

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
ESTATE OF THEODORE
ERNEST SCHEIDE, JR.,
DECEASED.

Docket No. 84279

Electronically Filed
Jun 26 2023 06:12 PM
Elizabeth A. Brown
Clerk of Supreme Court

THEODORE E. SCHEIDE,
III,

Appellant.

v.
ST. JUDE CHILDREN'S
RESEARCH HOSPITAL,

Respondent.

RESPONDENT ST. JUDE CHILDREN'S
RESEARCH HOSPITAL'S ANSWERING BRIEF

Eighth Judicial District Court
Honorable Gloria Sturman, District Judge
Civil Case No. P-14-082619-E

Joseph C. Reynolds (8630)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, PLLC
5371 Kietzke Lane
Reno, Nevada 89511
jreynolds@hutchlegal.com
rgeist@hutchlegal.com
(775) 853-8746

NRAP 26.1 DISCLOSURE STATEMENT

The undersigned counsel of record certifies that the following are persons and/ or entities described in Nevada Rule of Appellate Procedure (NRAP) 26.1(a) that must be disclosed. Respondent St. Jude Children's Research Hospital is a non-profit charitable organization. It has no parent company or stock. St. Jude was represented in the district court by the following legal counsel:

Todd L. Moody (5430)
Joseph J. Powell (8875)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, PLLC
Peccole Professional Park
10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
tmoody@hutchlegal.com
jpowell@hutchlegal.com
rgeist@hutchlegal.com
(702) 385-2500

St. Jude is represented on appeal by the following legal counsel:

Joseph C. Reynolds (8630)
Russel J. Geist (9030)
HUTCHISON & STEFFEN, PLLC
5371 Kietzke Lane
Reno, Nevada 89511
jreynolds@hutchlegal.com
rgeist@hutchlegal.com
(775) 853-8746

These representations are made so that the Justices of this Court may evaluate possible disqualifications or recusals.

Dated: June 26, 2023.

HUTCHISON & STEFFEN, PLLC

By: /s/ Joseph C. Reynolds

Joseph C. Reynolds (8630)

Russell J. Geist (9030)

Counsel for Respondent

St. Jude Children's Research Hospital

TABLE OF CONTENTS

NRAP 26.1 DISCLOSURE STATEMENT.....	i
TABLE OF CONTENTS.....	iii
TABLE OF AUTHORITIES.....	v
I. INTRODUCTION.....	1
II. STATEMENT OF THE FACTS.....	3
1. Terms Of Theodore's October 2012 Will.....	4
2. About St. Jude.....	5
3. St. Jude's 2016 Probate Petition.....	7
4. This Court's 2020 Opinion.....	8
5. Post-appeal 2021 Proceedings.....	10
6. The District Court's 2022 Order.....	11
III. STANDARD OF REVIEW.....	13
IV. ARGUMENT.....	15
1. Disparagement And Allegations Of Fraud In Opening Brief Are Patently Without Merit And Misplaced.....	15
2. Newly Raised Arguments Are Untimely And Waived.....	16
(a). No new evidence or facts.....	18
(b). Waiver of claims on prior appeal.....	19

(c).	Unreasonable amount of time under NRCP 60.....	20
(d).	Barred by doctrine of laches.....	21
3.	The District Court Had Jurisdiction Over This Matter.....	22
(a).	Probate proceedings confer in rem jurisdiction.....	23
(b).	Conflating subject matter jurisdiction with standing..	23
4.	St. Jude Is A Proper Party.....	25
(a)	St. Jude had standing to bring its probate petition pursuant to NRS Chapter 136.070.....	26
(b).	ALSAC is the fundraising organization for St. Jude and properly acted with authority from St. Jude to verify its probate petition.....	27
(c).	A non-profit organization filing a single probate petition is not 'doing business' in Nevada	30
(d).	St. Jude properly noticed its probate petition.....	32
i.	Issue was not properly raised below.....	32
ii.	Notice pursuant to NRS 136.100 was provided...	32
V.	CONCLUSION.....	34
	CERTIFICATE OF COMPLIANCE.....	x
	CERTIFICATE OF SERVICE.....	xi

TABLE OF AUTHORITIES

Nevada Supreme Court Opinions

<i>Bergeron v. Loeb</i> , 100 Nev. 54, 675 P.2d 397 (1984).....	23
<i>Besnillian v. Wilkinson</i> , 117 Nev. 519, 25 P.3d 187 (2001).....	21
<i>Britz v. Consolidated Casinos Corp.</i> , 87 Nev. 441, 488 P.2d 911 (1971).....	14
<i>Carson City v. Price</i> , 113 Nev. 409, 934 P.2d 1042 (1997).....	22
<i>Colwell v. State</i> , 118 Nev. 807, 59 P.3d 463 (2002).....	19, 24
<i>Diamond Enterprises, Inc. v. Lau</i> , 113 Nev. 1376, 951 P.2d 73 (1997).....	31
<i>Ferguson v. Las Vegas Metro. Police Dep’t</i> , 131 Nev. 939, 364 P.3d 592 (2015).....	26
<i>High Noon at Arlington Ranch Homeowners Assoc. v. Eighth Judicial Dist. Court</i> , 133 Nev. 500, 402 P.3d 639 (2017).....	33
<i>In re Eric A.L.</i> , 123 Nev. 26, 153 P.3d 32 (2007).....	14
<i>Keife v. Logan</i> , 119 Nev. 372, 75 P.3d 357 (2003).....	14
<i>Kahn v. Morse & Mowbray</i> , 121 Nev. 464, 117 P.3d 227 (2005).....	19

<i>Landreth v. Malik</i> , 127 Nev. 175, 251 P.3d 163 (2011).....	19
<i>Matter of Estate of Scheide</i> , 136 Nev. 715, 478 P.3d 851 (2020).....	<i>passim</i>
<i>Morency v. State, Dep’t of Educ.</i> , 137 Nev. Adv. Op. 63, 496 P.3d 584 (2021).....	26
<i>Nat’l Assn. of Mut. Ins. Cos. v. Dep’t of Bus. and Inds., Div. on Ins.</i> , 139 Nev. Adv. Op. 3, 524 P.3d 470 (2023).....	26
<i>Nevada Policy Research Institute v. Cannizzaro</i> , 138 Nev. Adv. Op. 28, 507 P.3d 1203 (2022).....	26
<i>NC-DSH, Inc. v. Garner</i> , 125 Nev. 647, 218 P.3d 853 (2009).....	13, 21
<i>Occhiuto v. Occhiuto</i> , 97 Nev. 143 625 P.2d 568 (1981).....	13
<i>Pankopf v. Peterson</i> , 124 Nev. 43, 175 P.3d 910 (2008).....	13
<i>Rodriguez v. Fiesta Palms, LLC</i> , 134 Nev. 654, 428 P.3d 255 (2018).....	14
<i>RTTC Communications, LLC v. Saratoga Flier, Inc.</i> 121 Nev. 34, 100 P.3d 24 (2005).....	30
<i>Schwartz v. Lopez</i> , 132 Nev. 732, 382 P.3d 886 (2016).....	26
<i>Sierra Glass & Mirror v. Viking Indus., Inc.</i> , 107 Nev. 119, 222, 808 P.2d 512, 513 (1991).....	31
<i>State v. Rosenthal</i> , 107 Nev. 772 819 P.2d 1296 (1991).....	21

