

trust does not apply here and that NRS 164.005 does not contemplate the application of an inter vivos trust to rebut the unintentional omitted spouse rule of NRS 133.110. Lastly, we conclude that the doctrine of equitable estoppel has no application to the facts of this case. Accordingly, we affirm the district court's order.

MAUPIN and GIBBONS, JJ., concur.

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Elizabeth A. Brown
Clerk of Supreme Court

Notes:

1. The amendment to the inter vivos trust was erroneously labeled a codicil. See NRS 132.070 (stating that a codicil is an addition to a will).
2. Cal. Prob.Code §§ 10400-10592 (1991).
3. Ewing v. Fahey, 86 Nev. 604, 607, 472 P.2d 347, 349 (1970).
4. Voorhees v. Spencer, 89 Nev. 1, 6-7, 504 P.2d 1321, 1324 (1973) (citation omitted).
5. Restatement (Second) of Conflict of Laws § 239 (1971).
6. Firestone v. State, 120 Nev. 13, 16, 83 P.3d 279, 281 (2004).
7. Todora v. Todora, 92 Nev. 566, 568, 554 P.2d 738, 739 (1976).
8. Firestone, 120 Nev. at 16, 83 P.3d at 281.
9. Clark Cty. Educ. Ass'n v. Clark Cty. Sch. Dist., 122 Nev. _____, 131 P.3d 5, 10 (2006).
10. Leggett v. Estate of Leggett, 88 Nev. 140, 143, 494 P.2d 554, 556-57 (1972).
11. *Id.* at 143, 494 P.2d at 557.
12. *Id.* at 144, 494 P.2d at 557.
13. We are cognizant of the fact that modern estate planning regularly utilizes revocable inter vivos trusts with pour-over wills. This approach to estate planning usually results in amendments, if any, being made to the revocable trust and not the pour-over will. Given the clear and unambiguous language of NRS 133.110, we caution that a testator must modify his or her will in order to avoid the consequences resulting from the unintentional omission of a surviving spouse pursuant to NRS 133.110.
14. Leggett, 88 Nev. at 143, 494 P.2d at 557.
15. Riesterer v. Dietmeier, 98 Nev. 279, 281, 646 P.2d 551, 552 (1982) ("Certainly, it is conceivable that a surviving former spouse, who has remarried the testator, could suffer unintentional disinheritance.").
16. See also NRS 123A.030 (stating that a premarital agreement is "an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage").
17. Edwards Indus. v. DTE/BTE, Inc., 112 Nev. 1025, 1031, 923 P.2d 569, 573 (1996) ("As this court has stated on numerous occasions, findings of fact and conclusions of law, supported by substantial evidence, will not be set aside unless clearly erroneous.").
18. Scott also argues that the district court erred in not declaring the rights of the parties. Yet, Scott's claim for declaratory relief derives from an entirely separate district court case, which is not on appeal. Consequently, we lack jurisdiction to address this issue.
19. State v. Wyatt, 84 Nev. 731, 734, 448 P.2d 827, 829 (1968).

20. Similarly, Scott's reliance on the district court's erroneous determination that the trust was "never effectuated" is misplaced. While the district court incorrectly stated that the trust was never effectuated when it was properly funded, the district court's mistake was collateral to its conclusion that W.R.'s will was revoked as to Maria. Thus, such error was harmless. NRCP 61; see also United Tungsten v. Corp. Svc., 76 Nev. 329, 331-32, 353 P.2d 452, 454 (1960).

21. *Matter of Harrison Living Trust*, 121 Nev. _____, _____, 112 P.3d 1058, 1061-62 (quoting Topaz Mutual Co. v. Marsh, 108 Nev. 845, 853, 839 P.2d 606, 611 (1992)).

husband's fatal disease. Her burden of proof has been met by establishing that the disease was work-related.

