

IN THE SUPREME COURT OF THE STATE OF NEVADA

In the Matter of the Estate of:

THEODORE E. SCHEIDE JR. aka
THEODORE ERNEST SCHEIDE JR.

Deceased.

THEODORE E. SCHEIDE, III,

Appellant,

v.

ST. JUDE CHILDREN'S RESEARCH
HOSPITAL,

Respondent.

No. 84279

District Court Case No.

P-14-082619-E

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Clerk of Supreme Court

APPEAL

Appellant's Opening Brief

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RULE 26.1 DISCLOSURE STATEMENT

The Appellant herein is an individual. The attorney who is representing, and will appear on behalf of, the Appellant in this case is BRADLEY J. HOFLAND, ESQ. There are no parent corporations.

TABLE OF CONTENTS

	Page
NRAP 26.1 DISCLOSURE.....	i
TABLE OF CONTENTS.....	ii
TABLE OF AUTHORITIES.....	iv
JURISDICTIONAL STATEMENT.....	x
ROUTING STATEMENT.....	x
STATEMENT OF ISSUES.....	1
STATEMENT OF THE CASE.....	1
STATEMENT OF THE FACTS.....	5
SUMMARY OF THE ARGUMENT.....	10
ARGUMENT/LEGAL ANALYSIS.....	12
I. The lower court committed judicial error by adjudicating the subject Petition wrongfully filed by Lebanese Charities without authority and subject matter jurisdiction.....	12
A. <i>The lower court lacked subject matter jurisdiction to address St. Jude’s petition.....</i>	12
B. <i>The Petition filed with the lower court was fraudulent, disallowed as a matter of law, and must be stricken from the record.....</i>	13
C. <i>Lebanese Charities lacked standing to file the subject Petition and to commence litigation in this State.....</i>	17
D. <i>The lower court also lacked jurisdiction because of the violation of NRS 136.100.....</i>	24
E. <i>In the absence of jurisdiction, all resulting orders are void ab initio and must be set aside and vacated.....</i>	26
F. <i>St. Jude came before this Court and maintains this litigation in bad faith and with unclean hands that must not becondoned.....</i>	29

CONCLUSION.....	32
CERTIFICATE OF COMPLIANCE.....	34
CERTIFICATE OF SERVICE.....	35

TABLE OF AUTHORITIES

	Page(s)
<i>Thomas v. City of NLV</i> , 122 Nev. 82, 127 P.3d 1057 (2006).....	2
<i>Edelman v. Jordan</i> , 415 U.S. 651, 94 S. Ct. 1347, 39 L. Ed. 2d 662 (1974).....	12
<i>Clark Cty. Deputy Marshals Ass’n v. Clark Cty.</i> , 2018 Nev. Unpub. LEXIS 799 (2018).....	12
<i>Scherer v. State</i> , 89 Nev. 372, 513 P.2d 1232 (1973).....	12
<i>White v. United States</i> , 2011 U.S. Dist. LEXIS 143052.....	12
<i>NC-DSH, Inc. v. Garner</i> , 125 Nev. 647, 650, 218 P.3d 853, 856 (2009).....	12
<i>Kreisler v. Goldberg</i> , 478 F.3d 209, 213 (2007).....	13
<i>In re Commer. Mort.</i> , 414 B.R. 389 (2009).....	13
<i>Surgical Supply Ctr. V. Industrial Comm’n Dep’t of Emp’t Sec.</i> , 118 Utah 632, 223 P.2d 593, 595 (1950).....	13
<i>Institutional Laundry, Inc. v. Utah State Tax Comm’n</i> , 706 P.2d 1066, 1067-68 (1985).....	13
<i>Holmes Dev., LLC v. Cook</i> , 48 P.3d 895 (Utah 2002).....	13
<i>Hydraulic Press Brick Co. v. Lane</i> , 200 S.W.306 (1918).....	16
<i>Walker v. Eighth Judicial District Court</i> , 120 Nev. 815, 101 P.3d 787 (2004).....	16
<i>Saratoga County Chamber of Commerce v. Pataki</i> , 798 NE2d 1047 (2003).....	17
<i>Pharmacia Corp. v. Suggs</i> , 932 So.2d 95 (2005).....	17
<i>Ryan, Inc. v. New York State Dept. of Taxation & Fin.</i> , 890 NYS2d 306 (2009).....	17
<i>Silver v. Pataki</i> , 755 NE2d 842 (2001).....	17
<i>Associated Builders & Contractors, Inc. v. S.F. Airports Comm’n</i> , 981 P.2d 499 (1999).....	17

<i>Taylor v. Hubbell</i> , 188 F.2d 106 (9 th Cir. 1951).....	17
<i>Applera Corp. v. MP Biomedicals, LLC</i> , 93 Cal. Rptr. 3d 178 (2009).....	17
<i>State v. Property at 2018 Rainbow Drive</i> , 740 So.2d 1025 (1999).....	17
<i>Riley v. Pate</i> , 3 So. 3d 835 (2008).....	17
<i>Landreth v. Malik</i> , 127 Nev. 175, 251 P.3d 163 (2011).....	18
<i>Ross v. Bonaventura</i> , 2013 Nev. Unpub. LEXIS 1810.....	18
<i>Baldonado v. Wynn Las Vegas, LLC</i> , 124 Nev. 951, 968-69, 194 P.3d 96, 107 (2008).....	18
<i>Vaile v. Eighth Judicial Dist. Court</i> , 118 Nev. 262, 276, 44 P.3d 506, 515-16 (2002).....	18
<i>Applera Corp. v. MP Biomedicals, LLC</i> , 93 Cal. Rptr. 3d 178, 192 (Ct. App. 2009).....	18
<i>Warth v. Seldin</i> , 422 U.S. 490 (1975).....	18
<i>Kane v. Johns-Manville Corp.</i> , 843 F.2d 636, 644 (2d Cir. 1988).....	18
<i>Society of Plastics Indus. v County of Suffolk</i> , 573 NE2d 1034 (1991).....	18
<i>Heller v. Legis. of State of Nev.</i> , 120 Nev. 456, 460, 93 P.3d 746, 749 (2004).....	20
<i>Smith v. Snyder</i> , 267 Conn. 456, 839 A.2d 589, 594 (2004).....	20
<i>Schwartz v. Lopez</i> , 132 Nev.732, 382 P.3d 886 (2016).....	20
<i>Morency v. State Dep’t of Educ.</i> , 137 Nev. Adv. Op. 63, 496 P.3d 584 (2021).....	20
<i>Heller v. Legislature of State of Nev.</i> , 120 Nev. 456, 93 P.3d 746 (2004).....	20
<i>Arguello v. Sunset Station, Inc.</i> , 127 Nev. 365, 252 P.3d 206 (2011).....	20
<i>Beazer Homes Holding Corp. v. Eighth Judicial Dist. Court of Nev.</i> , 128 Nev. 723, 291 P.3d 128(2012).....	20
<i>Utah Ass’n of Counties v. Bush</i> , 455 F.3d 1094, 1100 (2006).....	20
<i>United Safeguard Distribs. Ass’n v. Safeguard Bus. Sys.</i> ,	

