring on the MoCA range from zero to thirty (30),
11 with a score of 26 and higher generally considered
normal.

12 In the initial study data establishing the MoCA, normal
13 controls had an average score of 27.4, compared with
22.1 in people with mild cognitive impairment (MCI)
and 16.2 in people with Alzheimer's disease.

14 *Id.*

15
16 **TO BE CLEAR, RODNEY SCORED A 15 ON THE MoCA ON OR**
ABOUT JUNE 13, 2020, WHICH IS A LOWER SCORE THAN WAS
17 **OBSERVED IN PEOPLE WITH ALZHEIMER'S DISORDER.**

18 Due to Rodney's condition, he is susceptible to undue influence and the
19 power of suggestion. Rodney is especially susceptible to that exerted by Plaintiff,
20 Tessie Elma Almario formerly known as Tessie Wilkinson (hereinafter "Tessie"),
who has been influencing Rodney much to his detriment for years. Tessie

1 absconding to another state for permanent residence thereafter with over half of
2 Rodney's inheritance from his mother evidences such undue influence. The
3 Expert Report by Dr. Paul H. Janda, Esq. dated April 16, 2021 supported this
4 finding wherein Dr. Janda stated:

5 [t]he medical records indicate that [Rodney] had been
6 *susceptible to scams* and had reduced insight as he was
7 overall *having features of impulsivity, perseveration¹,
disorganized thought, disinhibition, and significant
memory impairment.*

8 *See Exhibit C*, specifically WILK000347. Dr. Janda, in his Expert Report dated
9 April 17, 2021, stated as follows regarding Rodney's mental capacity:

10 On or about October 1, 2020, Rodney moved into Aspen Leaf Assisted
11 Living Residence. In a letter, Kathy Dyer, Administrator of Aspen Leaf, stated
12 that upon moving in Rodney was diagnosed with: 1) neurocognitive disorder; 2)
13 depression; 3) history of stroke; 4) insomnia; 5) psychosis/agitation; and 6)
14 traumatic brain injury (TBI). *See Exhibit D*. Ms. Dyer further states that Rodney
15 has exhibited daily concerns with his short-term memory as follows:

- 16 1) Rodney forgets on a daily basis how to use his phone;
- 17 2) Rodney cannot turn on or change the channel on the tv;
- 18 3) Rodney forgets that he ate meals (often reports to his family that
19 he hasn't ate);

20 ¹ Perseveration is defined as the pathological, persistent repetition of a word, gesture, or act,
often associated with brain damage or schizophrenia. Perseveration, Dictionary.com.
(Online ed. 2021).

- 1 4) Rodney is verbally aggressive to staff at times over showers and
2 personal care;
- 3 5) Rodney has difficulty organizing thoughts — stops and starts
4 sentences and conversations about care;
- 5 6) Rodney has difficulty remembering things — we have to give
6 him constant reminders of the sequence of tasks and daily
7 routines;
- 8 7) Rodney constantly misplaces items in his room — phone,
9 remote, comb, etc.;
- 10 8) Rodney cannot find things even when they are next to him such
11 as a blanket; and
- 12 9) Rodney forgets how to use his walker for safety.

13 *Id.* In a letter dated May 13, 2021, John E. Fox, M.D., a resident at Aspen Leaf,
14 made the following statements regarding Rodney:

15 [Rodney] has several problems, but the primary issue
16 is related to mixed dementia which is related to a
17 history of traumatic brain injury (TBI) as well as left
18 parietal and right frontal CVAs. [Rodney] does have
19 some right hemiparesis. [Rodney] needs ADL²
20 assistance as well as medication management.
 [Rodney] also has PTSD and schizoaffective disorder
 which may be related to his TBI as well. [Rodney]
 has also had issues with anxiety and depression at
 times. [Rodney] has poor balance and is at a high risk
 for falls because of impulse control issues related to
 the TBI and strokes. [Rodney] has had a right TSA.
 [Rodney] is able to ambulate with his walker.

² “Activities of Daily Living”

1 See **Exhibit E**.

2 Additionally, the Court has stated on the record that Rodney is
3 incapacitated, as previously decided by a court of law in Colorado, and not likely
4 to help in providing evidence. During the motion hearing held on April 28, 2021,
5 the Court noted that the court in Colorado had determined that Rodney was
6 incompetent. [April 28, 2021 Hearing Video at 10:12:04-10:12:10] The Court
7 went so far as to state “[Rodney] cannot help us now, so he cannot provide any
8 evidence.” [April 28, 2021 Hearing Video at 10:12:02-10:12:19]

9 In addition to Rodney’s severe neurocognitive disorders, including a
10 traumatic brain injury (hereinafter “TBI”) and dementia, Rodney currently resides
11 in an assisted living facility called Aspen Leaf Assisted Living Center in
12 Colorado. Rodney, previously having been “sent to the state mental hospital, for
13 lack of self-care and *grave disability*” (See **Exhibit A**), would be detrimentally
14 affected by such unnecessary travel, which would be costly, time consuming and
15 quite difficult for Sheryl Atterberg (hereinafter “Co-Guardian”). Due to Rodney’s
16 diagnoses and his behavioral disturbances memorialized in his medical records,
17 the Court should not only preclude Tessie from requiring Rodney to be transported
18 to Las Vegas, Nevada from Colorado for a video deposition, but should preclude
19 Tessie from taking the video deposition of Rodney entirely.

20

III.
LEGAL ARGUMENT

**A. THE COURT SHOULD PRECLUDE PLAINTIFF FROM
TAKING THE VIDEO DEPOSITION OF DEFENDANT.**

Nev.R.Civ.P. Rule 26(c)(1) states in relevant part:

(c) Protective Orders.

(1) **In General.** A party or any person from whom discovery is sought may move for a protective order in the court where the action is pending — or as an alternative on matters relating to an out-of-state deposition, in the court for the judicial district where the deposition will be taken. The motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action. The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(A) forbidding the disclosure or discovery;
(B) specifying terms, including time and place or the allocation of expenses, for the disclosure or discovery;

(C) prescribing a discovery method other than the one selected by the party seeking discovery;

(D) forbidding inquiry into certain matters, or limiting the scope of disclosure or discovery to certain matters;

(E) designating the persons who may be present while the discovery is conducted;

(F) requiring that a deposition be sealed and opened only on court order;

(G) requiring that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a specified way; and

1 (H) requiring that the parties
2 simultaneously file specified documents or information
in sealed envelopes, to be opened as the court directs.

3 Nev.R.Civ.P. Rule 26(c)(1) permits a party from whom discovery is sought
4 to move for a protective order precluding the discovery sought. Nev.R.Civ.P. Rule
5 26(c)(1) requires a Meet and Confer to be conducted prior to filing a motion
6 requesting a protective order being issued by the court. As stated above, a Meet
7 and Confer was held on Monday, May 17, 2021 at 3:00 p.m., wherein the
8 undersigned and Ms. DeSousa, counsel for Tessie, discussed, among other issues
9 in dispute, Tessie taking the video deposition of Rodney. Unfortunately, the
10 parties were unable to resolve their issues regarding said dispute, which resulted
11 in an impasse. In accordance with Nev.R.Civ.P. Rule 26(c)(1), the Court may
12 issue an order to protect a party from whom discovery is sought from annoyance,
13 embarrassment, oppression, or undue burden or expense. Nev.R.Civ.P. Rule
14 26(c)(1)(A) enables the Court to issue an order precluding the discovery that is
15 being sought in order to protect said party if good cause can be shown.

16 NRS 132.175 states in relevant part:

17 “***Incapacitated person***” means a person who is impaired
18 by reason of mental illness, ***mental deficiency***, advanced
19 age, disease, weakness of mind or any other cause except
20 minority, to the extent of ***lacking sufficient
understanding or capacity to make or communicate
responsible decisions.***

As delineated in detail above, Rodney has been determined by a court of

1 law in Colorado to be an incapacitated person. Rodney is an “incapacitated
2 person” under Nevada law pursuant to NRS 132.175. Pursuant to Nev.R.Civ.P.
3 Rule 26(c)(1), Tessie’s attempt to take Rodney’s video deposition is undeniably
4 meant as: 1) an annoyance, whether to Sheryl Atterberg or Rodney himself is
5 unclear; 2) an embarrassment by having strangers ask Rodney very personal
6 questions while videotaping his every word; 3) an oppression, because, for
7 Rodney, a video deposition would be a textbook example of unjust or cruel
8 exercise of authority or power causing one party’s lack of ability to exercise
9 meaningful choice³; and 4) an undue burden or expense, which having to transport
10 Rodney from his assisted living facility across four (4) states is unquestionably an
11 undue burden and expense. Lastly, Tessie, supposedly knowing Rodney’s history,
12 health, and hardships and supposedly still caring for his wellbeing, has not stopped
13 to consider the toll this will take on not only Rodney’s physical health but his
14 already deteriorating mental faculties as well. Unfortunately, Tessie simply does
15 care. For these reasons, the Court should bar Tessie from taking the video
16 deposition of Rodney or any deposition of Rodney whatsoever as Rodney should
17 be protected under the law as an incapacitated person.

20 ³ *Oppression*, Merriam-Webster’s Unabridged Dictionary. (Online ed. 2021).

1 **B. IN THE ALTERNATIVE, THE COURT SHOULD BAR**
2 **PLAINTIFF FROM REQUIRING DEFENDANT, WHO IS**
3 **INCAPACITATED, TO APPEAR IN PERSON FOR ANY**
4 **DEPOSITION THAT THIS COURT FINDS WARRANTED,**
5 **THUS REQUIRING DEFENDANT TO TRAVEL ACROSS**
6 **MULTIPLE STATES, AND PROHIBIT THE USE OF A**
7 **VIDEOGRAPHER FOR THE DEPOSITION AS IT IS ONLY**
8 **MEANT TO ANNOY AND EMBARRASS DEFENDANT.**

9 As delineated thoroughly above, Rodney is an incapacitated person under
10 NRS 132.175 and should be protected pursuant to Nev.R.Civ.P. Rule 26(c)(1)(A)
11 by “forbidding the discovery.” However, if the Court finds that Rodney’s
12 deposition is warranted, the Court should still issue an order to protect Rodney
13 under Nev.R.Civ.P. Rule 26(c)(1)(B)-(D). Pursuant to Nev.R.Civ.P. Rule
14 26(c)(1)(B), the Court should specify the terms, including time and Place or the
15 allocation of expenses for Rodney’s deposition. Since Rodney is an incapacitated
16 person, the deposition should be limited to a shortened period of time, permit the
17 deposition to not be recorded by a videographer, and should be conducted by
18 Zoom or a similar virtual capability. Additionally, Tessie should be responsible
19 for ensuring that the virtual deposition has been arranged in Colorado regarding
20 where it will take place, who they will employ to provide the equipment necessary
 for the virtual deposition, make arrangements with Aspen Leaf regarding location
 and time. Lastly, Tessie should be solely responsible for any and all expenses
 incurred due to her taking Rodney’s deposition.

 Likewise, pursuant to Nev.R.Civ.P. Rule 26(c)(1)(C), the Court should

1 change the discovery sought, the in-person video deposition of Rodney, to a
2 virtual deposition, without the use of a videographer, which Rodney can attend
3 from his assisted living facility, and conducted using Zoom or a similar virtual
4 capability. Pursuant to Nev.R.Civ.P. Rule 26(c)(1)(D), the Court should forbid
5 inquiry into certain matters or limit the scope of the virtual deposition to certain
6 matters.