Superpumper, Inc. v. Leonard,
137 Nev. 429, 495 P.3d 101 (2021).....24, 25

Thompson v. District Court,
100 Nev. 352, 683 P.2d 17 (1984).....29

Union Petrochemical Corp. of Nev. v. Scott,
96 Nev. 337, 609 P.2d 323 (1980).....20

Vargas v. Morales,
138 Nev. Adv. Op. ___, 510 P.3d 777 (2022).....14

Willard v. Berry-Hinkley Industries,
136 Nev. 467, 469 P.3d 176 (2020).....14

Nevada Supreme Court Orders

Matter of Estate of Scheide,
Docket No. 76924 (Order Denying Rehearing, February 4, 2021).....1, 9

Nevada Court of Appeals Orders

In re Estate of Scheide,
Docket No. 76924-COA (Order of Affirmance, March 26, 2020).....1, 3, 17

United States Supreme Court Opinions

Kline v. Burke Const. Co.,
260 U.S. 226 (1922).....23

Other State Opinions

McGaha v. McGaha,
664 S.W.3d 496 (Ky. 2022).....29

Nevada Revised Statutes

NRS 80.010.....12, 29, 30, 31

NRS 80.015.....	12, 30, 31
NRS 80.055.....	30
NRS 82.5234.....	10, 12, 30
NRS 132.185.....	27
NRS 132.260.....	27
NRS 136.070.....	26
NRS 136.100.....	31, 32, 33
NRS 136.240.....	9
NRS 462.200.....	16

Nevada Rules Of Appellate Procedure

NRAP 26.1.....	i
NRAP 28.2.....	16
NRAP 32.....	ix

Nevada Rules Of Civil Procedure

NRCP 3.3.....	10
NRCP 11.....	11, 28
NRCP 17.....	25, 26, 28
NRCP 60(b).....	13, 20
NRCP 60(c).....	20, 21

NRCP 60(d).....	13, 20, 21
-----------------	------------

Internet Authorities

Office of the Nevada Secretary of State website at https://esos.nv.gov	6, 18
Nevada Department of Health and Human Services website at https://dhcfp.nv.gov	32

I. INTRODUCTION

This case is about giving effect, meaning, and purpose to the will and last wishes Theodore Ernest Scheide, Jr. (hereinafter “Theodore”), who was a Clark County resident that passed away in August 2014 and unequivocally intended that his approximately \$2.6 million estate be left to benefit the non-profit charitable organization St. Jude Children’s Research Hospital (hereinafter “St. Jude”).

St. Jude is a research hospital that studies childhood illnesses and provides medical care for sick children throughout the nation. Theodore was a life-long contributor to St. Jude and repeatedly confirmed his intent verbally and in writing.

This Court has already reviewed this case. It held in the published unanimous *en banc* opinion entitled *Matter of Estate of Scheide*, 136 Nev. 715, 478 P.3d 851 (2020), *overruling In re Estate of Scheide*, Docket No. 76924-COA (Order of Affirmance, March 26, 2020), that it was Theodore’s desire that his estate go to St. Jude and to benefit its mission upon his death. Theodore’s intent was clear. So was this Court’s opinion. Rehearing was denied. *See Matter of Estate of Scheide*, Docket No. 76924 (Order Denying Rehearing, February 4, 2021).

Unhappy with this outcome and upon remand to the district court, Theodore's only biological son, Theodore Ernest Scheide, III (hereinafter "Chip"), who was disinherited by his father and remained estranged from him in the 20 years proceeding his death, filed a 249-page document entitled "Notice of Motion and Motion to Strike the Fraudulently Submitted Petition Naming St. Jude's Research Hospital as Petitioner and Related Relief." Chip's Motion to Strike strings together a myriad of unsupported and disparaging factual allegations and misplaced interpretations of the law. His arguments are belied by the record and appear intended to thwart the finality of this matter. Indeed, his arguments were raised for the first time after this Court's remand on appeal and over five years after this matter was submitted to probate. None have merit.

After briefing and holding a hearing, the district court rejected Chip's arguments based upon undisputed facts and well-settled law. Respectfully, this Court should do the same. As further explained below, Chip's arguments (and specious allegations) are patently without merit. They should be rejected. Accordingly, St. Jude respectfully requests that the decision of the district court be AFFIRMED.

II. STATEMENT OF THE FACTS

The underlying facts of this appeal are largely set forth in this Court’s opinion *Matter of Estate of Scheide*, 136 Nev. 715, 478 P.3d 851 (2020), and are reiterated below to only include those proceedings that occurred after this Court’s decision and which remain relevant to responding to this appeal.

Theodore Ernest Scheide, Jr. (hereinafter “Theodore”), who was a Clark County, Nevada resident, passed away in August 2014. Upon his death, *a copy* of his 16-page document entitled “Last Will and Testament of THEODORE E. SCHIEDE” from October 2012 (which was drafted by legal counsel, in writing, signed by Theodore, dated, and recognized by two witnesses) was located. 1 AA 161-176. This Court held that the copy of Theodore’s October 2012 Will was valid.¹

¹ The validity of the *copy* of the October 2012 Will was the primary subject of this Court’s opinion in *Scheide*, 136 Nev. 715, 478 P.3d 851. During probate, the district court found that the original version of Theodore’s October 2012 Will was lost and, on this basis, awarded his estate to Appellant Chip as his sole heir pursuant to Nevada’s statutory intestate laws. On appeal, the Nevada Court of Appeals affirmed the district court’s decision in an unpublished order entitled *In re Estate of Scheide*, Docket No. 76924-COA (Order of Affirmance, Mar. 26, 2020). However, this Court granted review of the case, and issued its published opinion, where it reversed and remanded both the decision of the Nevada Court of Appeals and the district court.

1. Terms Of Theodore's October 2012 Will

Theodore's Will stated that his estate was to pass to his life partner, Velma G. Shay. If she died before him, then his estate was to pass to St. Jude. More specifically, Theodore's wishes are set forth in Section 3.02 entitled "Disposition of My Residuary Estate" in Article Three of his Will and are clear and unequivocal:

If VELMA G. SHAY predeceases me, then I give my residuary estate to ST. JUDE CHILDREN'S HOSPITAL located in Memphis, Tennessee.