2016 U.S. Dist. LEXIS 65674.....	20
<i>Valley View Health Care, Inc. v. Chapman,</i> 992 F. Supp 2d 1016 (E.D. Cal. 2014).....	20
<i>Lujan v. Defenders of Wildlife,</i> 504 U.S. 555 (1992).....	21
<i>Pitre v. Wal-Mart Stores, Inc.,</i> 2019 U.S. Dist. LEXIS 181052.....	21
<i>WildEarth Guardians v. Public Service,</i> 690 F.3d 1174, 1182 (10th Cir. 2012).....	21
<i>State of Utah v. Babbitt,</i> 137 F.3d 1193, 1204 (10th Cir. 1998).....	21
<i>Summers v. Earth Island Inst.,</i> 555 U.S. 488 (2009).....	21
<i>Wilderness Soc’y v. Kane Cnty.,</i> 632 F.3d 1162, 1168 (2011).....	21
<i>In re Jack Hudson, Inc.,</i> 6 B.R. 153 (Nevada Bankruptcy Court) (1980).....	22
<i>Rainbow Drive,</i> 740 So.2d at 1029.....	23
<i>Crutcher v. Williams,</i> 12 So.3d 631 (2008).....	23
<i>Mapoles v. Wilson,</i> 122 So.2d 249 (1960).....	23
<i>Szilagyi v. Testa,</i> 99 Nev. 834, 838, 673 P.2d 495, 498 (1983).....	24
<i>Harman v. City and County of San Francisco,</i> 7 Cal.3d 150, 101 Cal.Rptr. 880, 496 P.2d 1248, 1254 (1972).....	24
<i>Klugh v. U.S.,</i> 620 F.Supp. 892 (D.S.C. 1985).....	26
<i>Travelers Ins. Co. Joachim,</i> 315 S.W.3d 860 (2010).....	26
<i>Ex parte Seidel,</i> 39 S.W.3d 221 (2001).....	26
<i>Evans v. Oregon Short R. R. Co.,</i> 149 P. 715 (1915).....	27
<i>Valley v. Northern Fire & Marine Ins. Co.,</i> 254 U.S. 348 (1920).....	27
<i>Del Papa v. Steffen,</i> 112 Nev. 369, 915 P.2d 245 (1996).....	27
<i>Abelleira v. District Court of Appeal,</i> 17 Cal. 2d 280, 109 P.2d 942, 948 (1941).....	27

<i>Holder v. Scott</i> , 396 S.W.2d 906 (1965).....	27
<i>Old Wayne Mut. L. Assoc. v. McDonough</i> , 204 U.S. 8 (1907).....	27
<i>Rawson v. Ninth Judicial Dist. Court of Nev.</i> , 133 Nev. 309, 396 P.3d 842 (2017).....	27
<i>Douglas Milling & Power Co. v. Rickey</i> , 47 Nev. 148, 217 P. 590 (1923).....	27
<i>Blevins v. Hillwood Office Ctr. Owners’ Ass’n</i> , 51 So.3d 317 (2010).....	27
<i>State v. Foster</i> , 102 N.E.3d 1199 (2017).....	28
<i>Ex parte HealthSouth Corp.</i> , 974 So.2d 288 (2007).....	28
<i>Ex parte Ray–El</i> , 911 So.2d 1100 (2004).....	28
<i>Whitmore v. Arkansas</i> , 495 U.S. 149, 164, 110 S.Ct. 1717, 109 L.Ed.2d 135 (1990).....	28
<i>Harrison v. John Thomas Wray Props.</i> , 2008 U.S. Dist. LEXIS 129905.....	28
<i>Armstrong v. Manzo</i> , 380 U. S. 545 (1965).....	28
<i>Walls v. Erupcion Min. Co.</i> , 6 P.2d 1021 (N.M. 1931).....	29
<i>Kokkos v. Tsalikis</i> , 91 Nev. 24, 530 P.2d 756 (1975).....	29
<i>Evans v. Dean Witter Reynolds, Inc.</i> , 116 Nev. 598, 5 P.3d 1043 (2000).....	31
<i>Frey v. Eighth Judicial Dist. Court of State</i> , 2013 Nev. Unpub. LEXIS 1651.....	31

STATUTES

NRS 136.100(2).....	1
NRS 136.240.....	1
NRS 136.240.....	2
NRS 141.050.....	2
NRS 82.5234.....	2
NRS 136.240(3).....	3
NRS 82.5234(2).....	4
NRS 136.240.....	5
NRS 141.050.....	5
NRS 136.240(3).....	6
NRS §82.5234.....	6
NRS 82.5234.....	8
NRS 136.240.....	10
NRS 141.050.....	10
NRS 136.090.....	10
NRS 82.523.....	11
NRS §82.5234.....	14
NRS 80.055(2).....	14
NRS 80.010.....	14
NRS 80.040.....	14
NRS 80.010.....	15
NRS 80.040.....	15
NRS 80.055.....	16
NRS 82.5234(2).....	19
NRS 136.100.....	24
NRS 155.020.....	24
NRS 155.010.....	24
NRS 155.010.....	25
NRS 136.240.....	26
NRS 462.200.....	30
NRS 463.130(1)(2)(b).....	30

OTHER AUTHORITIES

NRAP 17(b).....	iv
NRCP 17.....	3
NRCP 11.....	6
NRCP 17.....	11
NRCP 11.....	11
NRCP 17(a).....	20
NRCP 17.....	22
NRAP 32(a)(4).....	34
NRAP 32(a)(5).....	34
NRAP 32(a)(6).....	34
NRAP 32(a)(7).....	34
NRAP 32(a)(7)(C).....	34
NRAP 28(e)(1).....	34

JURISDICTIONAL STATEMENT

This is an appeal from of the Lower Court's adverse ruling to Appellant's motion to strike a fraudulently submitted Petition naming St. Jude's Research Hospital as Petitioner. The matter was decided by the Honorable Gloria Sturman on April 14, 2021. Respondent did not prepare the Order denying motion to strike and countermotion for attorney's fees and costs until January 11, 2022¹. Notice of Entry of that Decision and Order was filed January 21, 2022. There were no tolling motions filed and on February 21, 2022 Appellant timely filed his Notice of Appeal.

ROUTING STATEMENT

Pursuant to NRAP 17(b), this appeal is presumptively assigned to the Court of Appeals.

¹ Respondent incorrectly referred to the hearing date as July 30, 2021.

STATEMENT OF ISSUES

1. Whether the lower court erred in its interpretation and application of controlling statutes.
2. Whether violation of NRS 136.100(2) divests the lower court of jurisdiction to admit a lost will pursuant to NRS 136.240.
3. Whether the lower court lacked jurisdiction to adjudicate the Petition naming St. Jude's Research Hospital as Petitioner;
4. Whether the Court erred in denying Petitioner/Movant's motion to strike and counter motion for attorney's fees and costs;
5. Whether the Court erred in failing to make the requisite factual findings in denying Petitioner/Movant's motion;

STATEMENT OF THE CASE

The decedent, THEODORE E. SCHEIDE JR. ("Theodore") died on August 17, 2014, in Clark County, Nevada, and was a resident of the State of Nevada at that time and for all applicable time periods (1 ROA 1-4). Susan Hoy was appointed as Administratrix of the estate (1 ROA 6), with letters of Administration issued May 26, 2015 (1 ROA 33-34). No original 2012 documents, or powers of attorney, were ever located and the estate therefore proceeded under intestate succession (Id).

Accordingly, the Administrator filed, *inter alia*, a First and Final Report and Accounting and Petition for Final Distribution and Approval of Costs and Fees for

the benefit of Theodore (“Chip”) Scheide (“Appellant”), the decedent’s son (1 ROA 42-47). Prior to the matter being heard, St. Jude Children’s Research Hospital (“St. Jude”) filed a Notice of Appearance (1 ROA 48-50). Subsequently, St. Jude’s local counsel², filed a document captioned “Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050); Issuance of Letters Testamentary (NRS 136.090)” (“subject petition”), purportedly through St. Jude (1ROA 98-150). However, the document confirms it was verified by a “Fred E. Jones, Jr.” of “Lebanese Charities³”, and **not** St. Jude, who filed the legally impermissible and subject Petition (Id.).

Notably, counsel for St. Jude **never** disclosed to the Court that their client, a “nonprofit”⁴ corporation, was “not qualif[ied] to do business in this State” and thus, **as a matter of law**, disallowed and unable to “**commence or maintain any action or proceeding in any court of this State**”⁵, nor did counsel disclose Lebanese Charities

² The Firm of Hutchison & Steffen, LLC filed a Notice of Appearance as counsel for St. Jude only.

³ Lebanese Charities is short for American Lebanese Syrian Associated Charities (“Lebanese Charities”).

⁴ As detailed from available records, the term “nonprofit” is used loosely. Indeed, the record confirms that in 2018 alone, St. Jude received \$974,758,247.00 in contributions and grants, and had total assets of \$6,214,238,431.00. Lebanese Charities is also a 501(c)(3) Corporation who in 2018 alone, received \$1,667,190,856.00 in contributions and grants, and had total assets of \$5,461,105,812.00.