7 **C. DEFENDANT SHOULD BE AWARDED HIS ATTORNEY'S**
8 **FEES AND COSTS FOR HAVING TO BRING AND**
9 **LITIGATE THIS MOTION.**

10 Nev.R.Civ.P. Rule 26(c)(3) permits the Court to award a successful movant
11 of a motion for a protective order, pursuant to Nev.R.Civ.P. Rule 26(c)(1), their
12 attorney's fees and costs for having to bring and litigate said motion, which
13 explicates that Nev.R.Civ.P. Rule 37(a)(5) applies. Nev.R.Civ.P. Rule 37(a)(5)
14 states in relevant part:

15 **(5) Payment of Expenses; Protective Orders.**

16 **(A) If the Motion Is Granted (or Disclosure or**
17 **Discovery Is Provided After Filing).** *If the motion is*
18 *granted* — or if the disclosure or requested discovery is
19 provided after the motion was filed — *the court must,*
20 *after giving an opportunity to be heard, require the party*
or deponent whose conduct necessitated the motion, the
party or attorney advising that conduct, or both to pay the
movant's reasonable expenses incurred in making the
motion, including attorney fees. But the court must not
order this payment if:

(i) the movant filed the motion before
attempting in good faith to obtain the disclosure or
discovery without court action;

1 (ii) the opposing party's nondisclosure,
2 response, or objection was substantially justified; or
3 (iii) other circumstances make an award of
4 expenses unjust.

5 The Court should grant the present motion. Thus, pursuant to Nev.R.Civ.P.
6 Rule 37(a)(5)(A), the Court should "require the party or deponent whose conduct
7 necessitated the motion ... to pay the movant's reasonable expenses incurred in
8 making the motion, including attorney fees." *Id.* Moreover, the three exceptions
9 included in Nev.R.Civ.P. Rule 37(a)(5)(A) do not apply here.

10 Nev.R.Civ.P. Rule 37(a)(5)(A)(i) does not apply because the undersigned
11 counsel attempted in good faith to resolve the present matter during a Meet and
12 Confer held on May 17, 2021. Nev.R.Civ.P. Rule 37(a)(5)(A)(ii) does not apply
13 because Tessie was not justified in demanding that Rodney⁴, an incapacitated
14 person, not only be required into a stressful and antagonistic situation by being
15 deposed by a stranger while he is being recorded by a videographer, yet another
16 stranger, when Rodney's medical records already established that Rodney
17 exhibits behavioral disturbance and quick to aggression, especially when
18 confronted and being forced to do something he does not want to do.

19 ⁴ Even without making a determination as to the extent of Rodney's capacity at the time of
20 signing the Decree of Divorce, it is undeniable that Rodney is now an incapacitated person, as
evidenced by the court in Colorado appointing Sheryl Atterberg and Steven Atterberg as
permanent Co-Guardians and Co-Conservators by issuing Letters of Permanent Co-
Guardianship on November 23, 2021 and Amended Letters of Permanent Co-Conservatorship
on December 1, 2021 over Rodney and his estate. *See Exhibit B.*

1 Additionally, Tessie expects Sheryl Atterberg to transport Rodney across four (4)
2 states, traveling 836 miles from Limon, Colorado to Las Vegas, Nevada, simply
3 for a deposition that will inevitably be fruitless, abusive and, quite frankly, a
4 horror show after having traveled so far in such confinement. Nev.R.Civ.P. Rule
5 37(a)(5)(A)(iii) does not apply because no other circumstances exist in which an
6 award of expenses would be deemed unjust.

7 Furthermore, in Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 455 P.2d
8 31 (1969), *citing* Schwartz v. Schwerin, 336 P.2d 144, 146 (Ariz. 1959), the court
9 classified the factors in determining the reasonable value of an attorney's services
10 under four general headings. They are as follows:

- 11 (1) *The qualities of the advocate*: his ability, his training, education,
12 experience, professional standing and skill;
- 13 (2) *The character of the work to be done*: its difficulty, its intricacy, its
14 importance, time and skill required, the responsibility imposed and
the prominence and character of the parties where they affect the
importance of the litigation;
- 15 (3) *The work actually performed by the lawyer*: the skill, time and
16 attention given to the work; and
- 17 (4) *The result*: whether the attorney was successful and what benefits
were derived. (Emphasis by court.)

18 Brunzell, 85 Nev. at 349. As set forth herein, the attorney's fees requested are
19 reasonable and each of the *Brunzell* factors weigh in favor of an award of
20 attorney's fees.

1 1. The qualities of the advocate

2 The undersigned counsel, James W. Kwon, Esq., is the sole proprietor of
3 his law firm, James Kwon, LLC. Mr. Kwon has tried numerous trials in both
4 federal and state court throughout his 16+ year career as an attorney in Nevada.
5 During that time, he has served the legal needs of the Las Vegas Korean-
6 American community, among his many other clients, and he has extensive
7 experience in civil and pretrial litigation, such as that involved in the instant
8 matter.

9 2. The Character of the Work to be Done.

10 The character of the work to be done in this matter was of a sensitive
11 nature and required copious meetings, research and strategy. Tessie sought to
12 take the video deposition of Rodney, an incapacitated person under the law, and
13 require Rodney to leave his assisted living facility in Colorado and be transported
14 to Las Vegas, Nevada for an improper and unnecessary deposition. Accordingly,
15 the character of the work was of importance to Rodney as well as that of his Co-
Guardian and in favor of public policy.

16 3. The Work Actually Performed

17 The hours expended on this matter were reasonable and necessary. The
18 reasonable hourly rate for undersigned counsel is \$450.00 per hour, which has
19 been the normal rate for the undersigned counsel for the past several years. It is
20 an amount normally and customarily charged in this jurisdiction for attorneys of

undersigned counsel's skills and abilities.

4. The Result

The result should be in Rodney's favor. Therefore, these factors support an award of attorney's fees and costs in favor of Rodney. A *Memorandum of Fees and Costs* will be filed and provided to the Court upon request.

For the above-stated reasoning, Tessie should be ordered by the Court to pay for Rodney's attorney's fees and costs in having to bring and litigate this *Motion*.

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IV.
CONCLUSION

WHEREFORE, based on the foregoing, Sheryl Atterberg, on behalf of her Adult Ward, Defendant, Rodney Wilkinson, respectfully requests that the Court, pursuant to NRCP 26(c), preclude Plaintiff's taking of the video deposition of Defendant, Rodney Wilkinson, due to his mental incapacity as already determined by a court in Colorado and for an award of Defendant's attorney's fees and costs for having to bring this *Motion*.

Dated this 18 day of May 2021.

JAMES KWON, LLC



JAMES W. KWON, ESQ.

Nevada Bar No. 8146

6280 Spring Mountain Rd., Suite 100

Las Vegas, Nevada 89146

Attorney for Sheryl Atterberg,

on behalf of Her Adult Ward,

Defendant, Rodney Wilkinson

DECLARATION OF STEVEN ATTERBERG
IN SUPPORT OF
DEFENDANT'S MOTION FOR PROTECTIVE ORDER
PRECLUDING PLAINTIFF FROM TAKING THE VIDEO DEPOSITION
OF DEFENDANT RODNEY WILKINSON PURSUANT TO NRCp 26,
FOR ATTORNEY'S FEES AND COSTS, AND FOR ALL OTHER
RELATED RELIEF

CERTIFICATE OF SERVICE

I hereby certify that on the 18 day of May 2021, pursuant to NRCP 5, I caused service of a true and correct copy of the foregoing *Defendant's Motion for Protective Order Precluding Plaintiff from Taking the Video Deposition of Defendant Rodney Wilkinson Pursuant to NRCP 26, For Attorney's Fees and Costs, and For All Other Related Relief* to be made electronically via the Eighth Judicial District Court electronic filing system upon the following parties at the e-mail addresses listed below:

Dina M. DeSousa-Cabral, Esq. DinaD@HoflandLaw.com

Bradley J. Hofland, Esq. BradH@HoflandLaw.com

Nikki Woulfe Clerk@HoflandLaw.com

Dated this 18 day of May 2021.


An employee of James Kwon, LLC

EXHIBIT A

*SUBMITTED
UNDER SEAL*

EXHIBIT A

EXHIBIT B

EXHIBIT B

District Court, Lincoln County, Colorado 103 Third Ave, PO Box 128 Hugo, CO 80821	DATE FILED: November 23, 2020 1:22 PM
	COURT USE ONLY
In the Matter of the Estate of: Rodney Edward Wilkinson	Case Number: 2020PR30016 Division: 1
ORDER APPOINTING GUARDIAN FOR ADULT	

Upon consideration of the Petition for Appointment of Guardian for the above respondent and hearing on November 23, 2020 (date),

The court has considered any express wishes of the respondent concerning the selection of the guardian. The court has considered the powers and duties of the guardian, the scope of the guardianship, and the priority and qualifications of the nominee.

The court finds, determines and orders:

1. Venue is proper and required notices have been given or waived.
2. The evidence is clear and convincing that the respondent is an incapacitated person and the respondent's needs cannot be met by less restrictive means, including the use of appropriate and reasonably available technological assistance.
3. The nature and extent of the respondent's incapacity is as follows:
Ward is not capable of completely caring for himself. Due to his strokes and Traumatic brain Injuries he "forgets" simple tasks such as how to use a microwave or other household appliances. Ward cannot always remember to feed himself or to visit his medical doctors and take prescriptions on time.
4. **The court appoints the following persons as co-guardian for the ward:**

Sheryl Kay Atterberg
PO Box 4109
Idaho Springs, CO 80452
520-820-8338
k9ul@icloud.com

Steven Atterberg
PO Box 4109
Idaho Springs, CO 80452
520-820-8338
k9ul@icloud.com

5. The guardian must promptly notify the court if the guardian's street address, email address, or phone number changes or of any change of address for the ward.
6. The guardian may not establish or move the ward's custodial dwelling outside the State of Colorado without a court order.
7. Within 30 days of appointment, the guardian must provide a copy of this Order Appointing Guardian for Adult to the ward and persons given notice of the petition and must advise those persons using Notice of Appointment of Guardian and/or Conservator (JDF 812) that they have the right to request termination or modification of the guardianship.
8. The guardian must file the initial Guardian's Report - Adult (JDF 850) by January 14, 2021 (date 60 days from appointment) and must file annual Guardian's Report - Adult (JDF 850) by each February 28 (date) beginning in 2022 (year), for the duration of the guardianship.

9. ☐ The guardian must manage the day-to-day finances for the support, care, education, health and welfare of the ward. The guardian is required to maintain supporting documentation for all receipts and all disbursements during the duration of this appointment. The court further orders the following:

10. ☒ Medical powers of attorney, whether executed prior to or following the entry of this order, are terminated, except as follows:

11. Copies of all future court filings must be provided to the following interested persons:

Name	Relationship to the Ward
Rodney Edward Wilkinson	Ward
Sheryl Atterberg	Guardian
Steve Atterberg	Co-Guardian

12. The guardian is authorized to access the ward's medical records and information. The guardian is deemed to be ward's personal representative for all purposes relating to ward's protected health information, as provided in HIPAA, Section 45 CFR 164.502(g)(2).
13. The guardian does not have the authority to obtain hospital or institutional care and treatment for mental illness, developmental disability, alcoholism or substance abuse against the will of the ward.
14. If the ward is an "at risk elder" or "at risk adult with an intellectual and developmental disability," and if the guardian has reasonable cause to believe that the ward has been abused or exploited or is at imminent risk of abuse or exploitation, the guardian is required to make a report to law enforcement within 24 hours after the observation or discovery pursuant to C.R.S. § 18-6.5-108(1)(b)(XII).
15. **Letters of Guardianship will be issued.**
☒ The powers and duties of the guardian are unrestricted.
☐ The powers and duties of the guardian are limited by the following restrictions:

16. **The court further orders:**

Date: November 23, 2020



☒ Judge ☐ Magistrate

District Court, Lincoln County, Colorado 103 Third Ave, PO Box 128 Hugo, CO 80821	COURT USE ONLY
In the Matter of the Estate of: Rodney Edward Wilkinson	Case Number: 2020PR30016 Division: 1
LETTERS OF PERMANENT CO-GUARDIANSHIP FOR AN ADULT	

Sheryl Atterberg and Steven Atterberg (co-guardians) were appointed by court order on
November 23, 2020 (date) as:
 Co-Guardians pursuant to § 15-14-311, C.R.S.

The guardians must have access to respondent's/ward's medical records and information to the same extent that the respondent/ward is entitled. The guardians must be deemed to be the respondent's /ward's personal representative for all purposes relating to his or her protected health information, as provided in HIPAA, Section 45 CFR 164.502(g)(2).