Under the last injurious exposure rule, then, the last in-state employer for whom Mr. Jesch worked, who bears a causal relationship to the disease, is the responsible employer. Once the worker presents substantial evidence of successive-employer work-related disability, a prima facie case for recovery is established. The last injurious employer can then present evidence to show that the disability is with another employer or that the disability is unrelated to employment. The trier of fact will evaluate the evidence and render a decision.

It is hereby ordered that SITS should conduct a hearing to determine the employer responsible under the last injurious exposure rule. Mrs. Jesch is responsible for providing a complete list of her late husband's employers as there is no dispute that mesothelioma is an occupational disease.

Accordingly, we affirm in part, and we remand with instructions that the district court shall direct a determination of the last responsible employer.

SPRINGER, C. J., and MOWBRAY, GUNDERSON, and STEFFEN, JJ., and ZENOFF, Sr. J.,³ concur.

IN THE MATTER OF THE ESTATE OF ROY D. IRVINE,
DECEASED, AND LOLA BYNUM (LAUTE), APPELLANTS,
v. JACK DOYLE, ADMINISTRATOR OF THE ESTATE
OF ROY D. IRVINE, RESPONDENT.

No. 15148

December 10, 1985

710 P.2d 1366

Appeal from an order denying a petition for the removal of an administrator and the submission of a will to probate. Eighth Judicial District Court, Clark County; Joseph S. Pavlikowski, Judge.

Will proponent brought action to remove administrator of decedent's estate and to admit copy of decedent's will to probate. The district court granted administrator's motion for dismissal and will proponent appealed. The Supreme Court held that proponent of lost or destroyed will is required to prove that testator did not revoke lost or destroyed will during his lifetime.

Reversed and remanded.

³THE HONORABLE DAVID ZENOFF, Senior Justice, was designated to participate in this case. Nev. Const., art. 6, § 19; SCR 10.

Smith & Maurer, Las Vegas, for Appellants.

Jones, Jones, Close & Brown, Las Vegas, for Respondent.

1. **APPEAL AND ERROR.**

In reviewing a district court's dismissal of an action pursuant to NRCp 41(b), evidence and all reasonable inferences that can be drawn from it must be deemed admitted, and evidence must be interpreted in light most favorable to petitioner.

2. **WILLS.**

A will is said to be in legal existence if it has been validly executed and has not been revoked by testator.

3. **WILLS.**

Words "in existence" and "fraudulently destroyed" contained in NRS 136.240, subd. 3 regarding circumstances under which a will shall be allowed to be proved as a lost or destroyed will requires proponent of a lost or destroyed will to prove that testator did not revoke the will during his lifetime.

4. **WILLS.**

Question of whether a will was revoked by testator under NRS 136.240, subd. 3 regarding circumstances under which a will shall be allowed to be proved as a lost or destroyed will is a matter to be decided by trier of fact.

OPINION

Per Curiam:

This is an appeal from an order of the district court denying a petition requesting the removal of an administrator and the submission of a will to probate. Following appellant Lola Bynum's presentation of evidence at the hearing in this matter, the district court orally granted respondent Jack Doyle's motion for dismissal pursuant to NRCp 41(b). Thereafter, the district court issued the order appealed from which purports to deny the petition on its merits. The district court found that Bynum failed to satisfy the provisions of NRS 136.240(3) concerning lost wills because Bynum could not prove the alleged lost will had been in actual physical existence at the time of the decedent's death. Therefore, the district court concluded that a copy of the purported will could not be probated and denied Bynum's petition. For the reasons set forth below, we reverse and remand for a new hearing.

[Headnote 1]

In reviewing a district court's dismissal of an action pursuant to NRCp 41(b), the evidence and all reasonable inferences that can be drawn from it must be deemed admitted, and the evidence must be interpreted in the light most favorable to the petitioner. *Roche v. Scharz*, 82 Nev. 409, 419 P.2d 779 (1966); *see also*

Stackiewicz v. Nissan Motor Co., 100 Nev. 443, 686 P.2d 925 (1984); Corn v. French, 71 Nev. 280, 289 P.2d 173 (1955). The evidence when so viewed establishes the following facts.

