

1 **NOAS**

2 Carmen Avello, Esq.
3 Nevada Bar No. 7257
4 **ASPIRE LAW GROUP, LTD**
5 1980 Festival Plaza Drive, Suite 300
6 Las Vegas, Nevada 89135
7 Telephone: (702) 766-0012
8 Email: carmen@algooffice.com
9 *Attorney for Mark Gonzalez*

Electronically Filed
Aug 10 2022 04:20 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 In the Matter of the Estate of:

CASE NO.: P-21-109705-E
DEPT. NO.: 5

9 FRANK JOE GONZALEZ a.k.a.
10 FRANK J. GONZALEZ,

Deceased.

11 **NOTICE OF APPEAL**

12 Notice is given that Mark Gonzalez, Respondent, appeals to the Supreme Court of Nevada
13 from the Order entered in this action on July 8, 2022.

14 DATED this 5th day of August, 2022.

15 **ASPIRE LAW GROUP**

16 */s/ Carmen Avello*

17 _____
18 Carmen Avello, Esq.
19 Nevada Bar No. 7257
20 1980 Festival Plaza Drive, Suite 300
21 Las Vegas, Nevada 89135
22 *Attorney for Mark Gonzalez*

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CERTIFICATE OF SERVICE

I hereby certify that I am an employee of Aspire Law Group and that on the 5th day of August, 2022, I caused the forgoing Notice of Appeal to be served as follows:

[X] via the Court's electronic filing and service systems to all parties on the current service list.

John G. Gubler	jgg@gublerlaw.com
Brian H. Nelson	brian@bhnelson.com
Vanessa Johnson	vanessa@ghnelson.com
Carmen Avello	carmen@algooffice.com
Assistant ALG	assistant@algooffice.com
Deana DePry	deana@algooffice.com

[X] by placing a true and correct copy of the same to be deposited for mailing in the U.S. Mail at Las Vegas, Nevada, enclosed in a sealed envelope upon which first class postage was fully prepaid and addressed as follows:

LORENA CARRILLO-ARELLANO
5120 Farndale Ave. #A
Las Vegas, Nevada 89122

ELIZABETH GONZALEZ
1180 Jacqueline Drive
Hollister, CA 95023





/s/ Deana DePry

An Employee of ASPIRE LAW GROUP

CASE SUMMARY**CASE NO. P-21-109705-E****In the Matter of:
Frank Gonzalez, Deceased**§
§
§
§
§Location: **Department 5**
Judicial Officer: **Barisich, Veronica M.**
Filed on: **11/17/2021**
Cross-Reference Case Number: **P109705****CASE INFORMATION**Case Type: **Probate - Summary
Administration**Case Flags: **Appealed to Supreme Court****DATE****CASE ASSIGNMENT****Current Case Assignment**Case Number P-21-109705-E
Court Department 5
Date Assigned 11/17/2021
Judicial Officer Barisich, Veronica M.**PARTY INFORMATION**














Petitioner	Carrillo-Arellano, Lorena	<i>Lead Attorneys</i> Gubler, John G. <i>Retained</i> 725-228-8286(W)
Decedent	Gonzalez, Frank Joe	
Respondent	Gonzalez, Mark	Avello, Carmen, ESQ <i>Retained</i> 702-766-0012(W)
Special Administrator	Carrillo-Arellano, Lorena Removed: 12/21/2021 Data Entry Error	Gubler, John G. <i>Retained</i> 725-228-8286(W)
	Pena, Kimberly Removed: 07/08/2022 Change of Status	

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**












11/17/2021	 Notice of Hearing Filed By: Petitioner Carrillo-Arellano, Lorena <i>[1] Notice of Hearing Petition for Letters of Administration and for Summary Administration</i>
11/17/2021	 Petition for Issuance of Letters of Administration Filed by: Petitioner Carrillo-Arellano, Lorena <i>[2] (2/17/22 Withdrawn) Petition for Letters of Administration and for Summary Administration</i>
11/19/2021	 Clerk's Notice of Hearing <i>[3] Notice of Hearing</i>
11/22/2021	 Ex Parte Petition <i>[4] Ex Parte Petition for Appointment of Special Administrator</i>