These Letters of Guardianship are proof of the guardian's full authority to act, except for the following restrictions:

The guardians do not have the authority to obtain hospital or institutional care and treatment for mental illness, developmental disability, or alcoholism against the will of the respondent/ward pursuant to § 15-14-316(4), C.R.S.

The respondent /ward's place of residence must not be changed from the State of Colorado without an order of the court pursuant to § 15-14-315(1)(b), C.R.S.

☐ Other limitations:

Date: December 1, 2020



Jaime Seymour
 Probate Registrar / (Deputy) Clerk of Court

CERTIFICATION

Certified to be a true copy of the original in my custody and to be in full force and effect as of

December 1, 2020 (date).

Jaime Seymour
 Probate Registrar / (Deputy) Clerk of Court

WILK000324

ROA000397

District Court, Lincoln County, Colorado 103 Third Ave, PO Box 128 Hugo, CO 80821	DATE FILED: November 23, 2020 12:04 PM COURT USE ONLY
In the Interest of: Rodney Edward Wilkinson	Case Number: 20PR30016 Division: 1
PROPOSED ORDER APPOINTING PERMANENT CONSERVATOR FOR ADULT	

Upon consideration of the Petition for Appointment of Conservator for the above person and hearing on November 23, 2020 (date),

The court finds that:

1. Venue is proper and required notices have been given or waived.
2. An interested person seeks the appointment of a conservator.
3. The protected person's best interest will be served by appointment of a conservator.

The court finds by clear and convincing evidence that a basis exists for a conservatorship because:

The protected person is unable to manage property and business affairs because of an inability to effectively receive or evaluate information or both or to make or communicate decisions, even with the use of appropriate and reasonably available technological assistance.

The court further finds by a preponderance of evidence that:

The protected person has property that will be wasted or dissipated unless proper management is provided.

The court has considered any expressed wishes of the protected person concerning the selection of the conservator. The court has considered the powers and duties of the conservator, the scope of the conservatorship, and the priority and qualifications of the nominee.

The court appoints the following persons as conservator of the protected person:

Sheryl Kay Atterberg and Steve Atterberg
 400 Alpine Way Idaho Springs, CO 80452
 PO Box 4109 Idaho Springs, CO 80452
 (520) 820-8338 / 720-810 -6100 /720-801-8177

WILK000325

ROA000398

k9ul@icloud.com

The court directs the issuance of Letters of Conservatorship as follows:

☒ The conservator may exercise all the powers granted in. § 15-14-425, C.R.S., subject to the exclusions in § 15-14-411, C.R.S. The powers and duties of the conservator are otherwise unrestricted.

☐ The powers and duties of the conservator are limited by the following restrictions, if any:

☒ The conservator must not, without prior court order, convey or encumber any real estate owned by the protected person.

To insure notice of this prohibition, the conservator must record the letters evidencing appointment with the Clerk & Recorder of the County in which such real estate is located. The conservator must provide proof of the recording to the court.

The court orders the following:

1. The conservator must notify the court within 30 days if his or her home address, email address, or phone number changes and/or of any change of address for the protected person.
2. Within 30 days of appointment, the conservator must provide a copy of this Order Appointing Conservator for Adult to the protected person and persons given notice of the Petition and must advise those persons using Notice of Appointment of Guardian and/or Conservator (JDF 812) that they have the right to request termination or modification of the conservatorship.
3. The conservator must file for approval with the court a Conservator's Financial Plan with Inventory (JDF 882) on or before February 15, 2021 (date within 90 days from appointment). The value of the assets must be reported as of the date of this order.
4. The conservator must file a Conservator's Report (JDF 885) with the court each year on or before February 28th (date). The time period covered in the report will begin ~~on~~ in 2021 January 1st (date) and end on December 31 (date). The conservator is required to maintain all supporting documentation, including receipts and disbursements.
5. ☒ All financial powers of attorney, whether executed prior to or following the entry of this order, are terminated, except as follows:

WILK000326

ROA000399

6. The conservator will
☒ serve without bond for the following reason(s): Nominated by Respondent and family.

☐ serve with bond in the amount of \$ _____. The bond must be posted with the court by _____ (date). If bond is posted by a surety, notice of any proceeding must be provided to the surety.


7. Copies of all future court filings must be provided to the following:

Name of Interested Person	Relationship to the Protected Person
Rodney Edward Wilkinson	The protected person
	Spouse or partner in a civil union
	Adult Children
	Parents
Sheryl Kay Atterberg and Steve Atterberg	Conservator

8. If the protected person is an "at-risk elder" or "at-risk adult with an intellectual and developmental disability" and if conservator has reasonable cause to believe that the protected person has been abused or exploited or is at imminent risk of abuse or exploitation, conservator is required to make a report to law enforcement within 24 hours after the observation or discovery pursuant to C.R.S. § 18-6.5-108(1)(b)(XII).

9. The court further orders:

Co-Conservators are authorized to file appropriate legal proceedings and Lis Pendes to protect preserve and marshal the protected person's estate.



☒ Judge ☐ Magistrate

November 23, 2020

Date

WILK000327

ROA000400

District Court, Lincoln County, Colorado 103 Third Ave, PO Box 128 Hugo, CO 80821	
	COURT USE ONLY
In the Interest of: Rodney Edward Wilkinson	Case Number: 20PR30016 Division: 1
AMENDED LETTERS OF PERMANENT CO-CONSERVATORSHIP FOR AN ADULT	

Sheryl Kay Atterberg and Steven Atterberg (co-conservators) was appointed by court order on November 23, 2020 (date) as:

Conservator pursuant to § 15-14-409, C.R.S.

These Letters of Conservatorship are proof of:

☒ The conservator's authority to exercise all the powers in § 15-14-425, C.R.S., subject to the exclusions in § 15-14-411, C.R.S. The powers and duties of the conservator are otherwise unrestricted.

☒ the conservator's authority to exercise the powers in § 15-14-425, C.R.S., are limited by the following restrictions:

☒ the conservator must not, without prior court order, convey or encumber any real estate owned by the protected person.

☒ Co-Conservators are authorized to file appropriate legal proceedings and Lis Pendes to protect preserve and marshal the protected person's estate.

Date: December 1, 2020



Humbert Borch

CLERK

Probate Registrar/(Deputy)Clerk of Court

CERTIFICATION

Certified to be a true copy of the original in my custody and to be in full force and effect as of DECEMBER 1, 2020 (date).

Humbert Borch

Probate Registrar/(Deputy)Clerk of Court

EXHIBIT C

*SUBMITTED
UNDER SEAL*

EXHIBIT C

EXHIBIT D

*SUBMITTED
UNDER SEAL*

EXHIBIT D

EXHIBIT E

*SUBMITTED
UNDER SEAL*

EXHIBIT E

EXHIBIT F

EXHIBIT F



BRAIN & NERVOUS SYSTEM ALZHEIMER'S / DIAGNOSIS

Montreal Cognitive Assessment (MoCA) Test for Dementia


By [Andrew Rosenzweig, MD](#)  Medically reviewed by [Huma Sheikh, MD](#) Updated on September 23, 2020

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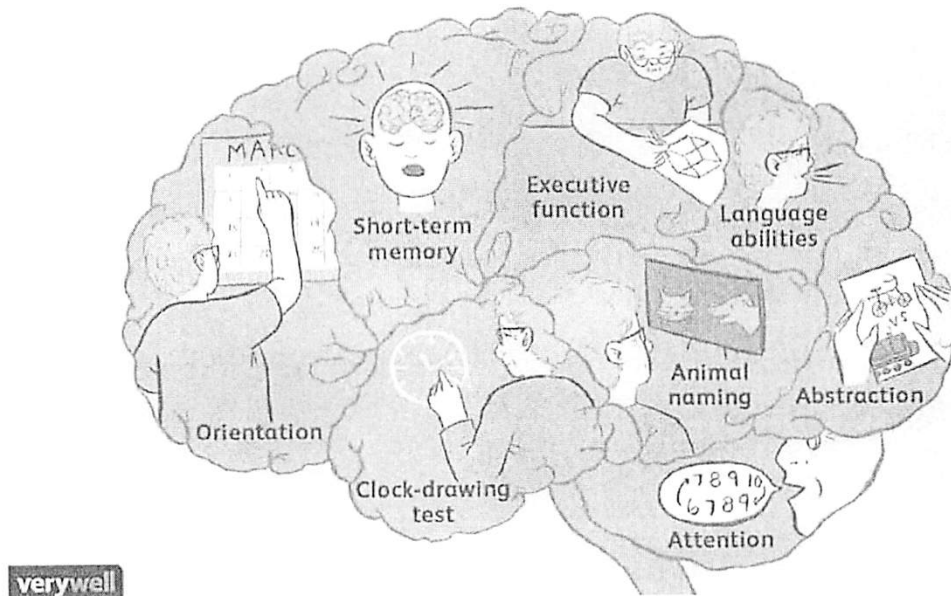
[Assessment](#)[Scoring](#)[Usefulness](#)[Pros and Cons](#)

The Montreal Cognitive Assessment (MoCA) is a brief 30-question test that takes around 10 to 12 minutes to complete and helps assess people for dementia. It was published in 2005 by a group at McGill University working for several years at memory clinics in Montreal. ^[1]

Here's a look at what the MoCA includes, how it's scored and interpreted, and how it can assist in identifying dementia.

What Does the Montreal Cognitive Assessment Evaluate?

The MoCA assesses cognitive abilities, including:



Assessment

The MoCA evaluates

These include: ^[1]

Short-term memory/delayed recall: Five words are read, the test-taker is asked to repeat them, they are read again and asked to repeat again. After completing other tasks, the person is asked to repeat each of the five words again and given a cue of the category that the word belongs to if they are not able to recall them without the cue.

Executive function/visuospatial ability: These two abilities are assessed through the Trails B Test, which requires you to draw a line to correctly sequence alternating digits and numbers (1-A, 2-B, etc.) and through a task which requires you to draw a copy of a cube shape.

Language abilities: This task consists of repeating two sentences correctly and then listing all of the words that can be recalled that begin with the letter "F".

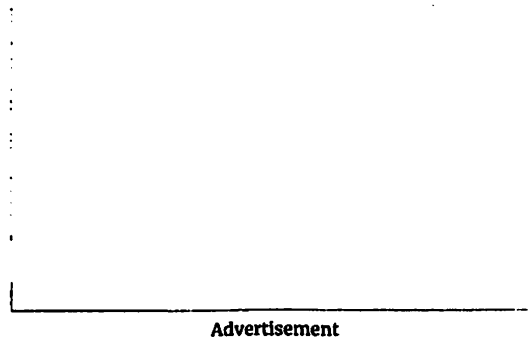
Abstraction: You are asked to explain how two items are alike, such as a train and a bicycle. This measures your abstract reasoning, which is often impaired in dementia. The Proverb interpretation test is another way to test abstract reasoning skills.

Animal naming: Three pictures of animals are shown and the individual is asked to name each one. This is mainly used to test fluency.

Attention: The test-taker is asked to repeat a series of numbers forward and then a different series backwards to evaluate attention.

Clock-drawing test: Unlike the Mini-mental state exam (MMSE) which does not include the clock drawing test, the MoCA asks the person being evaluated to draw a clock that reads ten past eleven.

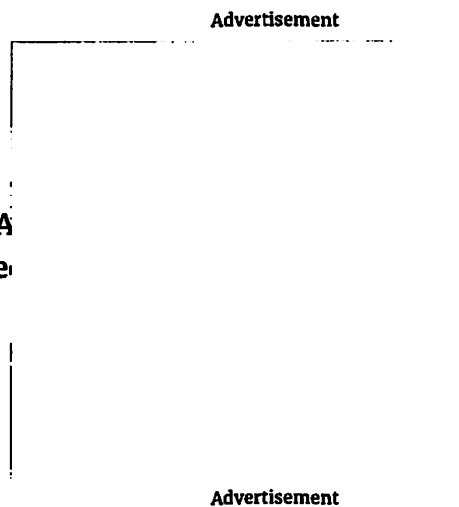
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Scoring

Scores on the MoCA
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In the initial stud
average score of :

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The scoring breakdown

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Visuospatial and executive function: 3 points
 Animal Naming: 3 points
 Attention: 6 points
 Language: 3 points
 Abstraction: 2 points
 Delayed recall (short-term): 5 points
 Orientation: 6 points
 Education level: 1 point if more than 12 years of formal education, 2 points if they have 12 years or less of formal education

if they have 12

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Usefulness

The MoCA is a relatively simple, brief test that helps health professionals determine quickly whether a person has abnormal cognitive function and may need a more thorough diagnostic workup for Alzheimer's disease.