In 1955, Lola Bynum and the deceased, Roy Irvine, married. While married, they purchased a home in Las Vegas, Nevada. They divorced in 1960, but remained friends. On June 6, 1962, Bynum quitclaimed her entire interest in the Las Vegas property to Irvine.

On January 8, 1973, Bynum and several friends gathered at a local restaurant at Irvine's request. Irvine produced a will which he signed in the presence of these friends. Three of the friends signed the will as witnesses. Irvine gave the original and a copy of the will to Bynum. The members of the group then read and discussed the will. The will left the Las Vegas property to Bynum. The three witnesses to the will predeceased Irvine.

Bynum stored the original will in a box until August 28, 1977, when it was apparently destroyed in a house fire. On July 3, 1982, Irvine died. Because no will was found, the district court declared that Irvine had died intestate and appointed respondent Doyle, a friend of Irvine's, as administrator of the estate. Bynum later found the copy of the will in an old briefcase. She then commenced this action by petitioning the district court to remove Doyle as administrator of the estate and to admit the copy of Irvine's will to probate.

At the hearing in this matter, Bynum attempted to establish that she had quitclaimed the Las Vegas property to Irvine with the understanding that he would leave the property to her in his will. She also attempted to establish that the deceased did in fact execute a valid will leaving the property to her, and that the document presented for probate was an accurate copy of that will. Finally, she attempted to prove that Irvine did not know that the original will had been destroyed in a fire prior to his death. However, the district court refused to allow any of this testimony to be admitted on the ground that it was irrelevant to the issue of whether the original will had been in actual physical existence at the time of Irvine's death. In the district court's opinion, the only relevant question under NRS 136.240(3) was whether the purported lost will had been in actual physical existence at the time Irvine died.

Bynum presented two witnesses whose testimony was severely limited by the district court. Consequently, Bynum elected not to call her remaining witnesses, but made an offer of proof. These witnesses included persons who had been present when the will was executed and others who had known Irvine and could testify concerning his intent to devise the Las Vegas property to Bynum. The district court refused to hear the witnesses because they could not testify as to whether the will was in actual existence at

the time of Irvine's death. Thereupon, Doyle made a motion to dismiss based on NRCp 41(b), and the district court granted the motion. This appeal followed.

The question presented for review is whether NRS 136.240(3) requires a lost will to be in actual physical existence at the time of the testator's death in order to be admitted to probate. NRS 136.240(3) provides:

No will shall be allowed to be proved as a lost or destroyed will unless the same shall be proved to have been in *existence* at the death of the person whose will it is claimed to be, or be shown to have been *fraudulently destroyed* in the lifetime of such person, nor unless its provisions shall be clearly and distinctly proved by at least two credible witnesses. (Emphases added.)

Doyle urges this court to interpret the word "existence" in the statute to require that a will be in actual physical existence at the time of the testator's death to be admitted to probate, as did the district court. According to Doyle, any other interpretation does violence to the English language and to the statutory scheme designed to prevent the probate of spurious wills. Some of our sister states have construed similar statutes to require actual physical existence. See *In re Estate of Lane*, 86 Cal. Rptr. 620 (Ct.App. 1970); *In re Estate of Strickman*, 55 Cal. Rptr. 606 (Ct.App. 1966); *In re Kerckhof's Estate*, 125 P.2d 284 (Wash. 1942). Doyle further urges this court to construe "fraudulently destroyed" to require some "intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right," relying on the definition of fraud in Black's Law Dictionary 594 (rev. 5th ed. 1979). While this may be a good definition of "fraud" in some contexts, we refuse to give NRS 136.240(3) such a narrow construction.