⁵ NRS §82.5234. Such concealment, if known, would constitute a violation of the duty of candor that is owed this Court (*see Thomas v. City of NLV*, 122 Nev. 82, 127 P.3d 1057 (2006)); and if not known, an arguable violation of NRCP 11 and failure to perform adequate due diligence.

(who, according to the record, was *never* represented by Hutchinson & Steffen) lacked standing, did not have a legally recognizable interest in the matter, and was committing fraud upon the Court with the filing of the petition (Id., NRCP 17).

Accordingly, lack of subject matter jurisdiction and the resulting jurisdictional prohibition stemming from the misuse of the legal system, and corresponding manipulation/fraud upon this Court, was not known nor addressed, and equally disturbing, Lebanese Charities, posing as St. Jude, was allowed to seek unfair, unwarranted, and impermissible financial gain (*see infra*).

As a result, an evidentiary hearing regarding the subject matter of the (impermissible and fraudulent) petitions Lebanese Charities filed under the guise of St. Jude, was conducted on June 15 and 16, 2017 on the sole issue of NRS 136.240(3) of whether the October 2012 will would be admitted to Probate (3 ROA 674-85). The District Court issued a Decision and Order dated August 6, 2017 favoring appellant (Id). St. Jude filed Notice of Appeal on September 6, 2018 (3 ROA 686-87). The Nevada Supreme Court—addressing only the issues raised with respect to a “lost will” and the probate thereof, in part reversed that Decision⁶.

Notwithstanding, application of controlling precedent, coupled with the irrefutable facts of this case, confirm the petition filed (*not* by St. Jude, as provided for in the caption), but through Lebanese Charities “on St. Jude’s behalf” was

⁶ Nevada Supreme Court Case No. 76924; decision dated December 31, 2020.

improper, disallowed and impermissible as a matter of law (*see infra*). St. Jude *admits* that Lebanese Charities and St. Jude are two separate entities *and* that Lebanese Charities is the *only* foreign nonprofit corporation that is qualified to do business in this State (see 6 ROA 1342-58). Though disallowed by law, St. Jude maintains they can circumvent the law by corporate resolution (Id.)⁷. The law, however, does not provide St. Jude the right or authority to initiate or commence litigation in this State⁸.

Because the law does not allow St. Jude or Lebanese Charities to circumvent the law and the jurisdictional foundation that must be established, their doing so is/was disallowed, improper, and impermissible as a matter of law and cannot stand⁹. Equally important—and fatal to the relief sought by St. Jude and Lebanese Charities—with the lower court lacking subject matter jurisdiction, all orders issued in this matter must necessarily be vacated and set aside¹⁰. The lower court denied appellants motion to strike (6 ROA 1384), but did not prepare the subject order. The

⁷ Notably, St. Jude conceals the fact that Court Rules and jurisdictional mandates cannot be circumvented through corporate resolution—and significantly, fail to submit any legal authority that would support such an absurd result. While St. Jude “corporately resolved” to allow Lebanese Charities to “handle and administer” the pursuit of funds for St. Jude, corporate resolution does not displace or supersede Court Rule and jurisdictional mandates.

⁸ See NRS 82.5234(2); I(B), *infra*.

⁹ See *infra*.

¹⁰ See Section 1(A), *infra*.

subject order was prepared by counsel appearing for St. Jude (6 ROA 1385-91). That order is legally unsustainable, and subject to reversal on appeal. This appeal follows.

STATEMENT OF FACTS

THEODORE E. SCHEIDE JR. died on August 17, 2014, in Clark County, Nevada, and was a resident of the State of Nevada at that time and for all applicable time periods (1 ROA 1-5). Susan Hoy was appointed as Administratrix of the estate (1 ROA 6), with letters of Administration issued May 26, 2015 (1 ROA 33-34). As confirmed by the record and before this Court, no original 2012 documents were ever located and the estate therefore proceed under intestate succession (Id.).

Thus, the Administrator filed, *inter alia*, a First and Final Report and Accounting and Petition for Final Distribution and Approval of Costs and Fees for the benefit of Theodore (“Chip”) Scheide, the decedents son (1 ROA 42-47). Prior to the matter being heard, St. Jude Children’s Research Hospital (“St. Jude”) filed a Notice of Appearance (1 ROA 48-50), and through local counsel¹¹ filed a document captioned “Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050); Issuance of Letters Testamentary (NRS 136.090)” (“subject petition”), purportedly through St. Jude (1 ROA 51-73). However, the document confirms a “Fred E. Jones, Jr.” of “Lebanese Charities¹²”,

¹¹ The Firm of Hutchison & Steffen, LLC filed a Notice of Appearance as counsel for St. Jude only.

¹² Lebanese Charities is short for American Lebanese Syrian Associated Charities (“Lebanese Charities”).

and not St. Jude, who verified and filed the legally impermissible and subject Petition (Id.).

Counsel for St. Jude *never* disclosed to the Court that their client, a “nonprofit”¹³ corporation, was “not qualif[ied] to do business in this State” and thus, as a matter of law, disallowed and unable to “*commence or maintain any action or proceeding in any court of this State*”¹⁴, nor did counsel disclose Lebanese Charities (who, according to the record, was never represented by Hutchinson & Steffen) lacked standing, did not have a legally recognizable interest in the matter, and was committing fraud upon the Court with the filing they allowed (Id.)¹⁵. Accordingly, the jurisdictional prohibition stemming from the misuse of the legal system, and corresponding manipulation/fraud upon this Court, was not known nor addressed, and equally disturbing, Lebanese Charities, posing as St. Jude, was allowed to seek unfair, unwarranted, and impermissible financial gain.

As a result, an evidentiary hearing regarding the subject matter of the (impermissible and fraudulent) petitions Lebanese Charities filed under the guise of St. Jude, was conducted on June 15 and 16, 2017 on the sole issue of whether, under

¹³ As detailed herein, the term “nonprofit” is used loosely.

¹⁴ NRS §82.5234. Such concealment, if known, would constitute a violation of the duty of candor that is owed this Court (*see Thomas v. City of NLV*, 122 Nev. 82, 127 P.3d 1057 (2006)); and if not known, an arguable violation of NRCPP 11 and failure to perform adequate due diligence.

¹⁵ *See* Fn. 8, *supra*.

NRS 136.240(3), the October 2012 lost or destroyed will would be admitted to Probate (3 ROA 674-85).

The District Court issued a Decision and Order dated August 6, 2018, finding St. Jude failed to meet its burden of proof that the Will was not revoked during the Decedent's lifetime (Id). St. Jude filed Notice of Appeal on September 6, 2018 (3 ROA 686-87). That the matter was reversed by the Nevada Supreme Court (No. 76924) in its decision dated December 31, 2020, which in part reversed that Decision.

Notwithstanding, the law clearly establishes neither St. Jude nor Lebanese Charities can seek or maintain suit in this State (4 ROA 689-938, 5 ROA 939-1188). Controlling legal authority and precedent likewise confirm the absence of authority and jurisdiction over the relief requested by St. Jude/Lebanese Charities, and thus, all orders must be vacated and set aside (*See* Section I, *infra*).

Notably, according to St. Jude Children's Research Hospital, Inc. (hereinafter "St. Jude) is a 501(c)(3) Corporation doing business in Memphis, Tennessee, and according to its tax returns, its revenue is as follows:

	<u>2017</u>	<u>2018</u>
Contributions and grants	\$851,803,301.00	\$974,758,247.00
Program service revenue	117,420,862.00	109,172,619.00
Investment income	(7,463,705.00)	(556,846.00)
Other revenue	18,895,861.00	24,595,111.00
TOTAL REVENUE:	\$980,656,319.00	\$1,107,969,131.00

Grants and similar amounts paid	(4,312,073.00)	(1,538,019.00)
Salaries, other compensation and employee benefits ¹⁶	(505,567,014.00)	(545,749,401.00)
Other expenses	(440,836,545.00)	(474,154,881.00)
TOTAL EXPENSES:	(\$950,715,632.00)	(\$1,021,442,301.00)
TOTAL REVENUE LESS EXPENSES:		
	\$29,940,687.00	\$86,526,830.00
TOTAL ASSETS:	\$5,434,170,902.00	\$6,214,238,431.00

(4 ROA 695-96).