It may help predict dementia in people with mild cognitive impairment (MCI), and because it tests for executive function, it is more sensitive in this regard than the MMSE.^[2] Finally, it's been shown to better identify cognitive problems in people with Parkinson's disease.^[3]

The MoCA's advantages include its brevity, simplicity, and reliability as a screening test for Alzheimer's disease. In addition, it measures an important component of dementia that's not measured by the MMSE, namely executive function. It seems to work well in Parkinson's disease dementia, and unlike the MMSE, it is free for non-profit use.

Of note, the MoCA is available in more than 35 languages, and there is also a MoCA Test Blind which allows cognitive testing for those who are visually impaired.^[4]

A disadvantage of the MoCA is that it takes a little longer than the MMSE to administer, and like many other screenings, it should be paired with multiple other screenings and tests to accurately identify and diagnose dementia.

A Word From Verywell

Being aware of what the MoCA includes and how it's scored can help you better understand its results for you or your loved one. Remember, also, that the MoCA, while helpful in identifying cognitive concerns, should be combined with several other assessments conducted by a physician in order to fully evaluate mental functioning and identify possible causes of memory loss.

Read Next: [How Accurate Is a BIMS Score in Identifying Dementia?](#)

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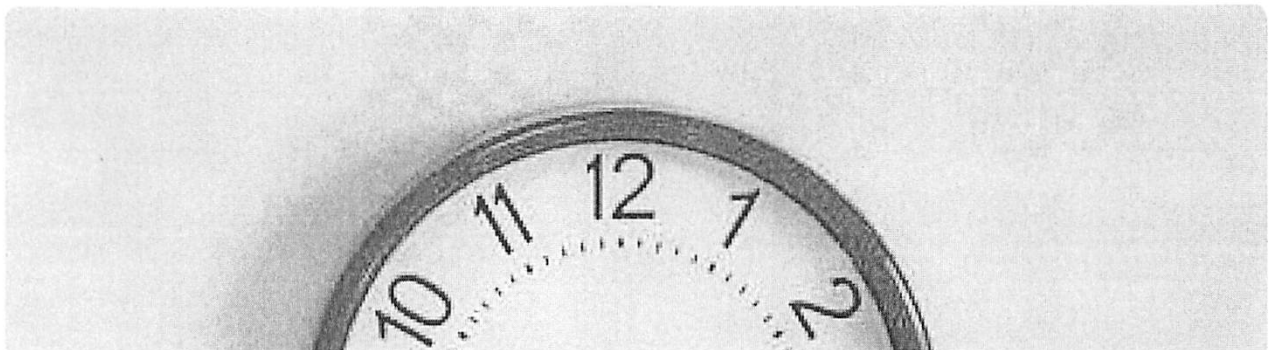
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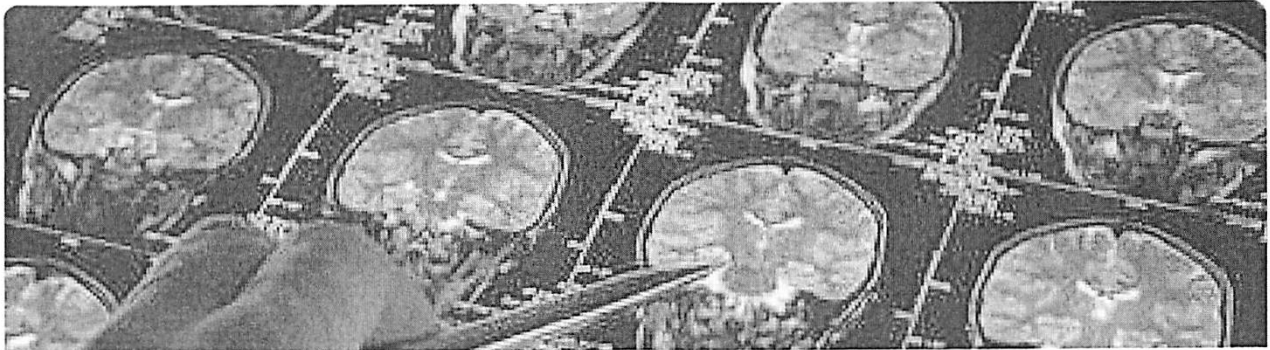
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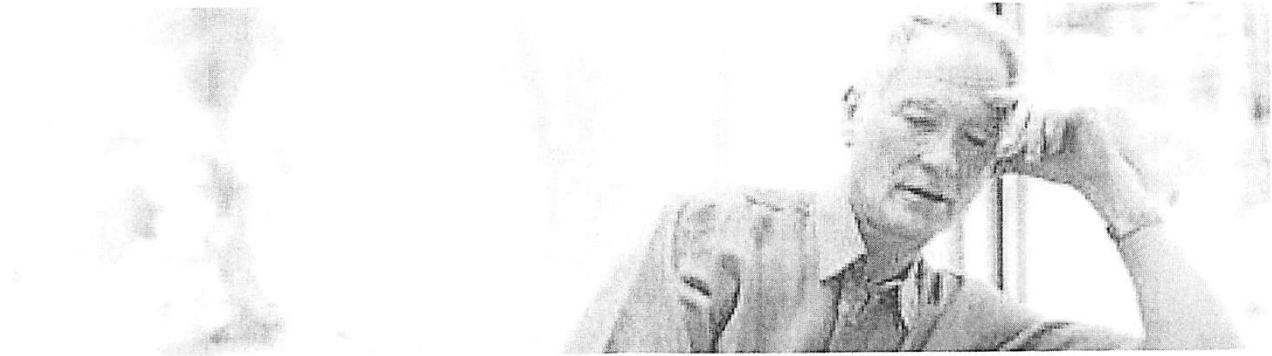
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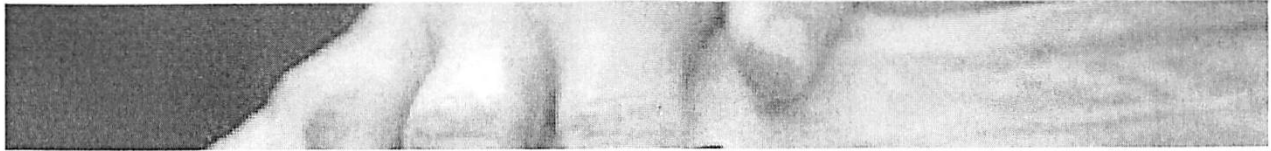
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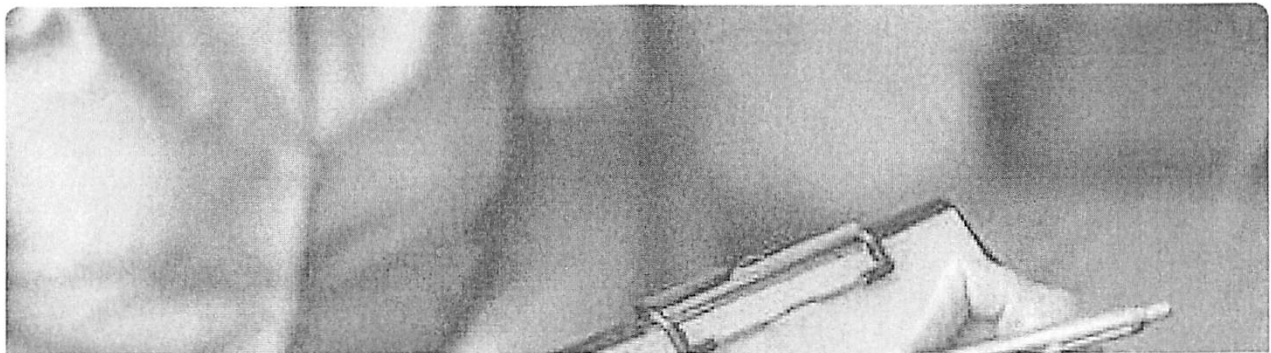
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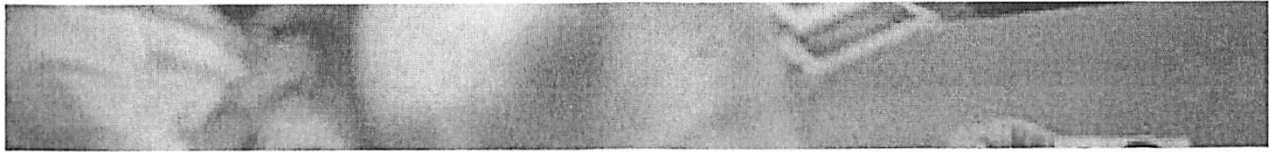
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MOFI

DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA

TESSIE E. WILKINSON

Plaintiff/Petitioner

v.

RODNEY WILKINSON (Sheryl Atterberg as

Defendant/Respondent Co-Guardian for her Adult Ward,
Defendant, Rodney Wilkinson)

Case No. D-19-596071-D

Dept. U

**MOTION/OPPOSITION
FEE INFORMATION SHEET**

Notice: Motions and Oppositions filed after entry of a final order issued pursuant to NRS 125, 125B or 125C are subject to the reopen filing fee of \$25, unless specifically excluded by NRS 19.0312. Additionally, Motions and Oppositions filed in cases initiated by joint petition may be subject to an additional filing fee of \$129 or \$57 in accordance with Senate Bill 388 of the 2015 Legislative Session.

Step 1. Select either the \$25 or \$0 filing fee in the box below.

<input type="checkbox"/>	\$25	The Motion/Opposition being filed with this form is subject to the \$25 reopen fee.
-OR-		
<input checked="" type="checkbox"/>	\$0	The Motion/Opposition being filed with this form is not subject to the \$25 reopen fee because:
<input type="checkbox"/>		The Motion/Opposition is being filed before a Divorce/Custody Decree has been entered.
<input type="checkbox"/>		The Motion/Opposition is being filed solely to adjust the amount of child support established in a final order.
<input type="checkbox"/>		The Motion/Opposition is for reconsideration or for a new trial, and is being filed within 10 days after a final judgment or decree was entered. The final order was entered on _____.
<input checked="" type="checkbox"/>		Other Excluded Motion (must specify) <u>Motion for Protective Order</u> .

Step 2. Select the \$0, \$129 or \$57 filing fee in the box below.

<input checked="" type="checkbox"/>	\$0	The Motion/Opposition being filed with this form is not subject to the \$129 or the \$57 fee because:
<input checked="" type="checkbox"/>		The Motion/Opposition is being filed in a case that was not initiated by joint petition.
<input type="checkbox"/>		The party filing the Motion/Opposition previously paid a fee of \$129 or \$57.
-OR-		
<input type="checkbox"/>	\$129	The Motion being filed with this form is subject to the \$129 fee because it is a motion to modify, adjust or enforce a final order.
-OR-		
<input type="checkbox"/>	\$57	The Motion/Opposition being filing with this form is subject to the \$57 fee because it is an opposition to a motion to modify, adjust or enforce a final order, or it is a motion and the opposing party has already paid a fee of \$129.

Step 3. Add the filing fees from Step 1 and Step 2.