The problem with the construction argued for by Doyle is that it has the result of creating a valid yet unenforceable document. NRS 133.110-133.150 provide the possible methods of revoking a will in Nevada. Nowhere is it provided that a will is deemed revoked if it is lost or accidentally destroyed without the testator's knowledge. Further, NRS 136.240(3) does not purport to be an additional method of revoking a will. Therefore, under the construction of NRS 136.240(3) proposed by Doyle, a lost or accidentally destroyed will, although valid, could not be enforced even if the terms of the will could be objectively proved or a valid copy of the will could be produced. A testator could die thinking his affairs in order only to have his desires frustrated by a legal technicality. Even more anomalous under Doyle's interpretation of the statute is the fact that a will which was surreptitiously

destroyed could be admitted to probate if proved by other evidence, while the same will, if accidentally destroyed, could not be probated regardless of whether the testator knew of the will's destruction prior to his death. Similar considerations prompted the Colorado Supreme Court to comment:

There is no good reason a testator should be decreed to have died intestate, and his wishes, solemnly committed to writing, be defeated by the loss or destruction of what is, after all, merely the best, and not the only, evidence of his desires.

In *re Eder's Estate*, 29 P.2d 631, 634-635 (Colo. 1934). To ignore a testator's desires when the testator has done all in his power to comply with the laws concerning wills would be an injustice. We do not believe the legislature intended such a result.

[Headnote 2]

Other jurisdictions with statutes similar to NRS 136.240(3), moved by these policy considerations, have construed the term "existence" in their statutes to mean "legal existence." A will is said to be in legal existence if it has been validly executed and has not been revoked by the testator. Thus, a will lost or destroyed without the testator's knowledge could be probated because it was in legal existence at the testator's death. *See In re Eder's Estate*, 29 P.2d 631 (Colo. 1934); *In re Estate of Enz*, 515 P.2d 1133 (Colo.Ct.App. 1973); *In re Havel's Estate*, 194 N.W. 633 (Minn. 1923); *Matter of Estate of Wheadon*, 579 P.2d 930 (Utah 1978).¹

Doyle argues, however, the acceptance of the legal existence theory effectively amends the words "fraudulently destroyed" out of the lost wills statute. According to Doyle, a fraudulently destroyed will would remain unrevoked and would therefore have been "in existence" at the time of death under the legal existence theory. Thus, "fraudulently destroyed" is rendered nugatory or redundant. Some jurisdictions have refused to construe "in existence" to mean legal existence for this reason. However, these jurisdictions have reached the same result by construing "fraudulently destroyed" to mean destroyed by somebody other than the testator without his consent or direction, or by accident without his knowledge. *See In re Estate of Newman*, 518 P.2d 800, 801-02 (Mont. 1974); *In re Fox's Will*, 174 N.E.2d 499 (N.Y. 1961). We note that by giving "fraudulently destroyed" this meaning, the term "in existence" is rendered redundant.

¹Utah's lost wills statute has since been repealed and replaced by the more liberal Uniform Probate Code. However, the views expressed in *Matter of Estate of Wheadon* remain valid. *See Matter of Estate of Wheadon*, 579 P.2d at 931. Minnesota's lost wills statute has been replaced by a statute that requires that a will be unrevoked at the time of death. *See In re Greenberg's Estate*, 82 N.W.2d 239 (Minn. 1957). Thus, the same result was achieved by legislation.

[Headnotes 3, 4]

We conclude that it is unnecessary to so construe either of the terms in this statute in order to reach a just result. Instead, we choose to construe the statute as a whole, giving effect to each word without ignoring the intent of the legislature. *See generally Nevada Tax Comm'n v. Bernhard*, 100 Nev. 348, 683 P.2d 21 (1984) (statute should be read to give meaning to all of its parts); *Spencer v. Harrah's Inc.*, 98 Nev. 99, 641 P.2d 481 (1982) (court will not give statute a construction contrary to its clear meaning). In *Fox*, the New York Court of Appeals made the following pertinent statement:

By requiring proof that a lost or destroyed will was either "in existence at the time of the testator's death, or was fraudulently destroyed in his lifetime", the Legislature merely intended to require proof that either the will had not been destroyed during the testator's lifetime or that, if destroyed during his lifetime, it had not been destroyed by him or by his authority. In other words, all that section 143 requires is proof that the testator himself had not revoked the lost or destroyed will, proof that would overcome the common-law presumption of revocation.