As noted above, St. Jude Research Hospital is not registered with the Nevada Secretary of State's office to do business in this State as is required by statute (Id.) *See also* NRS 82 et. seq., NRS 82.5234.

According to Lebanese Charities tax returns, it too is a 501(c)(3) Corporation doing business in Memphis, Tennessee, and according to its tax returns, its revenue is as follows:

	<u>2017</u>	<u>2018</u>
Contributions and Grants	\$1,446,493,050.00	\$1,667,190,856.00
Investment income	168,588,999.00	212,808,116.00
Other revenue	36,903,186.00	39,767,318.00
TOTAL REVENUE:	\$1,651,985,235.00	\$1,919,766,290.00
Grants and similar amounts paid	(757,401,831.00)	(865,122,365.00)
Salaries, other compensation		

¹⁶Including "Travel" costs of almost 15 million per year, salaries from a low of \$654,000 to \$1,054,000 for the CEO, 401k type plans, and first-class expenses for the directors/officers as well as any family members who accompany them.

and employee benefits	(153,380,025.00)	(173,868,497.00)
Professional fundraising fees	(9,869,627.00)	(9,307,214.00)
Other expenses	(319,098,782.00)	(351,430,671.00)
TOTAL EXPENSES:	(\$1,239,750,265.00)	(\$1,399,728,747.00)
TOTAL REVENUE LESS EXPENSES:		
	\$412,234,970.00	\$520,037,543.00
TOTAL ASSETS:	\$4,780,599,912.00	\$5,461,105,812.00

(4 ROA 695-96).

Lebanese Charities admits to being a “fundraiser” for St. Jude Research Hospital (Id).

As established herein, St. Jude is, and was, prohibited, as a matter of law, from commencing or maintaining any action in any court of this State. The subject Petition that was filed was not filed by St. Jude, but rather by Lebanese Charities violated the law, the duty of candor owed to this Court, and committed a fraud upon this Court for their own personal gain (1 ROA 51-73).

On March 16, 2021, the appellant filed a motion to strike the fraudulently submitted petition naming St. Jude’s Research Hospital as Petitioner and related relief, based upon the aforementioned fraud, absence of authority, and lack of jurisdiction (4 ROA 689-938; 5 ROA 939-1188; 6 ROA 1189-1341). St. Jude filed an opposition thereto on March 26, 2021 (6 ROA 1342-1358), and a reply was filed on April 2, 2021 (6 ROA 1359-83). The motion was heard on April 14, 2021 (6 ROA 1384), and a decision and order were prepared by St. Jude and filed on January 11,

2022 (6 ROA 1385-91). Notice of Appeal was filed on February 21, 2021 (6 ROA 1401-02).

SUMMARY OF THE ARGUMENT

The decedent, Theodore E. Scheide Jr. (“Theodore”) was a resident of Nevada who died on August 17, 2014, in Clark County, Nevada. (Ex Parte Petition for Appointment of Special Administrator, filed 10/2/2014/ Petition for Instructions filed 05/06/2015) Theodore’s original Last Will was never located. The Special Administratrix determined that Theodore destroyed any original estate planning documents. (Id) That pursuant to court orders, the estate was subsequently administered as an intestate succession. (See order dated May 26, 2015).

On May 20, 2016, the Respondent, St. Jude Children’s Research Hospital (“St. Jude’s”) filed a notice of appearance in the matter. On September 13, 2016, without any first-hand knowledge, Fred E. Jones, Jr., a Director of American Lebanese Syrian Associated Charities (“Lebanese Charities”), rather than any representative of the Real Party in Interest, St. Jude’s, verified, and caused to be filed, a Petition for Probate of Lost Will (NRS 136.240); Revocation of Letters of Administration (NRS 141.050); and Issuance of Letters Testamentary (NRS 136.090), falsely and fraudulently representing as being prepared and submitted by St. Jude.

In addition to the violations of NRC 11 and 17 addressed *infra*, the Petition was improperly filed and the resulting actions were disallowed and impermissible as a matter of law¹⁷. In sum, St. Jude was barred by law from filing or commencing litigation in Nevada, Lebanese Charities lacks/lacked standing to bring and maintain the action(s) fraudulently filed and maintained in the name of “St. Jude”, and as a result thereof, the lower court lacked the authority and jurisdiction to adjudicate the matters fraudulently, wrongfully, and impermissibly filed by Lebanese Charities.

The abuse of the legal system and corresponding fraud upon the court cannot be condoned and must be remedied by this Honorable Court. The mischaracterizations of fact and law by St. Jude are legally insufficient to cure the violations of court rules, are insufficient to enable St. Jude to circumvent and violate established precedent, and legally inadequate to convey the requisite authority and jurisdiction upon the lower court to adjudicate the relief requested by Lebanese Charities (under the guise of St. Jude).

Accordingly, the subject Petition must be stricken from the record and all derivative actions therefrom must be set aside and vacated. Moreover, the law clearly prohibits any further action by Lebanese Charities and St. Jude.

¹⁷ See NRS 82.523, 82.523(2)

ARGUMENT/LEGAL ANALYSIS

I. The lower court committed judicial error by adjudicating the subject Petition wrongfully filed by Lebanese Charities without authority and subject matter jurisdiction.

A. The lower court lacked subject matter jurisdiction to address St. Jude's petition.

As a threshold matter, jurisdictional challenge can be raised at any time, even if raised for the first time on appeal¹⁸. Moreover, jurisdiction cannot be conferred by waiver or consent of the parties, and there is nothing the parties or a court can do to vest a court with subject matter jurisdiction over a matter than has not been conferred by law¹⁹. "[W]hen a judgment is shown to have been procured by fraud upon the court, *no worthwhile interest is served in protecting the judgment.*"²⁰

Despite this fundamental principal, St. Jude and Lebanese Charities believe, and have abused the legal system accordingly, that they are able to circumvent the Rules of Civil Procedure, and invest subject matter jurisdiction when disallowed by

¹⁸ See *Edelman v. Jordan*, 415 U.S. 651, 94 S. Ct. 1347, 39 L. Ed. 2d 662 (1974); *Clark Cty. Deputy Marshals Ass'n v. Clark Cty.*, 2018 Nev. Unpub. LEXIS 799 (2018) (this Court finding it lacked jurisdiction after it first appearing it had such jurisdiction, "recognizing that a jurisdictional challenge "can be raised by the parties at any time, or sua sponte by a court of review).

¹⁹ See *Scherer v. State*, 89 Nev. 372, 513 P.2d 1232 (1973); *White v. United States*, 2011 U.S. Dist. LEXIS 143052 ("Subject matter jurisdiction cannot be conferred upon the courts by the actions of the parties and principles of estoppel and waiver do not apply").

²⁰ *NC-DSH, Inc. v. Garner*, 125 Nev. 647, 650, 218 P.3d 853, 856 (2009).

established precedent and as matter of law, simply by way of corporate resolution (ROA Opposition to motion to strike, filed 3/26/21).

B. The Petition filed with the lower court was fraudulent, disallowed as a matter of law, and must be stricken from the record.

Courts have long recognized and held “[i]t is a fundamental precept of corporate law that each corporation is a separate legal entity”²¹ and considered a distinct person as a matter of law. Even closely held subsidiaries are separate and distinct entities. Indeed, courts have held two corporate entities “are separate and distinct legal entities” even if they have identical memberships and ownerships²². Even two corporations having the same management and “practically indistinguishable” are nevertheless separate entities and cannot be recognized as the same entity for standing²³.

In this matter, there are two separate and distinct corporate entities: (1) St. Jude Children’s Research Hospital (“St. Jude”)—in whose name the Petition was filed, and (2) the American Lebanese Syrian Associated Charities (“Lebanese

²¹ See *Kreisler v. Goldberg*, 478 F.3d 209, 213 (2007); *In re Commer. Mort.*, 414 B.R. 389 (2009) (same).

²² See *Surgical Supply Ctr. V. Industrial Comm’n Dep’t of Emp’t Sec.*, 118 Utah 632, 223 P.2d 593, 595 (1950); see also *Institutional Laundry, Inc. v. Utah State Tax Comm’n*, 706 P.2d 1066, 1067-68 (1985) (holding that a subsidiary corporation was a separate legal entity obligated to pay sales taxes on services it provided to its parent corporation despite being wholly owned by the parent corporation and having an identical board of directors).