CASE SUMMARY

CASE NO. P-21-109705-E

12/20/2021	 Consent Filed By: Petitioner Carrillo-Arellano, Lorena <i>[5] Consent to Serve as Special Administrator</i>
12/21/2021	 Order Filed By: Petitioner Carrillo-Arellano, Lorena <i>[6] Ex Parte Order Appointing Special Administrator</i>
12/22/2021	 Letters of Administration Electronically Issued/Filed <i>[7] Letters of Special Administration</i>
02/17/2022	 Withdrawal Filed by: Petitioner Carrillo-Arellano, Lorena <i>[8] Withdrawal of Petition for Letters of Administration and for Summary Administration</i>
03/22/2022	 Petition Filed by: Petitioner Carrillo-Arellano, Lorena <i>[9] Petition for Order Setting Aside Estate Without Administration</i>
03/22/2022	 Notice of Hearing to Set Aside Estate Without Administration Filed by: Petitioner Carrillo-Arellano, Lorena <i>[10] Notice of Hearing Petition for Order Setting Aside Estate Without Administration</i>
03/22/2022	 Clerk's Notice of Hearing <i>[11] Notice of Hearing</i>
03/22/2022	 Affidavit of Mailing <i>[12] Affidavit of Mailing</i>
05/04/2022	 Change of Address Filed By: Petitioner Carrillo-Arellano, Lorena <i>[13] Notice of Attorney's Change of Address</i>
06/17/2022	 Opposition Filed By: Respondent Gonzalez, Mark <i>[14] Opposition to Petition for Order Setting Aside Estate Without Administration</i>
06/21/2022	 Notice of Appearance Party: Respondent Gonzalez, Mark <i>[15] Notice of Appearance</i>
06/21/2022	 Objection Filed By: Respondent Gonzalez, Mark <i>[16] Objection to Petition for Order to Set Aside Estate Without Administration</i>
06/21/2022	 Certificate of Service Filed by: Respondent Gonzalez, Mark <i>[17] Certificate of Service</i>
06/21/2022	 Reply <i>[18] Reply to Objection to Petition for Order to Set Aside Estate without Administration</i>

CASE SUMMARY
CASE NO. P-21-109705-E

06/23/2022	 Notice of Change of Hearing <i>[19] Notice of Change of Hearing</i>
07/08/2022	 Order <i>[20] Order from June 29, 2022 Hearing on Petition for Order Setting Aside Estate Without Administration and Objection to Petition</i>
07/08/2022	 Notice of Entry of Order Filed By: Petitioner Carrillo-Arellano, Lorena <i>[21] Notice of Entry of Order</i>
07/21/2022	 Petition Filed by: Respondent Gonzalez, Mark <i>[22] Petition for Reconsideration</i>
07/21/2022	 Notice of Hearing Filed By: Respondent Gonzalez, Mark <i>[23] Notice of Hearing</i>
07/21/2022	 Clerk's Notice of Hearing <i>[24] Notice of Hearing</i>
07/22/2022	 Certificate of Service Filed by: Respondent Gonzalez, Mark <i>[25] Certificate of Service</i>
08/05/2022	 Notice of Appeal Filed By: Respondent Gonzalez, Mark <i>[26] Notice of Appeal</i>
08/05/2022	 Opposition <i>[27] Opposition to Petition For Reconsideration</i>
<u>HEARINGS</u>	
02/18/2022	Petition - HM (3:00 AM) (Judicial Officer: Becker, Nancy) <i>Petition for Letters of Administration and for Summary Administration</i>
06/29/2022	 Petition - HM (9:00 AM) (Judicial Officer: Peterson, Jessica K.) <i>Petition for Order Setting Aside Estate Without Administration</i>
06/29/2022	Objection - HM (9:00 AM) (Judicial Officer: Peterson, Jessica K.) <i>Objection to Petition for Order to Set Aside Estate Without Administration</i>
06/29/2022	 All Pending Motions (9:00 AM) (Judicial Officer: Peterson, Jessica K.)
08/24/2022	Petition - HM (9:00 AM) (Judicial Officer: Peterson, Jessica K.) <i>Petition for Reconsideration</i>

DATE	FINANCIAL INFORMATION
	Attorney Nelson, Brian H, ESQ Total Charges 6.50 Total Payments and Credits 0.00 Balance Due as of 8/9/2022 6.50
	Decedent Gonzalez, Frank Joe

CASE SUMMARY

CASE NO. P-21-109705-E

Total Charges	284.50
Total Payments and Credits	284.50
Balance Due as of 8/9/2022	0.00

Respondent Gonzalez, Mark

Total Charges	24.00
Total Payments and Credits	24.00
Balance Due as of 8/9/2022	0.00