In *re Fox's Will*, 174 N.E.2d 499, 504 (N.Y. 1961). We agree with this statement. At common law, when an executed will could not be found after the death of a testator, there was a strong presumption that it was revoked by destruction by the testator. *Id.* at 505; *Matter of Estate of Wheadon*, 579 P.2d at 932. NRS 136.240(3) codifies the common law rule and places the burden of overcoming the presumption on the proponent of a lost or destroyed will. Accordingly, we hold that the words "in existence" and "fraudulently destroyed" taken together convey the legislative intent to require the proponent of a lost or destroyed will to prove that the testator did not revoke the lost or destroyed will during his lifetime. Further, the question of whether a will was revoked is a matter to be decided by the trier of fact. *See In re Killgore's Estate*, 370 P.2d 512 (Idaho 1962).

Finally, Doyle argues that such an interpretation of the statute will allow spurious wills to be probated. We note, however, that in addition to proving that a will remains unrevoked, a proponent of a lost or destroyed will must prove the provisions of the will clearly and distinctly by at least two credible witnesses under NRS 136.240(3). These provisions will adequately protect against the probate of spurious wills.

Doyle argues that the district court's judgment may be upheld independently of NRS 136.240(3). According to Doyle, the district court decided Irvine knew of the destruction of the will prior to his death. Doyle asserts that the district court properly refused

to consider evidence tending to establish the existence of a lost will pursuant to NRS 136.230.² At the hearing, however, the district court refused to allow Bynum to present any evidence relevant to the issue of whether Irvine knew of the destruction of his will prior to his death. Instead, the district court made it abundantly clear that, in its opinion, the only relevant inquiry was whether the purported lost will had been in actual physical existence at the time of Irvine's death. Consequently, the district court's statements about Irvine's knowledge were *mere conjecture* and did not enter into the district court's decision. Therefore, the order of the district court cannot be sustained on the basis of NRS 136.230.

The decision of the district court in this case was based on an invalid construction of NRS 136.240(3), and must be reversed. Bynum attempted, but was not allowed, to prove that Irvine had executed a valid will which was destroyed prior to his death without his knowledge. Bynum's reasons for executing the quitclaim deed were relevant to the inquiry of whether Irvine intended to leave the Las Vegas property to Bynum and whether Irvine revoked his will or intended to revoke his will prior to his death. Further, the testimony of the other witnesses was relevant to the issue of the existence and content of Irvine's purported will. Because the district court excluded this evidence, no factual determinations have been made on these important issues. Accordingly, this case is reversed and remanded for a new hearing.³

²NRS 136.230 provides:

Whenever any will shall be lost by accident or destroyed by fraud without the knowledge of the testator, the district court shall have power to take proof of the execution and validity of the will and to establish the same, notice to all persons having first been given, as prescribed in cases of proof of wills in other cases.

³The Honorable Cliff Young, Justice, did not participate in the consideration of this case.

STATE OF NEVADA, APPELLANT AND CROSS-RESPONDENT,
v. CRYSTAL EATON, RESPONDENT AND CROSS-
APPELLANT.

No. 15158

December 10, 1985

710 P.2d 1370

Appeal and cross-appeal from a judgment entered on a jury verdict awarding damages. Second Judicial District Court, Washoe County, Roy L. Torvimen, Judge.

A personal injury and wrongful death action arising out of a car accident caused by icy road conditions was brought by infant decedent's mother against the State of Nevada. The district court entered judgment on a jury verdict awarding damages, and an appeal and cross-appeal were taken. The Supreme Court, Mowbray, J., held that: (1) the district court's calculation of damages, as modified for prejudgment interest, was proper and would be affirmed, but (2) a cause of action is now recognized in Nevada for serious emotional distress which results in physical symptoms caused by apprehending the death or serious injury of a loved one due to the negligence of defendant, and therefore plaintiff in this case should have been permitted to present to the jury her claim for negligent infliction of emotional distress.