AA 163.

Theodore had one adult biological son, Theodore Ernest Scheide, III (hereinafter "Chip"). The two had been estranged for over 20 years prior to Theodore's death. *Scheide*, 136 Nev. at 716, 478 P.3d at 853. Theodore expressly 'disinherited' his son, Chip, and Chip's descendants, from ever receiving any portion of his estate:

. . . I am specifically disinheriting THEODORE E. SCHIDE, III and his descendants. Therefore, for the purposes of my Will, THEODORE E. SCHIEDE, III and his descendants will be deemed to have predeceased me.

1 AA 161, 163; *see also* 2 AA 474.

Sadly, Ms. Shay passed away in 2013 and predeceased Theodore. *Scheide*, 136 Nev. at 716, 478 P.3d at 853. At the time of Theodore's

death, his estate was valued at approximately \$2.6 million. *Id.* Pursuant to the Will, Theodore's estate was to pass to St. Jude Children's Research Hospital (hereinafter "St. Jude"). *Id.*

2. About St. Jude

St. Jude is a non-profit charitable organization and research hospital that is incorporated in Tennessee. Its mission is to advance research to cure childhood illnesses and provide care for children suffering from cancer and other diseases and to support their families. 6 AA 1343; *see Scheide*, 136 Nev. at 716, 478 P.3d at 853. As such, families of children suffering from illness never receive a bill from St. Jude for medical treatment, travel, housing, or food. *See* 2 Respondent's Appendix ("RA") 277-278. St. Jude depends upon charitable giving to provide these medical services to sick children and their families. *Id.*

For over 60 years, the American Lebanese Syrian Associated Charities ("ALSAC") has served as St. Jude's official fundraising organization. 6 AA 1358. ALSAC has been expressly authorized in a notarized Resolution approved on June 22, 2016, by the St. Jude Board of Governors, to serve as St. Jude's "agent to receive, handle and administer all devises, bequests and gives of property of every kind and

nature given, devised and bequeathed” to aid and assist in St. Jude’s mission. *Id.* St. Jude has further expressly authorized certain officers and representatives of ALSAC to “engage in all activities necessary and required” to fulfill this purpose, including executing legal documents on its behalf involving estates where St. Jude is a named beneficiary. *Id.* ALSAC is domiciled in Illinois but has been registered as a non-profit foreign corporation with the Office of the Nevada Secretary of State since 1978.² 6 AA 1354.

Theodore held St. Jude and its work to treat sick children and help their families in “high esteem.” *Scheide*, 136 Nev. at 716, 478 P.3d at 853. He “donated substantial sums” of funds to benefit St. Jude throughout his lifetime. *Id.* Conclusive evidence, including Theodore’s Will and testimony from credible witnesses who spoke with him prior to his death, confirmed that Theodore “wished to disinherit Chip and leave his estate to St. Jude.” *Id.* at 722, 478 P.3d at 857. His intent remained unchanged.

² ALSAC maintains Nevada business identification number NV19781006160. 5 AA 1354; *see also* Office of the Nevada Secretary of State website at <https://esos.nv.gov>.

3. St. Jude's 2016 Probate Petition

Yet, upon Theodore's death, and believing that Theodore's original October 2012 Will had been lost or destroyed, a court-appointed special administrator initially recommended in 2015 that Theodore's Estate be administered to his estranged and disinherited son, Chip, pursuant to operation of Nevada's intestacy laws. 1 AA 100; *see also Scheide*, 136 Nev. at 717, 478 P.3d at 854.

Learning of both the special administrator's intended action and evidence that Theodore's October 2012 Will was never revoked by him, St. Jude filed in September 2016 a Petition for Probate of Theodore's lost October 2012 Will. 1 AA 98-150. An original version of the October 2012 Will may have been lost. Yet, even if lost, St. Jude maintained, it was certainly not revoked by Theodore. Accompanying St. Jude's September 2016 Probate Petition was a "Verification" and certification from the "Director – Legal/ALSAC" as the legal "agent or authorized representative" for St. Jude to commence the action. 1 AA 107. Affidavits from witnesses supported St. Jude's concern and were attached to the Probate Petition. 1 AA 127-129, 149-150.

Chip objected to St. Jude's action and Probate Petition. 1 AA 206-

249. He maintained that the absence of Theodore's original October 2012 Will meant that it was presumptively revoked and that a mere copy of the Will was insufficient to give it effect.³ *Id.*

The district court held evidentiary hearings in June 2017. *See* 1 RA 1-200; 2 RA 201-326.⁴ In August 2017, the district court issued an order finding that the existence of Theodore's October 2012 Will at the time of his death could not be established pursuant to NRS 136.240. On this limited basis, it denied St. Jude relief. 3 AA 674-685.

4. This Court's 2020 Opinion

On appeal, and as previously discussed, this Court disagreed with Chip's argument.⁵ In a unanimous *en banc* published opinion *Scheide*,

³ Notably, Chip did not challenge the district court's jurisdiction. He did not allege St. Jude was not a proper party or was acting without authority. Nor did he challenge ALSAC. He also did not contend that St. Jude provided any improper notice. Chip did make a general claim regarding St. Jude's standing to bring the 2016 Probate Petition. However, his claim was based *only* upon the timeliness of St. Jude's Probate Petition. He provided no other basis. *See* 1 AA 212-213.

⁴ Copies of the transcripts of the June 2017 hearings were not included in Appellant's Appendix. Inclusion of the transcripts may assist this Court. Accordingly, St. Jude has filed a separate Respondent's Appendix contemporaneously with this Answering Brief.

⁵ A central issue in the prior appeal was the application and meaning of

136 Nev. 715, 478 P.3d 851, this Court recognized that “Theodore wished to disinherit Chip and leave his estate to St. Jude” and that “[s]ubstantial evidence supported [the conclusion] that Theodore’s testamentary intent remain unchanged.” *See id.* at 722, 478 P.3d at 857. In reaching this conclusion, this Court noted that even if an original copy of a will is lost, Nevada law supports “the legislative goal of ensuring the testator’s wishes are honored where the evidence supports that the testator did not intent to revoke the lost will.” *Id.* at 721, 478 P.3d at 856-57 (internal citations omitted). Thus, this Court held that an “accurate copy” of Theodore’s October 2012 Will existed and that it was valid. *Id.* This Court further held that “the district court erred by denying St. Jude’s petition to probate the will,” and reversed and remanded the appeal “with instructions for the district court to probate the lost will.” *Id.* at 727-28, 478 P.3d at 861. Chip sought rehearing. It was denied. *See Matter of Estate of Scheide*, Docket No. 76924 (Order Denying Rehearing, February 4, 2021).