²³ See *Holmes Dev., LLC v. Cook*, 48 P.3d 895 (Utah 2002).

Charities”)—who represents themselves as a fundraiser for St. Jude. It is irrefutable, and Respondent concedes, that these two entities are legally separate and distinct.

It is significant to note, however, that it was Lebanese Charities who impermissibly and fraudulently signed the Petition²⁴. Notably, as required by established precedent, St. Jude *never* signed any pleading or document in this matter. It is the responsibility of this Court to remedy this egregious fraud, abuse of the legal system, and patent manipulation of this Court by striking the subject Petition and all related filings from the record.

Moreover, St. Jude, who is the *named* Petitioner in the fraudulent (and impermissible) Petition that was filed with this Court, was, and remains, prohibited from commencing or maintaining “any action or proceeding in any court of this State” as a matter of law. NRS §82.5234 provides in relevant part:

every foreign nonprofit corporation which is doing business in this State and which fails or neglects to qualify to do business in this State in accordance with the laws of this State ***may not commence or maintain any action or proceeding in any court of this State until it has qualified to do business in this State*** (emphasis provided).

Additionally, NRS 80.055(2) expressly provides that “***every corporation*** which fails or neglects to comply with the provisions of NRS 80.010 to 80.040, inclusive, ***may not commence or maintain any action or proceeding in any court***

²⁴ Examination of the subject Petition (1ROA 51-73) reveals Hutchison & Steffen represented themselves in the impermissible Petition as attorneys for St. Jude (page 9), and allowed Fred E. Jones, Jr., Director of Lebanese Charities, to sign in place of St. Jude (page 10).

of this State until it has fully complied with the provisions of NRS 80.010 to 80.040, inclusive.” Significantly, there is no distinction between corporations for profit, nonprofit corporations, corporations doing business in this State, or corporations not doing business in this State.

If any action is commenced by *any* corporation that has not complied with NRS 80.010 to 80.040 inclusive, such as St. Jude, the law requires that “[s]uch an action or proceeding must be dismissed without prejudice if the corporation does not comply” within 45 days after the action or proceeding is commenced. St. Jude has never complied with NRS 80.010 to 80.040. Accordingly, the lower court erred in not dismissing the action pursuant to law and erred not dismissing the action for lack of subject matter jurisdiction.

Notably, St. Jude Children’s Research Hospital, is not an entity that is, *or ever has been*, qualified to do business as a foreign non-profit corporation (or any other entity) to do business in the State of Nevada, and therefore was legally precluded from filing a Petition in this, or any other court, even if St. Jude had of actually verified and filed the subject petition on their behalf. St. Jude grossly mischaracterizes and misapplies the law in order to violate Nevada law.

Notwithstanding, Hutchison & Steffen filed a Notice of Appearance for St Jude²⁵ (and only St. Jude) despite the law that prohibits the commencement of *any*

²⁵ (1 ROA 48-50).

action in *any* court. More disturbing is the fact that, in spite of St. Jude lacking legal capacity to even file the subject Petition, Hutchison & Steffen allowed Lebanese Charities—as an impermissible third-party, who clearly lacked standing and who was not a real party in interest, and who had no legally recognizable right to file the subject Petition with the Court—to assert, and seek relief, *in the name of St. Jude*.

By law, St. Jude was/is not allowed to “commence” any action or proceeding in any court of this state (*see* NRS 80.055). It has long been held that an action is begun in a court of record when the petition is filed²⁶. Proceedings are recognized as: (1) “[t]he regular and orderly progression of a lawsuit, including all acts and events between the time of commencement and the entry of judgment;” (2) “[a]ny procedural means for seeking redress from a tribunal or agency;” and (3) “[t]he business conducted by a court or other official body; a hearing” or more broadly as “an act or step that is part of a larger action.”²⁷ Thus, St. Jude’s misapplication of law and gross mischaracterization that their commencing and maintaining this action/proceeding is *also* “maintaining, defending or settling any proceeding” does not give plain meaning to the words (as required by law²⁸), is illogical, and legally untenable. The maneuver is disallowed by law. and in violation of state law.

²⁶ *See Hydraulic Press Brick Co. v. Lane*, 200 S.W.306 (1918)

²⁷ Black’s Law Dictionary 1241 (8th ed. 2004).

²⁸ *See Walker v. Eighth Judicial District Court*, 120 Nev. 815, 101 P.3d 787 (2004) (holding “[b]ecause statutory construction is a question of law, this court reviews the district court's interpretation of a statute de novo, *without deference to the*

C. Lebanese Charities lacked standing to file the subject Petition and to commence litigation in this State.

Courts have long held “[s]tanding to sue is critical to the proper functioning of the judicial system”²⁹ and is the “requisite personal interest that must exist at the commencement of the litigation.”³⁰ Moreover, “a plaintiff may *not* proceed with an action in the absence of standing”³¹ nor bring an action without the existence of an injury in fact³². “[S]tanding is a prerequisite to subject matter jurisdiction”³³ “When a party without standing purports to commence an action, the trial court acquires no subject-matter jurisdiction”³⁴.”

It is well established that standing is jurisdictional and goes to the jurisdictional core of a court’s authority to adjudicate a dispute, indeed, the very

district court's conclusions. When interpreting a statute, we first look to the statute's plain language. Whenever possible, "statutes should be given their plain meaning and 'must be construed as a whole and not be read in a way that would render words or phrases superfluous or make a provision nugatory.'").

²⁹ *Saratoga County Chamber of Commerce v. Pataki*, 798 NE2d 1047 (2003).

³⁰ *Pharmacia Corp. v. Suggs*, 932 So.2d 95 (2005)

³¹ *See Ryan, Inc. v. New York State Dept. of Taxation & Fin.*, 890 NYS2d 306 (2009) (emphasis provided).

³² *Silver v. Pataki*, 755 NE2d 842 (2001).

³³ *See Associated Builders & Contractors, Inc. v. S.F. Airports Comm’n*, 981 P.2d 499 (1999); *see also Taylor v. Hubbell*, 188 F.2d 106 (9th Cir. 1951) ("It is axiomatic that [e]very court of general jurisdiction has power to determine whether the conditions essential to its exercise exist." (internal quotation marks omitted)); *Applera Corp. v. MP Biomedicals, LLC*, 93 Cal. Rptr. 3d 178 (2009) (standing is jurisdictional, thus lack of standing may be raised for the first time on appeal).

³⁴ *State v. Property at 2018 Rainbow Drive*, 740 So.2d 1025 (1999); *Riley v. Pate*, 3 So. 3d 835 (2008).

power of the court to act. Notably, the lack of standing may be raised at any time³⁵. Simply stated, standing is the right to relief in court. ***Whether a party has a private right of action goes to the jurisdictional issue of standing.*** Significantly, the lack of standing cannot be waived and must be present in every case³⁶.

To commence a judicial action, a party must assert ***his own legal rights and interests***, and cannot rest his claim to relief on the legal rights or interests of third parties³⁷. As noted above, the party must have an “injury in fact”, recognized by courts as:

an actual legal stake in the matter being adjudicated—[which] ensures that the party seeking review has some concrete interest in prosecuting the action which casts the dispute in a form traditionally capable of judicial resolution. Under the injury in fact analysis standing exists when the plaintiff has sustained actual injury, meaning that he/she has an actual legal stake in the in the [sic] matter being litigated”³⁸

³⁵ *Landreth v. Malik*, 127 Nev. 175, 251 P.3d 163 (2011); *Ross v. Bonaventura*, 2013 Nev. Unpub. LEXIS 1810;

³⁶ *See Baldonado v. Wynn Las Vegas, LLC*, 124 Nev. 951, 968-69, 194 P.3d 96, 107 (2008) (holding that a party lacks standing to pursue declaratory relief under a statute that does not provide a private right of action); *Vaile v. Eighth Judicial Dist. Court*, 118 Nev. 262, 276, 44 P.3d 506, 515-16 (2002) (questions of subject matter jurisdiction can be raised for the first time on appeal); *Applera Corp. v. MP Biomedicals, LLC*, 93 Cal. Rptr. 3d 178, 192 (Ct. App. 2009) (standing is jurisdictional, thus lack of standing may be raised at any time).