The total filing fee for the motion/opposition I am filing with this form is:											
<input checked="" type="checkbox"/>	\$0	<input type="checkbox"/>	\$25	<input type="checkbox"/>	\$57	<input type="checkbox"/>	\$82	<input type="checkbox"/>	\$129	<input type="checkbox"/>	\$154

Party filing Motion/Opposition: Sheryl Atterberg, on Behalf of Her Adult Ward, Date 5/18/2021
Defendant, Rodney Wilkinson

Signature of Party or Preparer /s/ Crystal Ann Gorzalski

ROA000419

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Attorney for Plaintiff, Tessie Elma Almarino

**EIGHTH JUDICIAL DISTRICT COURT, FAMILY DIVISION
CLARK COUNTY, NEVADA**

TESSIE ELMA ALMARIO,

Plaintiff,

vs.

SHERYL ATTERBERG, ON
BEHALF OF HER WARD
RODNEY WILKINSON,

Defendant.

) CASE NO.: D-19-596071-D
) DEPT NO.: U
)
) **PLAINTIFF’S OPPOSITION TO**
) **DEFENDANT’S MOTION FOR**
) **PROTECTIVE ORDER PRECLUDING**
) **PLAINTIFF FROM TAKING THE**
) **VIDEO DEPOSITION OF DEFENDANT**
) **RODNEY WILKINSON PURSUANT TO**
) **NRCP 26, FOR ATTORNEY’S FEES**
) **AND COSTS, AND FOR ALL OTHER**
) **RELATED RELIEF AND**
) **COUNTERMOTION FOR**
) **ATTORNEY’S FEES AND COSTS AND**
) **RELATED RELIEF.**
)
) **(Before the Discovery Commissioner)**
)
) **ORAL AGRUMENT REQUESTED**

COMES NOW, Plaintiff Tessie Elma Almario (“Tessie”), by and through her attorneys, Bradley J. Hofland, Esq. of Hofland & Tomsheck, and hereby submits this Opposition to Defendant’s Motion for Protective Order precluding Plaintiff from taking the Video Deposition of Defendant Rodney Wilkinson pursuant to NRCp 26, for Attorney’s Fees and costs, and for all other related relief and

1 Plaintiff's Countermotion for Attorney's Fees and costs and related relief and
2 respectfully requests this Court to:

- 3 1. Deny Defendant's Motion in its entirety;
- 4 2. Award Plaintiff Attorney's fees and costs for having to oppose and
5 respond to Defendant's baseless motion; and
- 6 3. Addressing any further relief this Court deems necessary, just, and/or
7 equitable.

8 This Opposition and Countermotion is made and based on the following
9 Memorandum of Points and Authorities, the papers and pleadings already on file
10 herein, and any argument the Court may permit at the hearing of this matter.

11 Dated this 1st day of June, 2021.

12 **HOFLAND & TOMSHECK**

13
14 By: /s/ Bradley J. Hofland

15 Bradley J. Hofland, Esq.
16 State Bar of Nevada No. 6343
17 228 South 4th Street, First Floor
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19 (702) 895-6760
20 *Attorneys for Plaintiff*
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **Introduction**

4 As a threshold matter, it is significant to note this action is being commenced
5 by Rodney's sister and guardian, Sheryl Atterberg ("Sheryl"). Notably, Rodney is
6 *not* confirming the veracity of Sheryl's claims, and more importantly, Sheryl has
7 absolutely no first-hand knowledge of the purported facts she crafts, which render
8 her representations inadmissible hearsay¹. Of course, the Court cannot rely upon
9 any representations in Defendant's opposition that are unsupported and based
10 entirely on hearsay, which in this case is the entirety of her narrative.² In other
11 words, there is nothing to support Sheryl's outrageous claims—other than her self-
12 serving, and legally inadequate, representations and non sequiturs.

13 **II.**

14 **Statement of Facts**

15 As a threshold matter, Sheryl's "Summary of Relevant Facts" is a misnomer,
16 patently false and defamatory, grossly misleading and ethically suspect. From the
17 onset of Defendant's remarks to this Court, there is a disturbing lack of candor. For
18 the sake of brevity, Tessie vehemently challenges the entirety of Sheryl's narrative,
19 and the evidence further confirms the untruthfulness of Sheryl's representations to
20 this Court.

21
22 ¹ Sheryl has no clue what Tessie was "informed"—and her presentation is both
23 false and absurd. Tessie was never "informed" of such malarkey, and her attorney
24 told her it was part of the process and standard procedure. Additionally, until
25 Sheryl's greed led her to obtaining a guardianship over her estranged brother,
Rodney, she had not interaction, involvement, and thus, no knowledge of what was
said or what transpired leading up to and after the divorce of the parties.

26 ² See, *Wash v. Quest Diagnostics, Inc.*, 2010 U.S. Dist. LEXIS 151850; *Data Disc.*
27 *Inc. v. Systems Tech. Assoc., Inc.*, 557 F.2d 1280 (Court of Appeals, 9th Circuit
28 1977) (a court may not assume the truth of allegations in a pleading that are
contradicted by affidavit); *Taylor v. Portland Paramount Corp.*, 383 F.2d 634, 639
(9th Cir. 1967).

1 Sheryl conceals from the Court the fact that Rodney initiated the divorce—
2 Rodney does not dispute this and the evidence confirms this fact. While Sheryl has
3 absolutely no evidence supporting a finding that Rodney had dementia at the time,
4 she relies upon such falsehood as justification for her quest for financial gain. The
5 truth is Rodney *did not have* Dementia at that time. In fact, Rodney wasn't even
6 diagnosed with the "onset" of dementia until after the entry of the Divorce. Sheryl
7 wasn't even given guardianship until six months after the diagnosis—and even
8 then, the guardian's powers were limited³.

9 As noted above, the professed guardian in this action is Rodney's sister,
10 Sheryl, a fact she conveniently conceals from this Court. Sheryl also fails to
11 disclose to this Court that the relationship between her and Rodney was estranged⁴,
12 and had been for decades. Coincidentally, Sheryl had absolutely **no** relationship
13 with Rodney until 2020—when she appears with hopes of financial gain. Rodney
14 made this point clear as far back as **2007** (years before the parties were even
15 married), when he prepared "The Rodney E. Wilkinson Trust" and provides therein
16 that "[u]nder no circumstances, is a distribution of income or principal to be
17 made to either my brother, John Wilkinson or my sister, Sheryl Atterberg."⁵

18 On the other hand, the evidence, however, confirms that Rodney and Tessie
19 had a close, profound, and caring relationship, *long before they married*. Rodney's
20 intentions towards Tessie were memorialized and made clear long *before* they
21 married. In his trust, he provided:

22 The balance of the trust assets (after expenses), of whatsoever kind and
23 whosoever situated, shall be distrusted, as follows:

24 (a) To my friend and confidant Tessie Mae Brown, (address omitted);
25

26 ³ See Colorado Guardianship Order attached hereto as Exhibit "1".

27 ⁴ Rodney disclosed to others his belief that Sheryl wanted to put him in a mental
28 facility—something he did not want and was fearful of it happening.

⁵ See Article II of The Rodney E. Wilkinson Trust, pages 1-2 attached hereto as
Exhibit "2".

1 (b) If the said Tessie Elma Brown shall fail to survive me, then all of the
2 proceeds of the trust shall be distributed to Erica Sarai Bell (address
omitted);

3 (c) If neither of the foregoing survive me, then I direct that all trust
4 proceeds be distributed to Sheryl Atterberg, my sister.

5 Rodney prepared his trust in 2007. Rodney and Tessie were married in 2009.

6 Sheryl claims Rodney sustained a “Traumatic Brain Injury” in 2017—but
7 *does not claim* that caused his “Dementia”—nor does Sheryl provide proof such
8 diagnosis was made, or even considered, before May of 2020. Sheryl simply hopes
9 that with her false claims the Court “assumes” such a fact (that is disproved by the
10 evidence). Sheryl claims Rodney was suffering from Dementia before he filed his
11 Answer in the Divorce Case—but submits no evidence to support her claim. In
12 fact, the Colorado Order (Guardianship Order—if not void) wasn’t signed until
13 almost a year later (and the medical records confirm the onset of Rodney’s
14 dementia wasn’t until May of 2020.

15 Thus, as a matter of law, at the time of the parties’ divorce, Rodney had the
16 legal capacity to contract. In reality, Rodney continued working, traveling, hauling
17 loads, and negotiating with various parties up to and after Rodney and Tessie
18 divorced.

19 As for the divorce, **Rodney** is the one who had initiated it. Rodney disclosed
20 he no longer wanted to own or be responsible for anything—he simply wanted to
21 live at the farmhouse and work. Rodney had his reasons, followed up to ensure it
22 was being accomplished repeatedly, and the phone records confirm this fact.
23 During this process, the parties reached an agreement.

24 Sheryl has no idea what Tessie did or did not do, and her speculation is just
25 that—bearing no relation to the truth (which is why there is a conspicuous absence
26 of proof, support, or evidence to substantiate her defamatory claims). Sheryl is
27 desperate, and quick to state, that Rodney lacked contractual capacity five months
28 earlier when he negotiated and agreed to the terms of the Divorce and verified his

1 Answer. However, the Trust Rodney prepared 13 years before the divorce, and
2 prior to the parties' marriage, confirms the provisions of the Decree are *consistent*
3 with his intent memorialized more than a decade earlier.

4 In sum, Sheryl wasn't even involved in Rodney's life until the latter part of
5 2020. Sheryl's narrative is patently false, defamatory, and self-serving. The
6 evidence shows she lacks credibility and the litigation that she has commenced is
7 improper, flawed, and inconsistent with established precedent.

8 Shamelessly, seeking Tessie's share of the marital estate in disregard of
9 Tessie and Rodney's agreement, Sheryl filed a motion to set aside the Decree of
10 Divorce. At the contested hearing, the Court made it clear that the crux of the
11 matter before the Court was simply whether Rodney was competent to enter into
12 the Agreement/Decree at the time it was entered into. An evidentiary hearing was
13 set to address that issue.

14 Clearly, the only two individuals who know what happened and why are
15 Rodney and Tessie. Tessie will testify before the Court, but Sheryl is frantically
16 trying to prevent Rodney from doing so. The only individual who knows the extent
17 of Sheryl's misrepresentations and can confirm her repeated violations of candor to
18 this Court, is Rodney. As such, Sheryl is now desperately seeking to enjoin
19 Rodney from speaking and prevent Tessie from taking his deposition.

20 Continuing, it is significant to note Sheryl references a Colorado Order, but
21 conceals her failed attempt in the State of Kansas. To date, Sheryl has refused to
22 provide the requested discovery illuminating her efforts and prior representations.
23 Sheryl references the Colorado Orders (submitted as Exhibit "1"), but grossly
24 misstates and distorts their findings⁶. There is no question the Colorado Court

25
26 ⁶ As detailed herein, the Colorado Order expressly *excluded* guardian (Sheryl) from
27 managing the day-to-day finances for Rodney⁶, *noted Rodney's ability* to care for
28 himself, ordered that Rodney be able to participate and *be heard*, and revoked any
and all medical powers of attorney, and *prohibited Sheryl* from obtaining any
treatment for mental illness *without Rodney's approval*.

1 recognized the importance of having Rodney's input and participation—which is
2 something Sheryl is trying to cover up and prevent. In short, Sheryl's professed
3 “unlimited” powers is not only false, she apparently believes she is able to ignore
4 Colorado Court orders and dictate the decisions of this Court as well.

5 Sheryl's expert will be the subject of future motions, and for purposes of the
6 underlying motion, need not be fully impeached at this time. Suffice it to say,
7 reference to her report in Sheryl's motion is improper and legally insufficient (not
8 to mention sanctionable). Notwithstanding, Sheryl's expert has never met Rodney,
9 made no personal observations that courts have long recognized as being vital to
10 competency to testify, and misstates both the record and the law⁷.

11 Notably, Sheryl's expert states her interpretation of the records she reviewed,
12 but does not state Rodney is incapable of testifying or being deposed. The letter
13 from John E. Fox, M.D. (“Fox”), is equally inappropriate and unpersuasive. Fox
14 doesn't opine under oath, and does not state Rodney is incapable of testifying or
15 being deposed⁸. In fact, Aspen Leaf supports the “independence, privacy and
16 decision-making ability of each resident.”⁹ Sheryl obviously does not endorse their
17 mission statement.