NRS 136.240(3), which “allows a lost will to be probated where the will was in existence at the time of the testator’s death and at least two credible witnesses clearly and distinctly prove the will’s provisions.” *Schiede*, 136 Nev. at 727, 478 P.3d at 861.

5. Post-appeal 2021 Proceedings

After remand by this Court, Chip filed a pleading in March 2021 entitled “Notice of Motion and Motion to Strike the Fraudulently Submitted Petition Naming St. Jude’s Research Hospital as Petitioner and Related Relief.” 4 AA 689-710. He attached several hundreds of pages of purported exhibits to it. *See* 4 AA 711-938; 5 AA 939-1134; 6 AA 1189-1341. In his Motion to Strike, Chip asserted (for the first time *ever*) St. Jude committed fraud on the district court (and by extension this Court) because it was not a proper party and lacked standing to file its 2016 Probate Petition. He essentially advanced two alternative theories: one theory was that St. Jude was not licensed to do business in Nevada pursuant to NRS 80.010 and/or NRS 82.5234 and, therefore, could not legally bring an action in probate; the other theory attacked St. Jude’s relationship with its fundraising organization—ALSAC. 4 AA 698-704. Thus, he maintained that subject matter jurisdiction was lacking and all decisions must be vacated. 4 AA 704-710. St. Jude timely opposed the Motion to Strike.⁶ 6 AA 1342-1358. Chip replied. 6 AA 1359-1384.

⁶ St. Jude also moved for attorney fees and costs against Chip for filing the Motion to Strike pursuant to NRCP 3.3(1) (prohibiting a lawyer from

In April 2021, the district court held a hearing on the Motion to Strike and heard arguments from counsel. *See* 1 RA 1-29.⁷ At the hearing's conclusion, the district court denied the Motion to Strike. With respect to Chip's argument regarding standing, the district court observed:

. . . [T]here shouldn't be any more right to raise something like this after the fact. After a decision from the Supreme Court. At some point the right [to] raise standing, the right [to] raise jurisdiction, you know, has to stop, and I believe the Court has said probate the will. So it's now too late to raise this.

1 RA 24. The district court rejected the remainder of Chip's arguments against St. Jude and stated: "I don't believe there's been a fraud." 1 RA 25.

6. The District Court's 2022 Order

In January 2022, the district court issued a written order denying Chip's Motion to Strike St. Jude's 2016 Probate Petition. 6 AA 1385-

knowingly making a false statement to a tribunal) and NRCP 11(b)(2) (providing that a lawyer may file a pleading only after a reasonable inquiry and only when supported by existing law). 6 AA 1347-1349.

⁷ A copy of the transcript of the April 2021 hearing was not included in Appellant's Appendix. Inclusion of the transcript may assist this Court. Accordingly, St. Jude has filed a separate Respondent's Appendix contemporaneously with this Answering Brief.

1391. In its written order, the district court expressly found that “Chip did not raise his claims of ‘fraud’ and ‘lack of standing’ against St. Jude at the time St. Jude filed its Probate Petition” in 2016 and that he was “silent on such claims.” 6 AA 1388. Addressing such arguments over four years later, the district court concluded, would be “highly prejudicial” to St. Jude and is also barred by the doctrine of laches. *Id.*

The district court further concluded that St. Jude was not ‘doing business’ in Nevada pursuant to NRS 80.015 and, therefore, was not barred from commencing a probate action pursuant to NRS 80.010 or NRS 82.5234. It also found that ALSAC was a properly authorized agent of St. Jude and that “St. Jude is a proper party.” 6 AA 1387. Even if a viable issue existed between the authority and agency relationship between St. Jude and ALSAC, the district court added, “it is not a concern that Chip has any standing to raise.” 6 AA 1388.

Consistent with this Court’s opinion in *Scheide*, 136 Nev. at 715, 478 P.3d 851, the district court held that “Chip is a disinherited heir” and St. Jude is the “sole heir” of Theodore’s estate. 6 AA 1388. Chip was directed to “turn over all of the funds of the Estate to St. Jude or its designated representative.” 6 AA 1389.

Chip has yet to comply.

III. STANDARD OF REVIEW

Chip's Motion to Strike was premised below in the district court upon citation to NRCP 60(b) and/or NRCP 60(d). It is not entirely clear which provision he relied upon, or whether he relied upon both. *See* 4 AA 697. He omits any reference or citation to NRCP 60 in his Opening Brief. With respect to the standard of review, he simply contends that questions of statutory construction are reviewed by this Court on appeal *de novo*. *See* Appellant's Opening Brief (hereinafter "AOB") 16 n.28, 26. For that limited proposition, he is correct. *See Pankopf v. Peterson*, 124 Nev. 43, 46, 175 P.3d 910, 912 (2008) (holding that statutory construction is reviewed on appeal *de novo*). Yet, his proposed standard is incomplete.

This Court has recognized that a party seeking to vacate a final judgment based upon NRCP 60(b) and allegations of fraud bears a "heavy burden" to establish fraud by "clear and convincing evidence." *See NC-DSH, Inc. v. Garner*, 125 Nev. 647, 657, 218 P.3d 853, 860 (2009) (quoting *Occhiuto v. Occhiuto*, 97 Nev. 143, 146 n.2, 625 P.2d 568, 570 n.2 (1981)). As such, a district court has "wide discretion" in reviewing an NRCP 60(b) motion and its decision will only be set aside where it has abused that

discretion. *Vargas v. Morales*, 138 Nev. Adv. Op. ___, 510 P.3d 777, 780 (2022); see *Rodriguez v. Fiesta Palms, LLC*, 134 Nev. 654, 656, 428 P.3d 255, 257 (2018). Indeed, a district court’s factual findings will not be disturbed where they are supported by “substantial evidence.” *Willard v. Berry-Hinkley Industries*, 136 Nev. 467, 471, 469 P.3d 176, 180 (2020) (citing *Keife v. Logan*, 119 Nev. 372, 75 P.3d 357 (2003)).

Even if evidence conflicts, the district court will be affirmed so long as the evidence is “sufficient” to support its decision. *Willard*, 136 Nev. at 471, 469 P.3d at 176 (citing *Britz v. Consolidated Casinos Corp.*, 87 Nev. 441, 444-45, 488 P.2d 911, 914 (1971)). An abuse of discretion may occur regarding legal conclusions where a district court “disregards legal principles,” *Vargas*, 138 Nev. Adv. Op. 38, 510 P.3d at 780, or if its decision is “arbitrary and capricious” or “exceeds the bounds of law or reason.” *In re Eric A.L.*, 123 Nev. 26, 33, 153 P.3d 32, 36-37 (2007).