³⁷ *Warth v. Seldin*, 422 U.S. 490, 499 (1975); *see also Kane v. Johns-Manville Corp.*, 843 F.2d 636, 644 (2d Cir. 1988) (noting narrow exceptions to the general rule that “a litigant is restricted to asserting ***his own*** constitutional and statutory rights”) (emphasis supplied).

³⁸ *Society of Plastics Indus. v County of Suffolk*, 573 NE2d 1034 (1991).

Significantly, as detailed and established *supra*, St. Jude was, and is, prohibited from commencing or maintaining any action. The subject/disputed lost/destroyed will at issue references St. Jude only. Lebanese Charities, who is not named, has no standing, and has no recognizable interest in the estate of the decedent, yet executed and filed the underlying Petition—not St. Jude’s Research Hospital. Hence, there is no question it was Lebanese Charities that pursued that portion of the estate—not St. Jude’s.

At its most basic sense, Lebanese Charities did not suffer an “injury in fact”, and had no legal right or interest in the subject will or the estate at issue, and in short, Lebanese Charities is unable to establish a recognizable controversy. The law does not afford Lebanese Charities third party standing, and Lebanese Charities had no right or ability to substitute itself for St. Jude’s. Lastly, as established herein, St. Jude was disallowed from commencing or maintaining any litigation in any court of this state (*see* NRS 82.5234(2)).

Absent standing, a party is not entitled to any relief, and any relief obtained in the absence of standing cannot stand and must necessarily be set aside and vacated. Indeed, regardless of the merits of the claim, or lack thereof, without standing, the court cannot entertain the action.

Continuing, standing “concerns whether the party seeking relief has sufficient interest in the litigation.”³⁹ It is “the legal right to set judicial machinery in motion.”⁴⁰ NRCP 17(a) mandates that “[e]very action shall be prosecuted in the name of the real party in interest.” “A real party in interest is one who possesses the right to enforce the claim and has a significant interest in the litigation.”⁴¹ “Due to this limitation, a party generally has standing *only* to assert *only its own rights* and *cannot* raise the claims of a third party not before the court.”⁴² Thus, “[t]he inquiry into whether a party is a real party in interest overlaps with the question of standing.”⁴³

The law also requires that *a party bringing a lawsuit has the burden to establish the elements of standing*⁴⁴. “Standing is determined as of the time the action is brought.”⁴⁵ Notably, the elements of standing are not merely pleading requirements⁴⁶, and that burden to prove standing is elevated at the summary

³⁹ *Heller v. Legis. of State of Nev.*, 120 Nev. 456, 460, 93 P.3d 746, 749 (2004) (quoting *Smith v. Snyder*, 267 Conn. 456, 839 A.2d 589, 594 (2004)). *Schwartz v. Lopez*, 132 Nev.732, 382 P.3d 886 (2016); *Morency v. State Dep’t of Educ.*, 137 Nev. Adv. Op. 63, 496 P.3d 584 (2021).

⁴⁰ *Heller v. Legislature of State of Nev.*, 120 Nev. 456, 93 P.3d 746 (2004).

⁴¹ *Arguello v. Sunset Station, Inc.*, 127 Nev. 365, 252 P.3d 206 (2011).

⁴² *Beazer Homes Holding Corp. v. Eighth Judicial Dist. Court of Nev.*, 128 Nev. 723, 291 P.3d 128 (2012) (emphasis provided).

⁴³ *Arguello, supra*.

⁴⁴ See *Utah Ass’n of Counties v. Bush*, 455 F.3d 1094, 1100 (2006); *United Safeguard Distribs. Ass’n v. Safeguard Bus. Sys.*, 2016 U.S. Dist. LEXIS 65674.

⁴⁵ *Id.* at 1099.

⁴⁶ *Valley View Health Care, Inc. v. Chapman*, 992 F. Supp 2d 1016 (E.D. Cal. 2014)

judgment stage, where a “plaintiff can no longer rest on such mere allegations, but must set forth by affidavit or other evidence specific facts.”⁴⁷ Additionally, St. Jude must demonstrate that they have standing as to each form of relief sought.⁴⁸ Here, St. Jude is unable to sustain its burden, and such failure is fatal.

In addition to the constitutional requirement of standing, courts have adopted prudential standing limitations, which impose different demands than injury in fact⁴⁹. As it pertains to, and disposes of the instant action, prudential standing principles prohibit a plaintiff from litigating the rights and interests of others. As noted in *Wilderness, supra*, a plaintiff “must assert his own legal rights and interests, and cannot rest his claim to relief on the legal rights or interests of third parties”⁵⁰.

NRCP 17(a)(1) clearly and unequivocally mandates that “[a]n action must be prosecuted in the name of the real party in interest.” The purpose of the real party in interest statute is to prevent the commencement of actions by persons or entities

(holding “[t]he standing elements are “not merely pleading requirements” but are an “indispensable part of the plaintiff’s case” and “must be supported at each stage of litigation in the same manner as any other essential element of the case.”).

⁴⁷ *Lujan v. Defenders of Wildlife*, 504 U.S. 555 (1992); *Pitre v. Wal-Mart Stores, Inc.*, 2019 U.S. Dist. LEXIS 181052.

⁴⁸ *WildEarth Guardians v. Public Service*, 690 F.3d 1174, 1182 (2012) (“[A] plaintiff must demonstrate standing separately for each form of relief sought.”); *State of Utah v. Babbitt*, 137 F.3d 1193, 1204 (10th Cir. 1998) (finding plaintiffs “have not alleged a distinct identifiable injury for each cause of action”); *Summers v. Earth Island Inst.*, 555 U.S. 488 (2009).

⁴⁹ See *Wilderness Soc’y v. Kane Cnty.*, 632 F.3d 1162, 1168 (10th Cir. 2011).

⁵⁰ *Id.* at 1168; See also NRCP 17.

who have no legally recognizable right, title, or interest in the cause⁵¹. Thus, the focus of the real party in interest inquiry is whether the party has standing to sue due to some real interest in the cause of action, or a legal or equitable right, title, or interest in the subject matter of the controversy.

In sum, the purpose of the inquiry is to determine whether the party has a legally protectable interest or right in the controversy that would benefit by the relief to be granted. Here, Lebanese Charities has no legally recognized or sufficient interest in the subject estate.

The rule also discourages harassing litigation and keeps litigation within certain bounds in the interest of sound public policy. The question whether the party who commenced an action has standing, and is therefore the real party in interest, is jurisdictional, and because the requirement of standing as the real party in interest is fundamental to a court's exercise of jurisdiction. Allowing a party who is not the real party in interest to commence and maintain an action exceeds the lower court's jurisdiction and violates NRCP 17.

In sum, St. Jude was and is prevented by law to commence or maintain any action in any court of this State. Lebanese Charities lacks standing, has no

⁵¹ See *In re Jack Hudson, Inc.*, 6 B.R. 153 (Nevada Bankruptcy Court) (1980) (holding the purpose of requiring the real party in interest to litigate is to prevent the prosecution of the action by persons who have no right, title or interest in the cause and to **require** the actual party for relief to prosecute the cause).

recognizable interest in the decedent's estate, cannot assert third-party rights, and fraudulently commenced and maintained this matter.

Without standing, the court lacks jurisdiction, and may take no action other than to exercise its power to dismiss the action in its entirety. Any action taken by a court lacking jurisdiction is null and void⁵². Indeed, “[w]hen the absence of subject matter jurisdiction is noticed by, or pointed out to, the trial court, that court has no jurisdiction to entertain further motions or pleadings in the case. It can do nothing but dismiss the action forthwith.”⁵³

The lack of standing is a fundamental flaw that requires the Court to dismiss the action fraudulently and impermissibly initiated by Lebanese Charities and rendering all actions taken and every order entered in this matter because of the fraudulently filed Petition, void. Moreover, all filings and documents stemming therefrom must be stricken.