Affirmed in part; reversed in part.

[Rehearing denied April 24, 1986]

Brian McKay, Attorney General, Steven F. Stucker, Deputy Attorney General, Carson City, for Appellant and Cross-Respondent.

Erickson, Thorpe, Swainston & Cobb, Ltd., Reno, for Respondent and Cross-Appellant.

1. AUTOMOBILES.

In personal injury and wrongful death action arising out of car accident caused by icy road conditions, evidence concerning the failure of highway patrol troopers to place flares or otherwise warn motorists of treacherous ice was properly admitted, as the highway patrol knew of the ice one hour before fatal accident occurred, and a trooper was on the scene 20 minutes prior to the accident but did nothing to warn oncoming motorists.

2. DAMAGES; DEATH.

Trial court, in personal injury and wrongful death action brought against the State, was not required to reduce the jury award on each claim to the statutory maximum recoverable against the State before subtracting the amount plaintiff received for releasing the other codefendants. NRS 41.035, subd. 1.

3. DAMAGES; DEATH.

Trial court, in personal injury and wrongful death action brought against the State, properly allocated between plaintiff's two claims the amount she received from the settling codefendants in exchange for their release.



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EXHIBIT "A"


CLERK OF THE COURT

1 **ORDR**
2 KIM BOYER, ESQ.
3 Nevada Bar #5587
4 10785 W. Twain Avenue, Suite 200
5 Las Vegas, Nevada 89135
6 (702) 255-2000
7 E-Mail: kimboyer@elderlawnv.com
8 Attorney for Estate

DISTRICT COURT

CLARK COUNTY, NEVADA

9 In the Matter of the Estate of

Case No.: P-14-082619-E

10 THEODORE E. SCHEIDE JR. aka
11 THEODORE ERNEST SCHEIDE JR.,

**ORDER ON PETITION FOR
INSTRUCTIONS**

12 Deceased.

13 The Petition of SUSAN M. HOY for Instructions from the Court for the Estate of
14 the above-named Decedent having this date come on for hearing before the undersigned, it
15 appearing to the Court that notice of the hearing on the Petition was duly given; the Court
16 finding that the Decedent at the time of his death left an estate in Clark County, Nevada, and was
17 then a resident of Clark County, Nevada, good cause appearing therefor, it is hereby

18 **ORDERED** that the Petitioner be appointed Administrator of the intestate Estate
19 of the Decedent and that Letters of Administration be issued to the Petitioner.

20 **ORDERED** that in the event the estate assets are liquidated, they be placed in the
21 Durham Jones & Pinegar Trust Account.

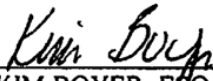
22 **ORDERED** that no bond be required.

23 **DATED** this 22nd day of May, 2015.

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DISTRICT JUDGE


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KIM BOYER, ESQ.
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EXHIBIT "B"

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REGISTER OF ACTIONS

CASE NO. P-14-082619-E

In the Matter of: Theodore Scheide Jr., Deceased

§
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Case Type: Probate - Special
Administration
Date Filed: 10/02/2014
Location:
Cross-Reference Case Number: P082619

RELATED CASE INFORMATION

Related Cases

W-16-010344 (Companion Case)

PARTY INFORMATION

			Lead Attorneys
Decedent	Scheide Jr., Theodore Ernest	Male DOD: 08/17/2014	
Objector	St. Jude Children's Research Hospital		Russel J Geist, ESQ Retained 702-385-2500(W)
Other	St. Jude Children's Research Hospital		Russel J Geist, ESQ Retained 702-385-2500(W)
Petitioner	Hoy, Susan 6625 S Valley View DR STE 216 Las Vegas, NV 89118	Female	Kim Boyer Retained 702-255-2000(W)
Special Administrator	Hoy, Susan 6625 S Valley View DR STE 216 Las Vegas, NV 89118	Female	Kim Boyer Retained 702-255-2000(W)