18 In sum, Sheryl makes false statements, but they are insufficient to meet the
19 significant burden necessary to prevent Tessie Wilkinson from deposing the
20 defendant, Rodney Wilkinson. Sheryl's reliance on hearsay, her “expert's” report,
21 and even her “selected” excerpts, are woefully inadequate to warrant a protective
22 order preventing Rodney from speaking and Tessie taking his deposition.

24 ⁷ For example, without a law degree or admission to the Bar, Sheryl's so called
25 expert professes to identify and apply the “Relevant Legal Standard” as being a
26 definition found within Title 12, Wills and Estates of Deceased Persons—which is
patently false and legally untenable.

27 ⁸ Whether Rodney receives daily living assistance (in an assisted living center no
less), had issues with anxiety and depression at times, or has poor balance, is quite
28 frankly, irrelevant.

⁹ Aspenleafassistedliving.com/our-mission.

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III.

Legal Analysis

A. *Legal Standards.*

Under NRCP 26(b)(1), each party in a civil action has the right to obtain discovery regarding “any nonprivileged matter that is relevant to any party’s claims”. Given that right, the district court has the power to issue a protective order only upon a showing of “good cause”. Indeed, before a party will be deprived of the right to take a deposition, a **strong** showing of good cause is **required**¹⁰. Here, Sheryl has failed to even recognize her burden, much less satisfy it. Consideration of all recognized factors confirm the legal and factual inadequacy of Sheryl’s motion.

Continuing, Defendant's motion wholly ignores well-established precedent that an order barring a litigant from taking a deposition is a most extraordinary measure, and absent extraordinary circumstances, such an order would likely be in error¹¹. The moving party bears a heavy burden of showing "extraordinary circumstances" that would justify such an order, and the showing must be sufficient to overcome plaintiff's "legitimate and important interests in trial preparation."¹²

¹⁰ See *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (1976); *Venetian Casino Resort, LLC. v. Eighth Judicial Dist. Court*, 136 Nev. Adv. Rep. 26, 467 P.3d 1 (2020); *In re Roman Catholic Archbishop of Portland in Or.*, 661 F.3d 417 (9th Cir. 2011); *Glenmede Trust Co. v. Thompson*, 56 F.3d 476 (1995).

¹¹ *Salter v. Upjohn Co.*, 593 F.2d 649, 651 (1979) ("It is very unusual for a court to prohibit the taking of a deposition altogether and absent extraordinary circumstances, such an order would likely be in error."); *Investment Props., Int'l v. IOS, Ltd.*, 459 F.2d 705, 708 ((1972); *Jennings v. Family Mgmt.*, 201 F.R.D. 272 (2001); see also *Naftchi v. New York Univ. Med. Ctr.*, 172, F.R.D. 130 (1997) (“it is exceedingly difficult to demonstrate an appropriate basis for an order barring the taking of a deposition.”).

¹² See *Alexander v. FBI*, 186 F.R.D. 71, 75 (1998); see also *Prozina Shipping Co., Ltd. v. Thirty-Four Automobiles*, 179 F.R.D. 41, 48 (1998); *Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1121 (1986) (burden of persuasion is on the party seeking protective order; the harm alleged "must be significant, not a mere

1 Courts have repeatedly held protective orders pursuant to Rule 26 should be
2 sparingly used and cautiously granted.”¹³

3 Examples of "extraordinary circumstances" are rare, such as if there is
4 "compelling evidence that a deposition will constitute a substantial threat to a
5 witness' life"¹⁴, a factor that is nonexistent in the case at bar. A protective order
6 mandates an affirmative showing of annoyance, embarrassment, oppression, or
7 undue burden or expense¹⁵—*a burden Sheryl is unable to meet.*

8 **B. *There is no factual or legal basis that would enable Sheryl to***
9 ***prevent the taking of Defendant’s deposition***

10 In this case, the mere fact Sheryl has been appointed guardian over the
11 Defendant does not constitute a gag order, does not silence him, and certainly does
12 not entitle Sheryl to forever prevent Rodney from speaking. Rodney is not deaf, is
13 not dumb, and is not incapable of answering questions. It is significant to note the
14 Colorado Court did not impose such extreme, patently unfair and legally
15 impermissible limitations—*Sheryl simply wishes to prevent the disclosure of any*
16 *facts and testimony from Rodney himself that would contradict and disprove the*
17 *representations Sheryl has made to this Court.*

18 Indeed, in the Order Appointing Guardian for Adult, the Colorado Court
19 found and determined the nature and extent of Rodney’s incapacity as follows:

20 “[Rodney] is not capable of ***completely*** caring for himself. Due to his
21 strokes and Traumatic brain Injuries he “forgets” simple tasks such as
22 how to use a microwave or other household appliances. Ward cannot

23 trifle”); *Farnsworth v. Procter & Gamble Co.*, 758 F.2d 1545, 1547 (1985) ("trial
24 preparation and defense . . . are important interests, and great care must be taken to
25 avoid their unnecessary infringement"); *In re Terra Int’l*, 134 F.3d 302 (1998).

26 ¹³ See *Gioioso v. Thoroughgood’s Transport, LLC.*, 2017 U.S. Dist. LEXIS 138273.

27 ¹⁴ See *United States v. Mariani*, 178 F.R.D. 447, 448 (1998) (protective order
28 preventing the deposition of 83-year-old terminally ill witness warranted); see also
Frideres v. Schlitz, 150 F.R.D. 153, 156 (1993) (protective order issued where
witness' physician opined that the stress from deposition could be "life threatening"
to the witness); *In re McCorhill Publishing, Inc.*, 91 B.R. 223, 225 (1988).

¹⁵ See *Venetian*, 467 P.3d at 9.

1 *always remember* to feed himself or to visit his medical doctors and
2 take prescriptions on time.”¹⁶ (Emphasis supplied).

3 Clearly, Rodney has a voice and the Colorado Court recognized his right to
4 be heard. He can voice his desires, preferences, things he does remember, how he
5 is treated—or if mistreated, and things he wants, to name but a few of the myriad of
6 things Rodney can speak of, complain of, request, or otherwise comment upon.
7 Most importantly, Rodney can comment upon truth or lies—something Sheryl is
8 desperately trying to prevent.

9 Notably, review of the Colorado Order shows *Sheryl was not* entrusted with
10 the “day-to-day finances for the support, care, education, health, and welfare of
11 Rodney”¹⁷. Rodney does that. Further, all medical powers of attorney that Sheryl
12 may have obtained, were terminated¹⁸. Lastly, the Colorado Court expressly ruled
13 Sheryl:

14 *does not have the authority* to obtain hospital or institutional care and
15 treatment for mental illness, developmental disability, alcoholism or
16 substance abuse *against the will of the ward*¹⁹.

17 The Colorado Court also ordered *Rodney* to receive copies of all future court
18 filings²⁰—a foolish endeavor if Rodney lacked the “capacity” to understand them,
19 to comment upon them, or if his “will” means nothing. The language of the order is
20 not surplusage that Sheryl can ignore and/or conceal as she sees fit.

21 It is extremely concerning that the Colorado Court recognizes Rodney’s
22 ability to speak and voice “his will”—but Sheryl asks this Court to forever silence
23
24
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26 ¹⁶ Colorado Order, WILK000321, submitted herewith as Exhibit “1”.

27 ¹⁷ Exhibit “1”, WILK000322

28 ¹⁸ *Id.*

¹⁹ *Id.*, WILK000323, ¶ 13; *see also* WILK000324.

²⁰ *Id.*, WILK000322, ¶ 11; WILK000327, ¶ 7.

1 Rodney and to keep his will and other knowledge, concerns, and positions,
2 concealed from Tessie and this Court²¹.

3 Sheryl has made Rodney's "competency" an issue, and on Rodney's behalf,
4 initiated litigation against Tessie. Clearly, Tessie is entitled to not only test that
5 professed "incompetence" and the validity/accuracy of Sheryl's representations²²,
6 but to obtain the very "will" the Colorado Court has made patently clear remains
7 **Rodney's** and subject to disclosure.

8 ***C. The fact Sheryl has been appointed Rodney's guardian is***
9 ***meaningless and legally insufficient to prevent the taking of***
10 ***Rodney's deposition.***

11 As this Court knows, a witness is presumed competent to testify until the
12 contrary is established²³. While Rodney has been appointed a guardian, that does
13 not render him incapable of, or in any way excuse, his being deposed or testifying
14 in this matter. Indeed, even a person who has been declared insane can be found
15 competent to testify.²⁴ The witness's unreliability, if any, goes to his credibility,
16 which is for the trier-of-fact to consider,²⁵ and certainly not a basis to preclude such
17 testimony or the taking of one's deposition²⁶.

18 _____
19 ²¹ See *In re Christina B.*, 19 Cal. App. 4th 1441, 23 Cal. Rptr. 2d 918 (1993)
(guardian cannot waive defendant ward's right to trial over ward's objection);

20 ²² See *Naftchi*, 172 F.R.D. at 132; *Rolscreen Co. v. Pella Products of St. Louis, Inc.*,
21 145 F.R.D. 92, 97 (1992); *Travelers Rental Co. v. Ford Motor Co.*, 116 F.R.D. 140,
143 (1987).

22 ²³ See NRS 50.015 (every person is competent to be a witness, except as otherwise
provided by statute).

23 ²⁴ See *Belcher v. Johnson*, 834 So. 2d 422 (2003), citing *Fla. Power & Light Co. v.*
24 *Robinson*, 68 So. 2d 406 (Fla. 1953).

25 ²⁵ See *Passarelli v. State*, 93 Nev. 292, 564 P.2d 608 (1977); *Gray v. State*, 130
26 Nev. 1182 (2014); see also *Terry v. State*, 668 So. 2d 954, footnote 9
(1996), citing *Weygant v. Fort Meyers Lincoln Mercury, Inc.*, 640 So. 2d 1092
(1994).

27 ²⁶ See e.g. *Kaelin v. State*, 410 So.2d 1355 (1982); *Belcher, supra* (granting a
28 protective order without an evidentiary hearing and a corresponding factual
determination of disqualification as a witness constituted judicial error); *Urbanek v.*

1 To be clear, Sheryl is violating her duty of candor with the instant motion. As
2 noted herein, Sheryl misstates the Colorado Orders and conceals the fact Rodney
3 maintains the ability to express his will and make decisions. Sheryl misstates
4 Rodney's medical record of August 15, 2020²⁷, concealing the fact that despite his
5 cognitive deficits and a history of traumatic brain injury, "*patient has capacity to*
6 *make his own decisions at this time.*"²⁸ No court has found Rodney lacks the
7 ability to testify, lacks the ability to communicate, lacks personal knowledge, or in
8 any way is incapable of understanding the duty of a witness to tell the truth.
9 Rodney may forget how to work a microwave or to take his meds, but to distort his
10 limitations into a prohibition of speech is inexcusable and absurd.

11 Lastly, Sheryl's reliance upon, and reference to, *her* "expert" witness, who
12 has *not* testified before the Court, who has *not* been subjected to cross-examination,
13 and who has *not even met* with Rodney, is both improper and sanctionable.
14 Notwithstanding, it is significant that even with such biased and premature report,
15 Sheryl's expert did conclude Rodney was incapable of speaking, testifying, or being
16 deposed.

17 It is telling that Sheryl does not address Rodney's ability to testify, disregards
18 Tessie's right to take Rodney's deposition, and ignores dispositive legal precedent,
19 and instead references an inapplicable definition found in NRS 132.175. As noted
20 herein, NRS 132.175 is found within, and pertains to, the Chapter and statutes
21 pertaining to "Wills and Estates of Deceased Persons". The fact we are not dealing
22 with a will and that Rodney is not yet a deceased person are merely facts and
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26 *Hopkins*, 993 So. 2d 1110 (2008) (88 year old with Parkinson's disease compelled
to testify).

27 ²⁷ A record that reflects Rodney seeking medical help, on his own, for shoulder
pain.