The maneuver coordinated between St. Jude and Lebanese Charities is disallowed by law. Indeed, *the question of standing focuses on the party seeking*

⁵² See *Rainbow Drive*, 740 So.2d at 1029.

⁵³ *Id.*; see also *Crutcher v. Williams*, 12 So.3d 631 (2008) (“A court is obligated to vigilantly protect against deciding cases over which it has no jurisdiction...”); *Mapoles v. Wilson*, 122 So.2d 249 (1960) (limits of a court’s jurisdiction are of “primary concern”, requiring the court to address the issue sua sponte when any doubt exists).

*adjudication rather than the issues sought to be adjudicated*⁵⁴. Here, St. Jude was a named beneficiary of the subject will; Lebanese Charities was not. Yet, Lebanese Charities is the entity that filed the petition, commenced litigation, and maintained that action. The lower court did not acquire subject matter jurisdiction simply because St. Jude and Lebanese Charities entered into a corporate resolution that they hoped would allow them to circumvent court rules and enable them to evade compliance with established precedent.

D. The lower court also lacked jurisdiction because of the violation of NRS 136.100.

Notwithstanding the dispositive jurisdictional addressed *supra*, the legislature expressly set forth the requirements to petition for the probate of a will. Among those include NRS 136.100 which ***mandates*** that notice be provided in the manner provided in NRS 155.020⁵⁵ to the heirs of the testator and the devisees named in the

⁵⁴ *Szilagy v. Testa*, 99 Nev. 834, 838, 673 P.2d 495, 498 (1983) (citing *Harman v. City and County of San Francisco*, 7 Cal.3d 150, 101 Cal.Rptr. 880, 496 P.2d 1248, 1254 (1972)).

⁵⁵ NRS 155.020 provides, in relevant part:

Method and form for notices.

1. Notice of a petition for the probate of a will and the issuance of letters and the notice to creditors must be given to:

(a) The persons respectively entitled thereto, including the Director of the Department of Health and Human Services, as provided in NRS 155.010; and

(b) The public, including creditors whose names and addresses are not readily ascertainable, by publication on three dates of publication before the hearing, and if the newspaper is published more than once each week, there must be at least 10 days from the first to last dates of publication, including both the first and last days.

will, to all persons named as personal representatives who are not petitioning and to the Director of the Department of Health and Human Services. *See also* NRS 155.010. Significantly, St. Jude (or more accurately, Lebanese Charities) failed to provide the requisite notice to all necessary individuals⁵⁶.

Even if Lebanese Charities had standing (which they didn't), the failure to provide the requisite notice did not confer jurisdiction to the lower court to address the requested relief. Because all proceedings conducted without subject matter

2. Every publication required by this section must be made in a newspaper published in the county where the proceedings are pending, but if there is not such a newspaper, then in one having general circulation in that county.

3. The notice of the hearing upon the petition to administer the estate *must* be in substantially the following form:

NOTICE OF THE HEARING UPON THE PETITION TO
ADMINISTER THE ESTATE

Notice is hereby given that has filed in this court a petition for the probate of a will and for letters testamentary, or for letters of administration, of the estate of, deceased, and a hearing has been set for the day of the month of....., of the year....., at (a.m. or p.m.) at the courthouse of the above-entitled court. All persons interested in the estate are notified to appear and show cause why the petition should not be granted.

Dated

4. As soon as practicable after appointment, a personal representative shall, in addition to publishing the notice to creditors, mail a copy of the notice to those creditors whose names and addresses are readily ascertainable as of the date of first publication of the notice and who have not already filed a claim. The notice *must* be in substantially the following form:

(emphasis provided)

⁵⁶ Notably and additionally, the Executor Patricia Bolen was not noticed, nor was Nevada State Bank.

jurisdiction are void, and can be challenged at any time, any reliance St. Jude has with the traction realized thus far, is misplaced and legally insufficient to stave off the vacating of all resulting orders and decisions

Accordingly, in addition to being legally precluded from commencing and/or maintaining any action or proceeding in this state as established above, the failure to effectuate proper notice also divested the lower court of jurisdiction to probate a lost will.⁵⁷ The law is clear that subject matter jurisdiction can be raised at any time—even at appeal. The law is clear that statutory construction is reviewed de novo. Accordingly, St. Jude’s desire, and corresponding efforts to evade the application of controlling statute, must not be allowed.

E. In the absence of jurisdiction, all resulting orders are void ab initio and must be set aside and vacated.

The law is well-settled that a judgment, order, or decree is void if the rendering court lacked jurisdiction of the subject matter, or of the parties, or acted in a manner inconsistent with due process⁵⁸. Orders that are void for lack of jurisdiction have no legal effect⁵⁹. This fundamental principal is well-established and widely followed:

If a court has no jurisdiction of the subject of an action, a judgment rendered therein does not adjudicate anything. It does not bind the parties, ***nor can it thereafter be made the foundation of any right***. It is a mere nullity without life or vigor. The infirmity appearing upon its

⁵⁷ See NRS 136.240.

⁵⁸ *Klugh v. U.S.*, 620 F.Supp. 892 (1985); *Travelers Ins. Co. Joachim*, 315 S.W.3d 860 (2010).

⁵⁹ See *Ex parte Seidel*, 39 S.W.3d 221 (2001).

face, its validity can be assailed on appeal or by motion to set it aside in the court which rendered it, or by objection to it when an effort is made to use it as evidence in any other proceeding to establish a right⁶⁰.

Moreover, the Nevada Supreme Court has held:

Any acts which exceed the defined power of a court in *any instance*, whether that power be defined by constitutional provision, express statutory declaration, or rules developed by the courts and followed under the doctrine of stare decisis, are in excess of jurisdiction⁶¹.

It has also been held that “[i]t is not necessary to take any steps to have a void judgment reversed, vacated, or set aside. It may be impeached in any action direct or, collateral.”⁶² This is because a court cannot confer jurisdiction where none existed and cannot make a void proceeding valid. It is clear and well-established law that a void order can be challenged in any court⁶³.

Because a void judgment has no effect on the parties, or their respective interests, “[t]here is no time limitation on asserting that [a] judgment is void⁶⁴.” A court has a responsibility to correct a void judgment⁶⁵ and always has jurisdiction to

⁶⁰ See *Evans v. Oregon Short R. R. Co.*, 149 P. 715 (1915); see also *Valley v. Northern Fire & Marine Ins. Co.*, 254 U.S. 348 (1920) (“Courts are constituted by authority and they cannot go beyond that power delegated to them. If they act beyond that authority, and certainly in contravention of it, their judgements and orders are regarded as nullities; they are not voidable, but simply void, and this even prior to reversal.” (citation omitted)).

⁶¹ *Del Papa v. Steffen*, 112 Nev. 369, 915 P.2d 245 (1996) citing *Abelleira v. District Court of Appeal*, 17 Cal. 2d 280, 109 P.2d 942, 948 (1941) (emphasis supplied).

⁶² See *Holder v. Scott*, 396 S.W.2d 906 (1965)

⁶³ See *Old Wayne Mut. L. Assoc. v. McDonough*, 204 U.S. 8 (1907).

⁶⁴ *Rawson v. Ninth Judicial Dist. Court of Nev.*, 133 Nev. 309, 396 P.3d 842 (2017); *Douglas Milling & Power Co. v. Rickey*, 47 Nev. 148, 217 P. 590 (1923).

⁶⁵ See *Blevins v. Hillwood Office Ctr. Owners’ Ass’n*, 51 So.3d 317 (2010).

correct a void judgment⁶⁶. The law further provides that the burden of establishing the *existence* of subject matter jurisdiction falls on the party invoking that jurisdiction⁶⁷.

In the case at bar, St. Jude is prohibited as a matter of law from commencing or maintaining any action in any court of this State—and did neither. However, Lebanese Charities lacked standing, are not real parties in interest, have no injury or legal interest in this matter, and committed fraud upon this Court. Lebanese Charities is unable to provide sufficient legal or factual justification for this Court’s jurisdiction, and importantly, this Court is not obligated to embark on an expedition beyond the parties’ arguments in pursuit of a reason to exercise jurisdiction⁶⁸.