EVENTS & ORDERS OF THE COURT

05/22/2015 Petition - HM (9:30 AM) (Magistrate Yamashita, Wesley)
Petition for Instructions

Minutes

05/22/2015 9:30 AM

- PETITION FOR INSTRUCTIONS COMMISSIONER STATED this matter had been left open to see if anyone came forward to produce a will or indicated they wanted to pursue it, but nothing came forward. Further, it was the opinion of the Personal Representative that the will had been destroyed. Mr. VanAlstyne stated that is correct and confirmed this will is to proceed based upon the basis of an intestate situation. COMMISSIONER RECOMMENDED, Petition GRANTED. The signed Order was provided to Mr. VanAlstyne.

Parties Present

Return to Register of Actions

WILL
DESTROYED



CARY COLT PAYNE, CHTD.

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EXHIBIT "C"

0272
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CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter

Case No.: P-14-082619-E

THEODOR
THEODOR

PETITION FOR APPOINTMENT OF ADMINISTRATOR
OF INTESTATE ESTATE UNDER FULL ADMINISTRATION

Petitioner, SUSAN M. HOY, of Las Vegas, Nevada, respectfully represents to the
court as follows:

1. THEODORE SCHEIDE died on or about August 17, 2014 in Clark
County, Nevada. See Certified Death Certificate, attached hereto as Exhibit "1".

2. The decedent was, at the time of his death, a resident of the County of
Clark, State of Nevada, and his estate consists of certain personal property in an amount
exceeding \$200,000.

3. Due search and inquiry has been made to ascertain if the decedent left a
valid will and a copy of a Last Will and Testament dated October 2, 2012 was located but the
original has not been found. See copy attached hereto as Exhibit "2".

granted - order issued



CARY COLT PAYNE, CHTD.

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EXHIBIT "D"


CLERK OF THE COURT

0272
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DISTRICT COURT
CLARK COUNTY, NEVADA

In the Matter of the Estate of

Case No.: P-14-082619-E

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

Deceased.

PETITION FOR INSTRUCTIONS

Petitioner, SUSAN M. HOY, of Las Vegas, Nevada, respectfully represents to the
court as follows:

1. On October 6, 2014, the Court entered an Order appointing SUSAN M. HOY as Special Administrator, requiring the posting of no bond, that she enter the decedent's safe deposit box at U.S. Bank to determine if there is a Last Will and if there is one, that she remove it, and that if there are any liquid assets, that she place them in a blocked account. A copy is attached hereto as Exhibit "1." On October 13, 2014, Letters of Special Administration were issued to SUSAN M. HOY. A copy is attached hereto as Exhibit "2."

2. THEODORE SCHEIDE died on or about August 17, 2014 in Clark County, Nevada. See copy of Certified Death Certificate, attached hereto as Exhibit "3".

3. The decedent was, at the time of his death, a resident of the County of Clark, State of Nevada, and his estate consists of certain personal property in an amount exceeding \$200,000.

1 4. Due search and inquiry has been made to ascertain if the decedent left a
2 valid will and a copy of a Last Will and Testament dated October 2, 2012 was located but the
3 original has not been found. See copy attached hereto as Exhibit "4".

4
5 5. The Special Administrator, per the above-mentioned Order, entered the
6 decedent's safe deposit box located at U.S. Bank and it was empty.

7 6. The drafting attorney gave the original Will to the decedent. The Special
8 Administrator was the decedent's guardian prior to his death and no original estate planning
9 documents were received or found during the guardianship. The Special Administrator believes
10 the decedent destroyed any original estate planning documents he may have executed prior to his
11 death.