No abuse of discretion occurred here. As will be explained below, the district court’s decision was supported by well-established law and a substantial factual record.

Respectfully, it should be affirmed.

IV. ARGUMENT

Chip raises a myriad of interwoven allegations and legal theories on appeal. Essentially, he maintains that the district court (and subsequently this Court) lacked subject matter jurisdiction over St. Jude's 2016 Probate Petition because it was verified by the Director of Legal for ALSAC; St. Jude is not registered to do business with the Office of the Nevada Secretary of State; and neither St. Jude nor ALSAC have proper standing to commence the action. He adds that St. Jude failed to properly notice its Probate Petition. On this basis, Chip argues that St. Jude was not a proper party and committed fraud by filing the Probate Petition. He contends that the district court improperly denied his Motion to Strike, and asks this Court to vacate all orders and opinions as being void. *See* AOB ii. Respectfully, he is incorrect.

1. Disparagement And Allegations Of Fraud In The Opening Brief Are Patently Without Merit And Misplaced

At the outset, it must be acknowledged that the Opening Brief is replete with the use of false and disparaging adjectives and adverbs directed towards St. Jude and its legal counsel. For example, the Opening Brief asserts that St. Jude has committed acts of "fraud" and "manipulation" on this Court, *see* AOB 2, 3, 6, 14; behaved "falsely," *see*

AOB 10; “abused the legal system,” *see* AOB 10; “disregard[ed the] law,” *see* AOB 29; acted with “unclean hands” and “bad faith,” *see* AOB 29-32; “endeavor[ed] to wrongfully take the decedent’s estate in a maneuver disallowed by law,” *see* AOB 29; and “demonstrated a conscious disregard for the laws of Nevada and the integrity of the legal system and this Court.” *See* AOB 31. Nothing could be further from the truth.

Such hyperbole, character attacks, and rhetoric have no basis in fact or law. They are uncivil, and the record does not support such assertions. Respectfully, St. Jude submits that such unfounded and disparaging remarks also have no place in this appellate matter or any professional legal discourse. *See* NRAP 28.2(a) (2), (3). As such, St. Jude will not further address each individual defamatory remark lodged against it in the Opening Brief. Simply put, they are categorically without merit and denied.⁸

St. Jude submits that the unique facts of this case and settled law (and its analysis) stand on their own. This should be the sole focus of this Court’s review.

⁸ Chip’s argument that St. Jude and ALSAC have violated NRS 462.200, which provides that the net proceeds of charitable lotteries and games must benefit Nevada, is misplaced. *See* AOB 30-31.

2. Newly Raised Arguments Are Untimely And Waived

St. Jude filed its Probate Petition on September 13, 2016. 1 AA 98-150. Chip filed an objection on October 4, 2016, but he did not raise the arguments now appearing on appeal. 1 AA 206-249. Since that time, this matter has undergone several years of proceedings before the district court in the years 2016 through 2018, *see* 1 AA 36-253; 2 AA 250-447; 3 AA 501-687, briefing and review by the Nevada Court of Appeals in the years 2019 through 2020, *see In re Estate of Scheide*, Docket No. 76924-COA (Order of Affirmance, Mar. 26, 2020); and, briefing and *en banc* review by this Court in the years 2020 and 2021, *see Matter of Estate of Scheide*, 136 Nev. 715, 478 P.3d 851 (2020) (rehearing denied on February 4, 2021).

Yet, it was not until March 16, 2021, and after this case was remanded by this Court to the district court, when Chip chose to file his instant Motion to Strike and raise new arguments for the first time *ever*. See 4 AA 689-711. Why he waited nearly five years to raise these new arguments is inexplicable. Accordingly, the district court properly found that Chip's arguments were untimely and waived. 6 AA 1385-1391. On this basis alone, they should be summarily denied.

(a). No new evidence or facts

The thrust of Chip’s argument in his Motion to Strike appears to be the two-fold assertions that the agency relationship between St. Jude and ALSAC was unknown or somehow concealed *and* that St. Jude’s incorporation status in Nevada was not disclosed. *See* AOB 14-26. Yet, the record belies his assertions. Indeed, St. Jude’s Probate Petition filed on September 13, 2016, expressly stated that it was signed and verified by the “Director – Legal/ALSAC” as the legal “agent or authorized representative” for St. Jude to commence the action. 1 AA 107.

Moreover, during the June 15-16, 2017, evidentiary hearings held before the district court, St. Jude’s Philanthropic Advisor specifically testified that she is “employed by ALSAC St. Jude Children’s Research Hospital.” *See* 2 RA 277. It was also well-known that St. Jude is based in Tennessee, not Nevada. *See* 1 RA 93, 103. Chip’s legal counsel acknowledged this fact. *See* 1 RA 16; 2 RA 319. A casual search of the internet or the website of the Office of the Nevada Secretary of State at <https://esos.nv.gov> readily reveals St. Jude’s corporate status—or any organization’s incorporation status in Nevada. Nothing has ever been concealed. No evidence or facts in the record (or public realm) are new.

Chip's failure to act does not transform his claims or render them viable.

(b). Waiver on prior appeal

It is well-settled by this Court that failure to raise a claim on appeal waives the issue. *See Kahn v. Morse & Mowbray*, 121 Nev. 464, 480 n.24, 117 P.3d 227, 238 n.24 (2005) (explaining that issues that are not properly raised on appeal may be deemed waived); *see also* NRAP 28. Here, Chip failed to raise his instant claims during his first appeals before either this Court or the Nevada Court of Appeals.

It is true that subject matter jurisdiction can be raised at any time, even for the first time on appeal. *See Landreth v. Malik*, 127 Nev. 175, 179, 251 P.3d 163, 166 (2011); *Colwell v. State*, 118 Nev. 807, 812, 59 P.3d 463, 467 (2002) (holding that “subject-matter jurisdiction is not waivable, and a court’s lack of such jurisdiction can be raised for the first time on appeal”). Yet, failure to raise a jurisdictional challenge, where, as here, the purported factual basis for the challenge was known and readily available, must have a limitation. It should not be permitted to extend in perpetuity. At some point, litigation must cease and having a ‘second bites at the apple’ must be precluded. Nevertheless, as further explained below, *see infra* 22-34, Chip’s attempt to characterize his claims as ones

challenging subject matter jurisdiction are misplaced and legally flawed.

(c). Unreasonable amount of time under NRCP 60

The exact NRCP 60 basis for Chip's Motion to Strike remains unclear. What provisions of NRCP 60(b) or NRCP 60(d) confer relief are not specified. Nevertheless, no basis is timely.