Every issue that happened subsequently to a void judgment is without merit because a void judgment can never gain legitimacy, any argument is also therefore without merit and also void⁶⁹. Nothing can be acquired or lost by a void order; it neither bestows nor extinguishes any right, and may be successfully assailed whenever it is offered as the foundation for the assertion of any claim or title. It

⁶⁶ See *State v. Foster*, 102 N.E.3d 1199 (2017);

⁶⁷ See, e.g., *Ex parte HealthSouth Corp.*, 974 So.2d 288 (2007) (setting forth the plaintiff’s burden of demonstrating standing to bring an action, an issue of subject-matter jurisdiction); *Ex parte Ray–El*, 911 So.2d 1100 (2004) (placing the burden to “ ‘justify the jurisdiction of this court’ ” on the person bringing a habeas petition as a “next friend” (quoting *Whitmore v. Arkansas*, 495 U.S. 149, 164, 110 S.Ct. 1717, 109 L.Ed.2d 135 (1990))).

⁶⁸ *Blevins*, *supra*, at 322.

⁶⁹ See *Harrison v. John Thomas Wray Props.*, 2008 U.S. Dist. LEXIS 129905. *Armstrong v. Manzo* 380 U. S. 545 (1965).

neither binds nor bars anyone. Notably, *all acts performed under it and all claims flowing out of it are void*⁷⁰.

Without jurisdiction in the District Court, there was no legal basis to grant relief as requested⁷¹ in the fraudulent and impermissible Petition filed by Lebanese Charities. Lebanese Charities did not have standing to commence and maintain the proceedings in the court below; therefore, the Petition should be stricken and any resulting orders vacated and set aside.

F. St. Jude came before this Court and maintains this litigation in bad faith and with unclean hands that must not be condoned.

A party cannot commit fraud upon the Court and expect, let alone receive, relief from this Court. A party cannot disregard the rules of the Court and expect, let alone receive, relief from this Court. A party cannot violate the law and expect, let alone receive, relief from this Court. Yet Lebanese Charities believes, and acted, otherwise.

In addition to the lack of standing, lack of jurisdiction, disregard of law and fraud referenced *supra*, the scope of the bad faith and violation of law goes beyond that established above. In addition to attempting to abuse the legal system and manipulate this Court as they endeavor to wrongfully take the decedent's estate in a maneuver disallowed by law, the Lebanese Charities do not limit their money grab

⁷⁰ See *Walls v. Erupcion Min. Co.*, 6 P.2d 1021 (1931).

⁷¹ See *Kokkos v. Tsalikis*, 91 Nev. 24, 530 P.2d 756 (1975).

to just the decedent's estate. In fact, they actively solicit funds from the residents of Nevada, but refuse to comply with applicable law in the process. Being a multi-billion-dollar entity, they apparently believe no one can make them, and more importantly, that no one can stop them.

It is hoped such expectations are ill-judged and misplaced. This Court clearly has the authority, ability, and responsibility to remedy their wrongs and send a firm message to all that *the laws and rules of this State apply to everyone!*

In Nevada, Lebanese Charities reports in excess of \$40,875,736 (40 million) in "Gross Gaming Receipts." Combined revenues in 2018 alone were \$1,919,766,290.00. Further, St. Jude claims through various mailings, documents, website, and other mediums, that it promotes and participates in give aways, selling of raffles for Henderson real estate, charitable events, fund raising and advertisements, and that it "protects and cares for "children" or "families with cancer" and promotes "Nevada" children and/or their families.

Nevada gaming regulations address and require any monies raised in Nevada are required to be kept in Nevada⁷². NRS §462.200 provides, in relevant part, that St. Jude and Lebanese Charities:

Shall expend the net proceeds of a charitable lottery or charitable game *only for the benefit of charitable or nonprofit activities in this state.*

2. A qualified organization registered by the Chair shall, upon request, submit to the Chair a financial report on a charitable lottery or charitable game. The financial report must include a statement of:

⁷² See NRS 462, et seq., 463.130(1)(2)(b).

- (a) The expenses incurred in the operation of the charitable lottery or charitable game; and
- (b) The amount and use of the net proceeds of the charitable lottery or charitable game.

Despite the clarity of such statutory authority, *neither entity complies with the law*⁷³. Instead, they act in a manner more accurately stated and popularized by The Steve Miller Band⁷⁴—they take the money and run.

Of course, St. Jude has demonstrated a conscious disregard for the laws of Nevada and the integrity of the legal system and this Court, and this is simply another statute that St. Jude and Lebanese Charities disregards and violates. Great lengths, including fraud and violation of court rules and applicable precedent, in pursuit of more money, but no respect is given to any rule or law that would impede their ability to obtain funds and to use the funds any way they choose.

The Nevada Supreme Court has long held “[t]he doctrine of unclean hands ‘bars relief to a party who has engaged in improper conduct in the matter in which that party is seeking relief’”⁷⁵ and the egregious conduct described herein represents the epitome of unclean hands.

⁷³ St. Jude and Lebanese Charities also violate NRS 465 et. seq. is also violated with Lebanese Charities charging significantly more than the 8% of gross allowed by statute. Assembly Bill 50 (2015) also imposes requirements upon St. Jude which they brazenly disregard and violate.

⁷⁴ “Take the Money and Run” was a song recorded in 1976 by the Steve Miller Band, peaking at No. 11 on the U.S. *Billboard* Hot 100.

⁷⁵ *Evans v. Dean Witter Reynolds, Inc.*, 116 Nev. 598, 5 P.3d 1043 (2000); *Frey v. Eighth Judicial Dist. Court of State*, 2013 Nev. Unpub. LEXIS 1651.

Neither St. Jude nor Lebanese Charities are entitled to relief from this Court, and the relief that has been procured must be stricken from the record, vacated, and set aside in its entirety.

CONCLUSION

St. Jude and Lebanese Charities chose to ignore the mandates of court rules and the law; this Court cannot. St. Jude and Lebanese Charities believe they can circumvent the inconvenience of jurisdiction, but the law does not afford them such luxury. Here, as established above, St. Jude is prohibited, as a matter of law, from commencing litigation in any court in this State. The lower court lacked jurisdiction and authority to address any petition that St. Jude filed in violation of state law.

Notwithstanding, Lebanese Charities, the self-admitted fund-raising arm of St. Jude, elected to nevertheless commence litigation in this State by filing a petition in the name of St. Jude. Of course, jurisdiction cannot be waived, nor circumvented through corporate resolution or collaboration. More importantly, Lebanese Charities lacked standing to commence any litigation in this State. Thus, the lower court lacked the authority and jurisdiction to adjudicate the petition wrongfully filed by Lebanese Charities.

In addition to the above, even if the petition was proper, the notices that are required as a matter of law were never provided. Such failure renders the resulting judicial determinations void. The brazen bad faith and patent unclean hands of St.

Jude and Lebanese Charities also warrants the vacating and setting aside of the relief obtained through their violations of court rules and law.

In sum, the Petition filed with the lower court was fraudulent, disallowed as a matter of law, and must be stricken from the record. In the absence of jurisdiction, all resulting orders are void ab initio and must be set aside and vacated.

DATED this 13th day of March, 2023.

RESPECTFULLY SUBMITTED

s/ Bradley Hofland

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Certificate of Compliance

1. I hereby certify that this brief complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because:

[X] This brief has been prepared in a proportionally spaced typeface using **Microsoft Word 2010 Times New Roman 14—point font**.

2. I further certify that this brief *complies* with the page or type -volume limitations of NRAP 32(a)(7). Excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is

8,524 Words

3. I hereby certify that I have read this appellate brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found. I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

DATED this 13th day of March, 2023.

s/ Bradley Hofland, Esq.

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Theodore E. Scheide III*

Certificate of Service

1. Electronic Service:

I hereby certify that on this day, the 13th day of March, 2023, I submitted for filing and service the foregoing **Appellant's Opening Brief** via the Court's eFlex electronic filing system and **Appellant's Appendix** (volume 1 to 6) by via the Court FTP server. According to the electronic service list, notification will be served upon the following:

Todd L. Moody
Russel J. Geist
The Honorable Gloria Sturman

/s/ Bradley Hofland, Esq.

Bradley Hofland, Esq.