12
13 7. The names and addresses of all known heirs of said decedent and
14 beneficiaries named in the will (only a copy of which has been located) are as follows:

<u>Name and Address</u>	<u>Age</u>	<u>Relationship</u>
Theodore "Chip" E. Scheide, III 101 S. Lexington Avenue Pittsburg, Pennsylvania 15208	Adult	Son
Velma G. Shay	Deceased	Friend
St. Jude Children's Hospital 262 Danny Thomas Place Memphis, TN 38105	N/A	Beneficiary

15
16
17
18
19 8. There are no known liens, encumbrances or unpaid debts of the decedent.

20
21 9. The Special Administrator hereby requests instructions from the court as
22 to how to proceed with this probate matter.

23
24
25 **WHEREFORE**, Petitioner prays:

26 1. That a time be fixed for the hearing of this petition.

27 2. That the Special Administrator requests instructions from the court as to
28 how to proceed with this probate matter.



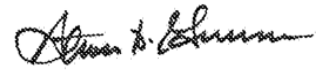
CARY COLT PAYNE, CHTD.

Attorney at Law

700 S. Eighth Street • Las Vegas, Nevada 89101
(702) 383-9010 • Fax (702) 383-9049

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EXHIBIT "E"



CLERK OF THE COURT

1 CERT
2 KIM BOYER, ESQ.
3 Nevada Bar #5587
4 10785 W. Twain Avenue, Suite 200
5 Las Vegas, Nevada 89135
6 (702) 255-2000
7 E-Mail: kimboyer@elderlawnv.com
8 Attorney for Estate

DISTRICT COURT

CLARK COUNTY, NEVADA

9 In the Matter of the Estate of

Case No.: P-14-082619-E

10 THEODORE E. SCHEIDE JR. aka
11 THEODORE ERNEST SCHEIDE JR.,

Deceased.

CERTIFICATE OF MAILING

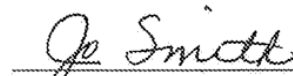
12 I HEREBY CERTIFY that service of the Notice of Hearing on Petition for
13 Instructions was made this 6th day of May, 2015, by depositing a copy of the
14 same in the U.S. Mails, postage prepaid, first class mail, addressed to:

15 Medicaid Estate Recovery
16 1050 E. Williams Street, Suite 435
17 Carson City, Nevada 89701-3199

Theodore "Chip" E. Scheide, III
101 S. Lexington Avenue
Pittsburg, Pennsylvania 15208

18 St. Jude Children's Hospital
19 262 Danny Thomas Place
20 Memphis, TN 38105

Patricia Bowlin
7800 Clarksdale Drive, #102
Las Vegas, Nevada 89128

21
22
23 
24 Jo Smith, an Employee

1 CERT
2 KIM BOYER, ESQ.
3 Nevada Bar #5587
4 10785 W. Twain Avenue, Suite 200
5 Las Vegas, Nevada 89135
6 (702) 255-2000
7 E-Mail: kimboyer@elderlawnv.com
8 Attorney for Estate


CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

9 In the Matter of the Estate of

Case No.: P-14-082619-E

10 THEODORE E. SCHEIDE JR. aka
11 THEODORE ERNEST SCHEIDE JR.,

Deceased.

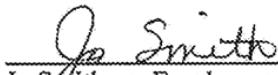
CERTIFICATE OF MAILING

12 I HEREBY CERTIFY that service of the Notice of Hearing for Appointment of
13 Administrator with Will Annexed Under Full Administration was made this 27th day of
14 January, 2015, by depositing a copy of the same in the U.S. Mails, postage prepaid,
15 first class mail, addressed to:

16 Medicaid Estate Recovery
17 1050 E. Williams Street, Suite 435
18 Carson City, Nevada 89701-3199

Theodore "Chip" E. Scheide, III
101 S. Lexington Avenue
Pittsburg, Pennsylvania 15208

19 St. Jude Children's Hospital
20 262 Danny Thomas Place
21 Memphis, TN 38105

22
23
24 
25 Jo Smith, an Employee
26
27
28