To the extent Chip brought his Motion to Strike pursuant to NRCP 60(b)(1)-(3), it was required to be filed within 6 months of the district court's final and appealable order upon St. Jude's 2016 Probate Petition. Indeed, "[a] motion under Rule 60(b) must be made within a reasonable time—and for reasons (1), (2), and (3) *no more than 6 months* after the date of the proceeding or the date of service of written notice of entry of the judgment or order, whichever date is later." NRCP 60(c)(1) (emphasis added). This six-month period "represents the extreme limit of reasonableness." *Union Petrochemical Corp. of Nev. v. Scott*, 96 Nev. 337, 339, 609 P.2d 323, 324 (1980) (internal quotation marks omitted). The district court's order was issued on August 6, 2018. 3 AA 674-685. As stated above, Chip's Motion to Strike was filed on March 16, 2021. It was certainly well beyond the 6-month's allotted to be reasonable and timely pursuant to NRCP 60(b)(1)-(3).

To the extent Chip brought his motion to Strike pursuant to NRCP (b)(4)-(6) or NRCP 60(d), it is governed by a “reasonable” amount of time. See NRCP 60(c)(1); *see also NC-DSH*, 125 Nev. at 659-60, 218 P.3d at 861-62 (recognizing the 6-month time limit does not apply). However, approximately 55 months, *i.e.*, four years and seven months, passed between St. Jude filing its Probate Petition and Chip raising his claims of fraud. Such delay is unreasonable. It is also prejudicial.

(d). Barred by the doctrine of laches

In denying Chip’s Motion to Strike, the district court found, amongst other reasons, that it was barred by the equitable doctrine of laches and that Chip’s delay in raising his claims was “highly prejudicial” to St. Jude. 6 AA 1388. The district court was correct.

This Court has held that laches “may be invoked when delay by one party prejudices the other party such that granting relief to the delaying party would be inequitable.” *Besnillian v. Wilkinson*, 117 Nev. 519, 522, 25 P.3d 187, 189 (2001). Indeed, “[l]aches is more than a party delaying the enforcement of his rights; it is delay that works a disadvantage to another,” such that they cannot be restored to their former position. *State v. Rosenthal*, 107 Nev. 772, 778 819 P.2d 1296, 1301 (1991).

Applicability of laches “depends upon the particular facts of each case.” *Carson City v. Price*, 113 Nev. 409, 412, 934 P.2d 1042, 1043 (1997).

Again, here, Chip waited nearly five years after St. Jude filed its Probate Petition to raise his current challenges. He offers no reasonable explanation for his delay. As explained above, *see supra* 18-19, there was no new evidence or facts revealed. It is only after years of litigation, time, and expense by St. Jude, as well as use of judicial and public resources, that he has chosen to raise new claims. Such delay is improper and undoubtedly prejudicial to St. Jude. Accordingly, the district court properly held that Chip’s claims were precluded by laches, in addition to the other reasons they are time bared and waived.

3. The District Court Had Jurisdiction Over This Matter

Perhaps recognizing that his claims were untimely and waived, Chip characterizes his Motion to Strike as a challenge to the jurisdiction of the district court (and subsequently this Court) over this case. *See* AOB 12-13. On this basis, he maintains that all prior decisions of the district court (and this Court) must be vacated. *See* AOB 26-29. However, his arguments are without merit.

(a). Probate proceedings confer in rem jurisdiction

Initially, it is well-settled that probate matters are “in the nature of an ‘in rem’ proceeding” and a district court “acquires jurisdiction over the estate and all persons for the purpose of determining their rights to any portion of the state.” *Bergeron v. Loeb*, 100 Nev. 54, 58, 675 P.2d 397, 400 (1984). Once jurisdiction is established, a district court is entitled “to maintain and exercise its jurisdiction.” *Id.* (citing *Kline v. Burke Const. Co.*, 260 U.S. 226, 229 (1922)).

Here, Theodore passed away as a resident of Clark County, Nevada. His October 2012 Will (and the property of his estate) and had his estate administered by the Eighth Judicial District Court. *See* 1 AA 1-9. St. Jude was the sole surviving and expressly named beneficiary in the Will. *See* 1 AA 110-125. Accordingly, the district court (and subsequently this Court) retained (and continue to retain) proper jurisdiction.

(b). Conflating subject matter jurisdiction with standing

Chip nevertheless contends that the district court (and subsequently this Court) lacked proper subject matter jurisdiction over St. Jude’s 2016 Probate Petition. *See* AOB 12-13. Yet, Chip bases his argument on the tortured proposition that St. Jude lacked sufficient

standing to be a proper party and initially file its Probate Petition and, therefore, subject matter jurisdiction was never established. By doing so, Chip attempts to circumvent the fact that his claims are untimely and waived by citing in his Opening Brief to the long-held principle that subject matter jurisdiction is not waivable and can be raised at ‘any time.’ See AOB 12, 18, 26.

While this proposition is true, see *Colwell*, 118 Nev. at 812, 59 P.3d at 467 (recognizing that “subject-matter jurisdiction is not waivable”), it does not necessarily follow that a deficiency in standing equates to a *per se* lack of subject matter jurisdiction in every case.

Indeed, this Court declined in the 2021 unanimous *en banc* opinion *Superpumper, Inc. v. Leonard*, 137 Nev. 429, 495 P.3d 101 (2021), to embrace that proposition. Recognizing the difference between the development of federal and state views on the topic and that some states “have held that they are separate principles,” this Court clarified in *Superpumper* that it has “never directly subscribed to the view that standing is an aspect of subject matter jurisdiction.” *Id.* at 433 n.2, 495 P.3d at 106 n.2. In doing so, this Court specifically noted that it does “not necessarily agree” with that position. *Id.*

Yet, it declined to definitively reach the issue in *Superpumper*. Accordingly, Chip's premise on appeal that standing and subject matter jurisdiction are intertwined concepts in Nevada is misplaced. That suggestion has been rebuffed by this Court's in *Superpumper*. It has yet to be reached and is not necessary to do so in this appeal. As further explained below, St. Jude unquestionably had proper statutory standing.

4. St. Jude Is A Proper Party

Chip contends that St. Jude lacks standing and is somehow not a proper party in this case because ALSAC—St. Jude's fundraising organization and agent—verified its 2016 Probate Petition and, therefore, is not a real party in interest pursuant to NRCP 17. *See* AOB 17-24. He also maintains that St. Jude is not registered to do business in Nevada and, therefore, lacked standing to file the Probate Petition. *See* AOB 2, 6. These arguments are wholly misguided. He is wrong as matters of law and fact.