28 ²⁸ Exhibit "2", WILK000010

1 requirements that Sheryl “overlooks”²⁹. Regardless, Sheryl presents no legal
2 authority that would disqualify Rodney from testifying or from being deposed. As
3 established above, legal precedent clearly provides that Rodney is competent to
4 testify, able to be deposed, and as ordered by the Colorado Court, his voice and
5 participation must be allowed³⁰.

6 Rodney is the named defendant and his testimony is vital to the issues now
7 pending before the Court. He is capable of testifying and being deposed.

8 ***D. Argument of Sheryl’s inconvenience and alleged annoyance***
9 ***and embarrassment is patently absurd and legally insufficient***
10 ***to prohibit the taking of Rodney’s deposition.***

11 It is well established that in order to establish good cause for issuance of a
12 protective order, Sheryl bears the burden of showing that specific prejudice or harm
13 will result if no protective order is granted³¹. Of particular relevance, courts will not
14 issue protective orders supported only by broad allegations of harm,
15 unsubstantiated by specific examples or articulated reasoning³². In this case,
16 Sheryl’s arguments are untenable and her requested relief unwarranted.

17 The first baseless argument that Sheryl hurls against the wall is *her*
18 “inconvenience” of having to “travel across multiple states”³³ (to the assisted living
19 facility in the State where *she* placed Rodney and where he remains). Courts have

20
21 ²⁹ Given Sheryl’s historic and continuing violation of the duty of candor owed to
22 this Court, it is submitted such action is deliberate—rather than mere
23 “carelessness”.

24 ³⁰ Any finding in the Colorado Courts referencing the nature and extent of
25 Rodney’s incapacitation must be considered in the entirety of the respective
26 guardianship and conservatorship orders. NRS 132.175 is inapplicable and has no
27 relevance on Rodney being competent to testify or to be deposed.

28 ³¹ See *Tighe v. County*, 2018 LEXIS 196904, *4 (2018) (citing *In re Roman*
Catholic Archbishop of Portland, 661 F.3d 417, 424 (9th Cir. 2011)).

³² See *Beckman Indus., Inc. v. International Ins. Co.*, 966 F.2d 470, 476 (9th Cir.
1992); *San Jose Mercury News, Inc. v. United States Dist. Court*, 187 F.3d 1096,
1103 (9th Cir. 1999).

³³ Sheryl’s motion, page 13 of 22, lines 3-4.

1 long held litigation is inconvenient to both parties and witnesses in general, and that
2 such does not constitute good cause to prohibit the taking of a deposition³⁴.
3 Moreover, it is significant to note that as a general rule, courts ***will not grant***
4 ***protective orders that prohibit the taking of deposition testimony***.³⁵

5 Continuing, as distinct from a review of documents, "[t]he underlying
6 purpose of a deposition is to find out what a witness saw, heard, or did -- what the
7 witness thinks."³⁶ In the instant case, given the instrumental and vital role of
8 Rodney, Sheryl's endeavor to prohibit and enjoin him from speaking is not only
9 unwarranted, but reprehensible.

10 Next, Sheryl includes in her frantic shotgun approach, unsupported and
11 baseless requests to (1) "specify the terms, including time and Place or the
12 allocation of expenses for Rodney's deposition" (citing NRCP 26(c)(1)(B)); (2)
13 limiting Rodney's deposition "to a shortened period of time" (without citation to
14 any legal support and in disregard to, and inconsistent with, NRCP 30); and
15 inexplicably to prohibit Tessie from recording the deposition by a videographer
16 (again without reference to legal support).

18 ³⁴ See *Hackett v. Segerblom*, 2007 U.S. Dist. LEXIS 57454; *United States v. Rock*
19 *Springs Vista Dev.*, 185 F.R.D. 603 (Nev. 1999) (holding inconvenience or expense
20 is insufficient to prevent questioning by the opposing party regarding the basis for
21 the claim(s)); *Turner Broadcasting System, Inc. v. Tracinda Corporation*, 175
22 F.R.D. 554 (D.Nev. 1997); see also *Okada v. Eighth Judicial Dist. Court*, 131 Nev.
23 834 (2015) (noting "the deponent must show "good cause" for not being required to
24 travel to the deposition location").

23 ³⁵ See *Medlin v. Andrew*, 113 F.R.D. 650 (1987); *Salter v. Upjohn Co.*, 593 F.2d
24 649 (1979); In *Re McCorhill Publishing, Inc.*, 91 B.R. 223 (1988); 8 Wright and
25 *Miller Federal Practice and Procedure*, § 2037 (1986 Supp.), see also *Clinton v.*
26 *Jones*, 117 S. Ct. 1636, 1643 (1997) (Even the busy schedule of a sitting President
27 of the United States does not preclude his pretrial deposition in a private action
28 against him).

27 ³⁶ *Hall v. Clifton Precision*, 150 F.R.D. 525, 528 (1993); see also *Applied*
28 *Telematics, Inc. v. Sprint Corp.*, 1995 U.S. Dist. LEXIS 2191 (1995).

1 Aside from the absence of legal support for Sheryl's requested relief, there is
2 no factual basis that supports her requests as well. *Fatal to Sheryl's motion* and
3 corresponding requests is the utter *absence of any facts*, sufficiently establishing
4 and sufficient to meet the considerable burden imposed upon her by law, of
5 "annoyance, embarrassment, oppression, or undue burden or expense", that must be
6 shown *before and in order* to obtain *any* of the protections found in NRCP
7 26(c)(1). The absence of such facts firmly establishes the lack of merit to Sheryl's
8 motion³⁷.

9 **E. *The only party that is entitled to, and deserving of, an award of***
10 ***Attorney's fees is Tessie.***

11 It is irrefutable that controlling and applicable case precedent and legal
12 authority defeats Sheryl's attempt to enjoin Rodney from speaking in favor of
13 Tessie and against Sheryl with the taking (and recording) of his deposition.
14 Sheryl's motion is frivolous. Sheryl failed to overcome the overwhelming burden
15 that would entitle her to the requested protection order. In sum, Sheryl has acted in
16 bad faith.

17 Thus, as conceded by Sheryl, NRCP 37 is applicable to the instant matter,
18 and pursuant to NRCP 37(5)(B), Tessie is entitled to be reimbursed the reasonable
19 expenses "incurred in opposing the motion, including attorney fees."

20 **IV.**

21 **Conclusion**

22 The law clearly mandates that Sheryl needed to make a clear showing of a
23 particular and specific need for the protection order prohibiting Tessie from taking
24 Rodney's deposition and ensuring his silence (and in turn, concealing Sheryl's

25 ³⁷ Indeed, the Court surely cannot make a determination as to whether a protective
26 order is necessary "to protect a party or person from annoyance, embarrassment,
27 oppression, or undue burden or expense" without knowing what is allegedly
28 annoying, harassing or embarrassing.

1 egregious conduct and material misrepresentations³⁸. Based on the foregoing, it is
2 abundantly evident Sheryl did not, and cannot, sustain the burden that must be
3 shown, or demonstrated “good cause” for the issuance of a protective order or any
4 her requested relief. Hence, it is respectfully requested this Court:

- 5 1. Issue Deny Defendant’s Motion in its entirety;
- 6 2. Award Plaintiff Attorney’s fees and costs for having to oppose and
7 respond to Defendant’s baseless motion; and
- 8 3. Addressing any further relief this Court deems necessary, just, and/or
9 equitable.

10 Dated this 1st day of June, 2021.

11 **HOFLAND & TOMSHECK**

12
13 By: /s/ Bradley J. Hofland

14 Bradley J. Hofland, Esq.
15 State Bar of Nevada No. 6343
16 228 South 4th Street, First Floor
17 Las Vegas, Nevada 89101
(702) 895-6760
Attorneys for Plaintiff

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28 ³⁸ *Blankenship v. Hearst Corp.* 519 F.2d 418, 429 (9th Cir. 1975); *Foltz v. State Farm Mut. Auto Ins. Co.*, 331 F. 3d. 1122, 1130 (9th Cir. 2003).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am an employee of HOFLAND & TOMSHECK, that pursuant to Administrative Order 14-2, NEFCR 9, and NRCP 5(b), on the 1st day of June, 2021, I served the forgoing **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION FOR PROTECTIVE ORDER PRECLUDING PLAINTIFF FROM TAKING THE VIDEO DEPOSITION OF DEFENDANT RODNEY WILKINSON PURSUANT TO NRCP 26, FOR ATTORNEY'S FEES AND COSTS, AND FOR ALL OTHER RELATED RELIEF AND COUNTERMOTION FOR ATTORNEY'S FEES AND COSTS AND RELATED RELIEF** on the following parties by E-Service through the Odyssey filing system and/or U.S. Mail addressed as follows:

JAMES W. KWON, ESQ.
jkwon@jwklawfirm.com
Attorney for Defendant

BY: /s/ Nikki Woulfe
An Employee of HOFLAND & TOMSHECK

EXHIBIT “1”

District Court, Lincoln County, Colorado 103 Third Ave, PO Box 128 Hugo, CO 80821	DATE FILED: November 23, 2020 1:22 PM
	COURT USE ONLY
In the Matter of the Estate of: Rodney Edward Wilkinson	Case Number: 2020PR30016 Division: 1
ORDER APPOINTING GUARDIAN FOR ADULT	

Upon consideration of the Petition for Appointment of Guardian for the above respondent and hearing on November 23, 2020 (date),

The court has considered any express wishes of the respondent concerning the selection of the guardian. The court has considered the powers and duties of the guardian, the scope of the guardianship, and the priority and qualifications of the nominee.

The court finds, determines and orders:

1. Venue is proper and required notices have been given or waived.
2. The evidence is clear and convincing that the respondent is an incapacitated person and the respondent's needs cannot be met by less restrictive means, including the use of appropriate and reasonably available technological assistance.
3. The nature and extent of the respondent's incapacity is as follows:
Ward is not capable of completely caring for himself. Due to his strokes and Traumatic brain Injuries he "forgets" simple tasks such as how to use a microwave or other household appliances. Ward cannot always remember to feed himself or to visit his medical doctors and take prescriptions on time.
4. **The court appoints the following persons as co-guardian for the ward:**

Sheryl Kay Atterberg
PO Box 4109
Idaho Springs, CO 80452
520-820-8338
k9ul@icloud.com

Steven Atterberg
PO Box 4109
Idaho Springs, CO 80452
520-820-8338
k9ul@icloud.com

5. The guardian must promptly notify the court if the guardian's street address, email address, or phone number changes or of any change of address for the ward.
6. The guardian may not establish or move the ward's custodial dwelling outside the State of Colorado without a court order.
7. Within 30 days of appointment, the guardian must provide a copy of this Order Appointing Guardian for Adult to the ward and persons given notice of the petition and must advise those persons using Notice of Appointment of Guardian and/or Conservator (JDF 812) that they have the right to request termination or modification of the guardianship.
8. The guardian must file the initial Guardian's Report - Adult (JDF 850) by January 14, 2021 (date 60 days from appointment) and must file annual Guardian's Report - Adult (JDF 850) by each February 28 (date) beginning in 2022 (year), for the duration of the guardianship.
9. ☐ The guardian must manage the day-to-day finances for the support, care, education, health and welfare of the ward. The guardian is required to maintain supporting documentation for all receipts and all disbursements during the duration of this appointment. The court further orders the following:

10. ☒ Medical powers of attorney, whether executed prior to or following the entry of this order, are terminated, except as follows:

11. Copies of all future court filings must be provided to the following interested persons:

Name	Relationship to the Ward
Rodney Edward Wilkinson	Ward
Sheryl Atterberg	Guardian
Steve Atterberg	Co-Guardian

12. The guardian is authorized to access the ward's medical records and information. The guardian is deemed to be ward's personal representative for all purposes relating to ward's protected health information, as provided in HIPAA, Section 45 CFR 164.502(g)(2).
13. The guardian does not have the authority to obtain hospital or institutional care and treatment for mental illness, developmental disability, alcoholism or substance abuse against the will of the ward.
14. If the ward is an "at risk elder" or "at risk adult with an intellectual and developmental disability," and if the guardian has reasonable cause to believe that the ward has been abused or exploited or is at imminent risk of abuse or exploitation, the guardian is required to make a report to law enforcement within 24 hours after the observation or discovery pursuant to C.R.S. § 18-6.5-108(1)(b)(XII).
15. **Letters of Guardianship will be issued.**
☒ The powers and duties of the guardian are unrestricted.
☐ The powers and duties of the guardian are limited by the following restrictions:

16. **The court further orders:**

Date: November 23, 2020



☒ Judge ☐ Magistrate

EXHIBIT “2”

THE RODNEY E. WILKINSON TRUST

Dated this 14 DAY OF August, 2007

THIS TRUST AGREEMENT made and entered into this 14th day of August, 2007, made and entered into by and between

Rodney E. Wilkinson

whose current address is 5730 Road 10, Goodland, Sherman County, Ks 67735, hereinafter referred to "Settlor," and

Rodney E. Wilkinson

hereinafter referred to as the TRUSTEE, is as follows:

The Settlers hereby transfer to the Trustees the property described in Schedule "A" which is hereto attached and made a part of this agreement, and the Trustees accept that property and agree to hold the property in trust pursuant to the terms hereof. That property and any other property added to the trust in accordance with the provisions of this instrument and all investments and reinvestments hereof shall be held in trust under the following terms and conditions:

ARTICLE I

NAME OF TRUST

This instrument of trust is hereby named "The Rodney E. Wilkinson Trust dated the 14th day of August, 2007."