As an initial matter, it must be noted that St. Jude has been the official party of record recognized by this Court, as well as the Nevada Court of Appeals, and the district court throughout these proceedings for nearly seven years. St. Jude is the sole surviving named beneficiary in

Theodore's Will. *See* 1 AA 110-125. It is axiomatic that St. Jude is a real party-in-interest pursuant to NRCP 17 and a proper party with standing to bring this case.

Standing is necessary in every case. This Court has explained: “The question of standing concerns whether the party seeking relief has a sufficient interest in the litigation,” so as “to ensure the litigant will vigorously and effectively present his or her case against an adverse party.” *Nevada Policy Research Institute v. Cannizzaro*, 138 Nev. Adv. Op. 28, 507 P.3d 1203, 1207 (2022) (quoting *Schwartz v. Lopez*, 132 Nev. 732, 743, 382 P.3d 886, 894 (2016)). Generally, to have standing, a party must suffer an injury. *See Morency v. State, Dep’t of Educ.*, 137 Nev. Adv. Op. 63, 496 P.3d 584, 588 (2021). However, standing may also be established where it is recognized by statute. *See Nat’l Assn. of Mut. Ins. Cos. v. Dep’t of Bus. and Inds., Div. on Ins.*, 139 Nev. Adv. Op. 3, 524 P.3d 470, 476 (2023); *Ferguson v. Las Vegas Metro. Police Dep’t*, 131 Nev. 939, 952, 364 P.3d 592, 600 (2015). Here, St. Jude has statutory standing.

(a). St. Jude had standing to bring its probate petition pursuant to NRS 136.070

NRS 136.070(1) provides that

[a] personal representative or devisee named in a will, or any other ***interested person***, may, at any time after the death of the testator, petition the court having jurisdiction to have the will proved, whether the will is in the possession of that person or not, or is lost or destroyed, or is beyond the jurisdiction of the State.

(Emphasis added). An “interested person” is defined by NRS 132.185 as “a person whose right or interest ***under an estate*** or trust may be materially affected by a decision of a fiduciary or a decision of the court.”

(Emphasis added). And a “person” is defined by NRS 132.260 to include an “organization.” *See also* 2 RA 335. Certainly, St. Jude is a non-profit charitable organization. It is also a named beneficiary to Theodore’s October 2012 Will. St. Jude had (and continues to have) standing under Nevada law.

(b). ALSAC is the fundraising organization for St. Jude and acted with proper authority from St. Jude to verify its probate petition

Chip nevertheless asserts that ALSAC has somehow become the proper party because ALSAC’s Director of Legal verified St. Jude’s 2016 Probation Petition. *See* AOB 13-24. Yet, this argument is patently misguided.

Initially, it must be recognized that the district court aptly held that Chip lacks standing to challenge the agency relationship between St.

Jude and ALSAC. *See* 6 AA 1388. The district court stated: “How St. Jude deals with ALSAC with respect to the administration of its gifts is not a question for this Court to address, and not a concern that Chip has any standing to raise.” *Id.* Thus, his claim should be summarily dismissed on this basis.

NRS 136.270 defines a probate petition to be “a verified written request to the court for an order.” It does not specify who has the authority to verify the petition. Here, St. Jude’s 2016 Probate Petition was signed by its Nevada legal counsel pursuant to NRCP 11 and NRCP 17. *See* 1 AA 106. It was also verified by ALSAC’s Director of Legal. *See* 1 AA 107. ALSAC has been the fundraising organization for St. Jude for over 60 years, and ALSAC’s Director of Legal was acting with full and express authority as an agent of St. Jude as granted pursuant to a written Resolution by the St. Jude’s Board of Governors on June 22, 2016. *See* 6 AA 1358.

Indeed, ALSAC has been expressly authorized in a notarized Resolution by the St. Jude Board of Governors to serve as St. Jude’s “agent to receive, handle and administer all devises, bequests and gives of property of every kind and nature given, devised and bequeathed” to

aid and assist in St. Jude’s mission. *Id.* St. Jude has further expressly authorized certain executive officers and individuals of ALSAC’s to “engage in all activities necessary and required” to fulfill this purpose, including executing legal documents on its behalf involving estates where St. Jude is a named beneficiary. *Id.*

Chip has failed to cogently explain how the signature of ALSAC’s Director of Legal on St. Jude’s 2016 Probate Petition was in any way improper. Again, he was a *bona fide* agent of St. Jude. *See Thompson v. District Court*, 100 Nev. 352, 353 n.1, 683 P.2d 17, 18-19 n.1 (1984) (explaining that writ petition may be verified by a party’s attorney if the facts are within their knowledge). Accordingly, Chip’s argument is without merit.⁹

⁹ Assuming *arguendo* that St. Jude’s 2016 Probate Petition was improperly verified, the district court was not divested of subject matter jurisdiction. The Supreme Court of Kentucky recently addressed this very issue in the 2022 published opinion *McGaha v. McGaha*, 664 S.W.3d 496 (Ky. 2022). Like Nevada, Kentucky requires that a verified petition be filed when offering a will for probate. *Id.* at 502 (citing KRS 394.145). In *McGaha*, the Kentucky Supreme Court rejected the argument that a defective verification deprived Kentucky courts of subject matter jurisdiction. *Id.* (holding that the “lack of proper verification of the probate petition did not divest the district court of subject-matter jurisdiction to entertain the petition to probate the will”).

- (c). A non-profit organization filing a single probate petition is not ‘doing business’ in Nevada

Chip also contends that St. Jude lacked standing to file the 2016 Probate Petition because it was not registered to ‘do business’ with the Office of the Nevada Secretary of State. He specifically contends that St. Jude was required to be registered in Nevada and was therefore prohibited from appearing in the probate of Theodore’s Will pursuant to NRS 80.010, NRS 80.055, and NRS 82.5234. *See* AOB 13-16. Yet, once again, his argument is misplaced. The corporate provisions of NRS 80.010, NRS 80.055, NRS 82.5234 do not apply in this case.

Generally, a foreign corporation is required to make certain filings with the Office of the Nevada Secretary of State before “doing any business” in Nevada, including commencing or maintaining “any action or proceeding in any court” *See* NRS 80.010(1); NRS 80.055(2); *see also* NRS 82.5234. However, NRS 80.015(1)(a) expressly provides that “[m]aintaining, defending or settling any proceeding” is not ‘doing business’ in Nevada that requires filing or registering with the Nevada Secretary of State.¹⁰ This Court has explained that “transacting a single

¹⁰ Omitted from the Opening Brief is any reference to NRS 80.015.

piece of business” is not ‘doing business’ as contemplated by Nevada’s foreign corporation statute, *i.e.*, NRS 80.015.¹¹ *RTTC Communications, LLC v. Saratoga Flier, Inc.* 121 Nev. 34, 29, 100 P.3d 24, 27 (2005) (citing NRS 80.015(1)); *see also Sierra Glass & Mirror v. Viking Indus., Inc.*, 107 Nev. 119, 222, 808 P.2d 512, 513 (1991) (setting forth a test that looks to the nature of the corporation’s business functions in the forum state and the quantity of business there).