ARTICLE II

FAMILY OF THE SETTLOR

Rodney E. Wilkinson has never been married, has no children, either living or dead, and has one brother, John Wilkinson, and one sister, Sheryl Atterberg. Under no

circumstances, is a distribution of income or principal to be made to either my brother, John Wilkinson or my sister, Sheryl Atterberg.

ADDITIONS TO AND WITHDRAWALS FROM THE TRUST ESTATE

The Settlor or any other person may transfer, by will or otherwise, any other property to the trust estate with the consent of the trustees to be administered under the terms and provisions of this trust agreement.

ARTICLE IV

AMENDMENT AND REVOCATION

The Settlor may, from time to time, amend this trust agreement in any respect or revoke it in whole or in part by an instrument in writing signed by the Settlor and delivered to the trustees during the Settlor's lifetime, provided that the duties and compensation of the trustees shall not be materially changed by any amendment without their written approval. Settlor shall have the right to alter, amend, change or revoke this instrument during their lifetimes, or during the lifetime of the survivor of them.

ARTICLE V

DISTRIBUTION OF INCOME AND/OR PRINCIPAL DURING SETTLOR'S LIFETIME

The Trustee may distribute the trust income and or principal, to the extent of exhausting the trust assets, to Rodney E. Wilkinson, during his lifetime. However, if the settlor become incapacitated through illness, age or other causes, the trustee may, in his or her discretion, from time to time, during the period the trustees believes such incapacity continues, use so much of the net income and any portion or all of the principal of the trust for the reasonable support, maintenance and health of the settlor as the trustees from

time to time determines to be necessary; and the trustee, or successor trustees, may in their uncontrolled discretion.

ARTICLE VI

DISPOSITION OF THE TRUST PROPERTY AFTER THE SETTLOR'S DEATH

After the Settlor's death, the trustees shall pay all the just and provable debts of the Settlor, the expenses of last illness, funeral expenses, cost of administration and claims allowed in the administration of the settlor's estate, if any, and pay all death taxes imposed on said estate, whether federal or state. All such payments shall be made prior to the distribution of my assets to a beneficiary hereunder.

The balance of the trust assets, of whatsoever kind and whosoever situated, shall be distrusted, as follows:

(a) To my friend and confidant Tessie Mae Brown, whose current address is 5730 Road 10, Goodland, Ks 67735;

RW ^{*EL ma*} (b) If the said Tessie ~~Mae~~ Brown shall fail to survive me, then all of the proceeds of the trust shall be distributed to Erica Sarai Bell, whose address is 377 Alta Vista Drive, S., San Francisco, CA 94080.

RW (c) If neither of the foregoing survive me, then I direct that all trust proceeds be distributed to Sheeryl Attetberg, my sister.

ARTICLE VI

CONTESTING THE PROVISIONS OF THIS INSTRUMENT OF TRUST

I have carefully considered the provisions of this trust instrument and the distribution of the assets there under. I feel that the provisions are very fair and should be enforced as we have stated herein. Should any distributee or heir, whether named herein or not, threaten or attempt to contest any of the trust provisions, then his or her

distributive share shall be reduced to the sum of one dollar (\$1.00) and all costs which are incurred in such contest, whether the same be for attorneys, accountants, or any other individual or court costs, will be paid by the person contesting the provisions thereof and not from the trust proceeds

ARTICLE VI

INCAPACITY OF SETTLOR OR TRUSTEES

If at any time the Settlor or a trustee named herein shall receive a written statement signed by the personal physician of either of the Settlor or a Trustee stating that the said physician considers either the Settlor, or either of them, or a Trustee to be so mentally or physically incapacitated as to be unable to effectively manage or apply her estate to necessary ends, and if the other Trustees shall concur in any such statement and shall file a similar statement in the records of the trust, then, whether or not that a Settlor or a Trustee may have been adjudicated or certified an incapacitated or incompetent person and notwithstanding any contrary direction from Settlor or the Trustee, that Settlor or that Trustee may be considered incapacitated.

If a Settlor or a Trustee is determined to be incapacitated, then, during the period of such incapacity, (a) if a Settlor or a Trustee is then acting as a Trustee hereunder, he or she shall be deemed to have resigned; (b) any attempt by Settlor or Trustee to exercise any of the powers under this agreement shall be without force and effect; (c) if a disinterested trustee shall have power and authority to exercise or perform any act, power, duty, right or obligation whatsoever that Settlor or a Trustee may have, relating to any person, matter, transaction or property, real or personal, tangible or intangible, whether in the trust estate or owned by Settlor, including, with limitation, power to transfer to itself upon the terms set forth in this agreement any property owned by the Settlor. The power

granted to the Trustee or Trustees under (c) shall be construed and interpreted as a general, durable power of attorney to act as Settlers' attorney-in-fact and agent in their names and for their benefit and shall in addition to all other powers bestowed upon the Trustee or Trustees by this agreement.

ARTICLE VII

ADMINISTRATIVE PROVISIONS

The following administrative provisions are for the express purpose of guiding the trustees in the prudent administration of this trust:

1. If at any time a beneficiary eligible to receive net income or principal distributions is under legal disability, or in the opinion of the trustees is incapable of properly managing her personal financial affairs, then the trustees may make those distributions directly to the beneficiary, to a lawful guardian of the beneficiary or to a custodian selected by the trustee for the beneficiary under a Uniform Trustees to Minors Act or similar applicable law, or may otherwise expend the amounts to be distributed for the benefit of the beneficiary in such manner as the trustees deems advisable.

2. As used throughout this instrument, the term lawful guardian shall mean successively in the order named: (i) the court-appointed guardian of the estate; (ii) either parent, or (iii) the individual having personal custody (whether or not a court-appointed guardian) where no guardian of the estate has been appointed.

3. The trustees may withhold distribution of principal or interest to the beneficiary in such cases to make certain that the income and principal distributions are used wisely and prudently for the benefit of that beneficiary. If a dispute arises, then they are directed to seek the guidance of the District Court of the State of Kansas having jurisdiction of the trust instrument under Kansas law to assist them in their decisions.

4. Except as may otherwise be provided by law, no power of appointment or power of withdrawal shall be subject to involuntary exercise, and no interest of any beneficiary shall be subject to anticipation, to claims for alimony or support, to the payment of medical, doctor, hospitalization or nursing home expenses, to voluntary transfer without the written consent of the trustees, or to involuntary transfer in any event.

5 . If there is a dispute concerning who is rightfully entitled to distribution under the terms and conditions of this trust, then the trustees shall use their own discretion in making that distribution and be guided by Kansas law in such cases made and provided.

ARTICLE VIII

TRUSTEES POWERS

The Trustee or trustees serving under the terms of this trust shall have full power as set forth under the Uniform Trustees' Power Act, specifically K.S.A. 58-12-01, et seq., and the trustees herein appointed shall have the specific authority to sell lease, mortgage or other side dispose of or lease real or personal property, as they deem best, without interference from or an order from the District Court of any county or state. The purchaser of real or personal property from the trustees of the trust shall be under no duty to follow the proceeds of such sale.

ARTICLE IX

TRUSTEES

Any trustee may resign at any time by giving prior written notice to the co trustee, if then living, or if the cotrustee is not then living, to the beneficiaries to whom the current trust income may or must then be distributed.

There shall always be at least two successor trustees under this trust who shall

serve as co-trustees. I respectfully ask that a corporate trustee not be appointed to serve as co-trustee or as trustee under the provisions of this instrument.

Any successor trustee shall not be liable for acts, defaults or omissions of prior trustees. A successor trustee shall have the title, duties, powers and discretion of the trustee succeeded without the necessity of conveyance or transfer.

RESIGATION AND APPOINTMENT OF SUCCESSOR TRUSTEES

If the original trustee hereunder shall die, resign, become incapacitated or unwilling or unable to perform the duties of a trustee, then a successor trustee shall be appointed. I direct that Kenneth Yoke and Bernard E. Whalen be appointed as co-trustees. The successor trustees shall not incur any liability or be under any legal duty to act, until they have accepted their position in writing. The trustees, shall be entitled to a reasonable fee while service in office. It is my intention that family members shall not serve as trustees at any time or for any reason.

IN WITNESS WHEREOF, the Settlor have affixed their hands and seals and the trustees have executed this instrument all on this 14 day of August, 2007..

SETTLOR:


Rodney E. Wilkinson

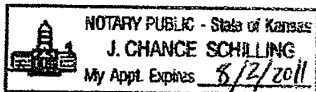
TRUSTEES:


Rodney E. Wilkinson

ACKNOWLEDGEMENT

STATE OF KANSAS, SHERMAN COUNTY, SS

On this 14 day of August, 2007, came before me, the undersigned, a notary public in and for the county and state aforesaid, came Rodney E. Wilkinson, Settlor of said trust in my presence and duly acknowledged the execution thereof.



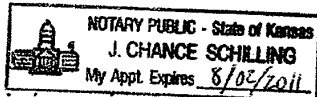
J. C. Schilling
Notary Public

My appointment expires: _____

STATE OF KANSAS, SHERMAN COUNTY, SS

ACKNOWLEDGMENT

On this 14 day of August, 2007, came before me, the undersigned, a notary public in and for the county and state aforesaid, came Rodney E. Wilkinson, and duly acknowledged the foregoing instrument as the Trustees of said Trust.



J. C. Schilling
Notary Public

My commission expires: _____

SCHEDULE "A"

**RODNEY E. WILKINSON TRUST
DATED ____ DAY OF AUGUST, 2007**

Rodney E. Wilkinson does on this ____ day of August, 2007, transfer, assign full and complete ownership in and to all the following described property to Rodney E. Wilkinson, Trustee, and his successor trustees, the following described real and personal property:

Real Estate:

The Northeast one-quarter (¼) of Section Twenty-Six (26), and
The South one-half of Section Twenty-Eight (28),
All in Township Nine (9), S, Range Forty-one (41)
West of the P.M. in
Sherman County, Kansas.

Personal Property:

Four thousand shares of Western Crane and Rigging, Inc., a
Kansas Corporation, represented by stock certificate number
Five (5), of said corporation.

All farm equipment owned by Rodney E. Wilkinson, of every
kind and description, including tractors, combines, cornheads,
and all personal property used in the care and repair of said
described equipment, with specifically listed herein, or not.

All cars, trucks and other licensed vehicles, whether the title
has yet been transferred, or not.

All furniture, household effects and other personal property
in the home of Rodney E. Wilkinson, whether specifically
listed herein, or not.

Dated at Goodland, Ks this ____ day of August, 2007.

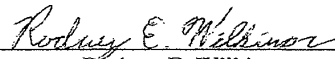

Rodney E. Wilkinson

EXHIBIT A

PLT000015
ROA000450