Here, St. Jude is a foreign non-profit charitable organization. It is incorporated in Tennessee and is not registered with the Office of the Nevada Secretary of State. It is not a business. It has appeared in Nevada and this litigation solely to secure its rights and ‘maintain, defend and settle’ the pending probate of Theodore’s Will. This activity falls squarely within the purview of NRS 80.015(2) as an exception to Nevada’s foreign corporation registration requirement.¹²

¹¹ The ‘doing business’ language and prohibitions in NRS 80.010(1) and 80.055(2) generally mirror those set forth in NRS 82.5234(2).

¹² Even if this Court were to conclude that exemption of NRS 80.015(1) did not apply and St. Jude was required to register pursuant to NRS 80.010, NRS 80.055, and NRS 82.5234, ALSAC has been registered as a non-profit foreign corporation with the Office of the Nevada Secretary of State since 1978 (Nevada Business Identification Number NV19781006160). 5 AA 1354.

(d). St. Jude's properly noticed its probate petition

Chip contends further that St. Jude lacked standing because it failed to provide notice of its 2016 Probate Petition as required by NRS 136.100. *See* AOB 24-26. However, his allegation is improperly raised on appeal. It is also belied by the record.

i. Issue was not properly raised below

“It is well established that arguments raised for the first time on appeal need not be considered by this Court.” *Diamond Enterprises, Inc. v. Lau*, 113 Nev. 1376, 1378, 951 P.2d 73, 74 (1997). While Chip vaguely raised a notice argument in 2017, *see* 1 RA 19, Chip utterly failed to ever cite to NRS 136.100 or raise any allegation in his Motion to Strike that St. Jude provided insufficient notice of its 2016 Probate Petition. *See* 4 AA 689-712. The argument is now improperly raised for the first time on appeal, and should be dismissed on this basis. It is also without merit.

ii. Notice pursuant to NRS 136.100(2) was provided

NRS 136.100(2) provides in part that a petitioner

shall give notice of the hearing for the period and in the manner provided in NRS 155.020 to the heirs of the testator and the devisees named in the will, to all persons named as personal representatives who are not petitioning and to the Director of the Department of Health and Human Services.

Here, the record shows that St. Jude filed on September 13, 2016, in the district court notice of the hearing on its 2016 Probate Petition. 1 AA 151-153. The notice provided that a hearing was to occur on St. Jude's Probate Petition on September 30, 2016. 1 AA 151. The notice was served on Nevada's Medicaid Estate Recovery Program, which is managed by the Nevada Department of Health and Human Services.¹³ See 1 AA 153. It was served on Chip. It was also served on the legal counsel for Theodore's estate. *Id.* A copy of St. Jude's filed Probate Petition was also served. See 1 AA 108. While a specific form was not used, the notice provided by St. Jude substantially complied with NRS 136.100, as well as NRS 155.020.

Moreover, even if notice was deficient, Chip cannot properly raise claims of insufficient notice on behalf of third parties—he lacks standing to assert such claims.¹⁴ He should be estopped from doing so. He has also shown no prejudice. Certainly, Chip *was* himself provided notice.

¹³ See Nevada Department of Health and Human Services website at <https://dhcfp.nv.gov>

¹⁴ See *High Noon at Arlington Ranch Homeowners Assoc. v. Eighth Judicial Dist. Court*, 133 Nev. 500, 507, 402 P.3d 639, 646 (2017) (holding that “a party [generally] has standing to assert only its own rights and cannot raise the claims of a third party not before the court”).

All living beneficiaries identified in Theodore's October 2012 Will received notice.¹⁵ Chip's assertion that there was inadequate notice of proceedings—nearly seven years later—should be summarily denied.

V. CONCLUSION

Theodore wished for his estate to pass to St. Jude, and to support St. Jude's mission of researching diseases and providing medical treatment to sick children without cost. His intent was set forth in a written Will that was drafted by legal counsel, signed, dated, and witnessed. It was unambiguous. It was clear. For his own reasons, Theodore did not want his estate to pass to his only son and heir, Chip, who was expressly disinherited in the Will.

This Court has previously reviewed this matter and, after doing so, held in the unanimous *en banc* published opinion *Matter of Estate of Scheide*, 136 Nev. 715, 478 P.3d 851 (2020), that Theodore's estate properly passes to St. Jude. Chip's last-minute effort to unravel that decision nearly five years after St. Jude first appeared was properly rejected by the district court.

¹⁵ Notice provided by St. Jude was to the individuals already identified by the special administrator when distributing the estate. *Compare* 1 AA 153, *with* 1 AA 52-53.

St. Jude had proper standing. The district court (and subsequently this Court) had jurisdiction. No statutes were violated. No fraud has been committed. It is time for this Court's prior decision to be implemented. Importantly, it is time for Theodore's final wishes to be given force, effect, and meaning.

Accordingly, St. Jude respectfully requests that the decision of the district court be AFFIRMED.

Dated: June 26, 2023.

HUTCHISON & STEFFEN, PLLC

By: /s/ Joseph C. Reynolds

Joseph C. Reynolds (8630)

Russell J. Geist (9030)

Counsel for Respondent

St. Jude Children's Research Hospital

CERTIFICATE OF COMPLIANCE

I hereby certify that this RESPONDENT ST. JUDE CHILDREN'S RESEARCH HOSPITAL'S ANSWERING 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). This brief has been prepared in a proportionally spaced typeface using Microsoft Word, Century Schoolbook 14-point type.

I further certify that this brief complies with the type-volume limitations of NRAP 32(a)(7) because, it is proportionally spaced, has a typeface of 14-point type, and contains 7,930 words. I have read this brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose.

This brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(c)(1), which requires every assertion in this brief regarding matters in the record to be supported by a reference to the page of the transcript or appendix where the matter relied on is to be found.

I understand that I may be subject to sanctions if the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedures.

Dated: June 26, 2023.

HUTCHISON & STEFFEN, PLLC

By: /s/ Joseph C. Reynolds

Joseph C. Reynolds (8630)

Russell J. Geist (9030)

Counsel for Respondent

St. Jude Children's Research Hospital

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this completed RESPONDENT ST. JUDE CHILDREN'S RESEARCH HOSPITAL'S ANSWERING BRIEF was served upon all counsel of record by electronically filing the document using the Nevada Supreme Court's electronic filing system.

Dated: June 26, 2023.

By: /s/ Madelyn Carnate-Peralta
An Employee of Hutchison & Steffen