DISTRICT COURT CIVIL COVER SHEET
CLARK COUNTY, NEVADA

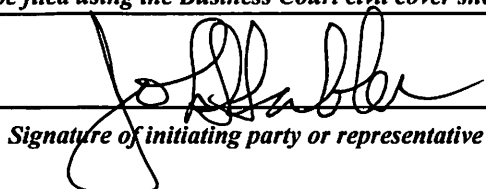
CASE NO: P-21-109705-E
Department 5

CASE NO. _____
(Assigned by Clerk's Office)

I. Party Information (Provide both home and mailing addresses if different)		
Plaintiff(s) / Petitioner(s) (Name/address/phone):		Defendant(s) / Decedent (Name/address/phone):
LORENA CARRILLO-ARELLANO 5120 Farndale Ave. #A Las Vegas, NV 89122 (702) 502-5946 D.O.B. 7/28/1974		FRANK JOE GONZALEZ a.k.a. FRANK J. GONZALEZ, Deceased D.O.B. 04/02/1942
Attorney (Name/address/phone):		Attorney (Name/address/phone):
John G. Gubler, Esquire Bar No. 1480 10655 Park Run Drive, Suite 170 Las Vegas, Nevada 89144 Ph: (702) 382-4343		N/A
II. Nature of Controversy (Please select the one most applicable filing type below)		
Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Torts <div style="display: flex;"> <div style="flex: 1;"> Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice </div> <div style="flex: 1;"> Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort </div> </div>	
Probate Probate (select case type and estate value) <input checked="" type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$300,000 <input checked="" type="checkbox"/> Between \$100,000 and \$300,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Medication Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Contract Case <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil cover sheet

November 17, 2021
Date


Signature of initiating party or representative

See other side for family-related case filings.

ORDR

BRIAN H. NELSON, ESQ.
Nevada Bar No. 13203
LAW OFFICES OF BRIAN H. NELSON
9525 Hillwood Drive, Suite 140
Las Vegas, NV 89134
Tel.: 702.485.4567
Fax: 702.485.4568
Email: brian@bhnelson.com
Attorney for Lorena Carrillo-Arellano

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the Estate of

FRANK JOE GONZALEZ,
Aka FRANK J. GONZALEZ,

Deceased.

Case No: P-21-109705-E
Dept. No: PC-1

ORDER

The PETITION FOR ORDER SETTING ASIDE ESTATE WITHOUT
ADMINISTRATION (the "Petition") filed in this matter by LORENA CARRILLO-
ARELLANO ("Lorena") having come on for hearing this 29th day of June, 2022, and the Court
having reviewed the pleadings and papers on file herein, and having heard the oral arguments of
counsel, and good cause appearing therefore, enters the following Findings of Fact and
Conclusions of Law:

I. FINDINGS OF FACT

1. On December 3, 2015, Decedent purchased the real property located at 3609 Park Oliver Dr., Las Vegas NV 89110 APN 140-30-311-035 (the "Real Property").
2. On December 8, 2017, Decedent and Lorena were married at VEGAS ADVENTURE WEDDING CHAPEL ("Vegas Adventure") by REVEREND NATURE LINYEA WOODALL ("Reverend Woodall") in Clark County, Nevada.
3. On or about March 6, 2018, Decedent died in and as a resident of Clark County, Nevada.

1 4. The Decedent died intestate without leaving any testamentary documents.

2 5. Lorena is the surviving spouse of Decedent.

3 6. Decedent was survived by his adult children MARK GONZALEZ (“Objector”)
4 and ELIZABETH GONZALEZ.

5 7. On December 21, 2021, an order was entered appointing KIMBERLY PENA (the
6 “Special Administrator”).

7 8. On December 22, 2021, LETTERS OF SPECIAL ADMINISTRATION were
8 issued to the Special Administrator.

9 9. On March 22, 2022, Lorena filed the Petition.

10 10. On March 22, 2022, the Petition, and its corresponding Clerk’s Notice of Hearing
11 were mailed to all interested parties.

12 11. On June 17, 2022, 87 days following the service of the Petition to Objector,
13 Objector filed the OPPOSITION TO PETITION FOR ORDER SETTING ASIDE ESTATE
14 WITHOUT ADMINISTRATION (the “Opposition”).

15 12. On June 21, 2022, 91 days following the service of the Petition to Objector,
16 Objector filed the OBJECTION TO PETITION FOR ORDER TO SET ASIDE ESTATE
17 WITHOUT ADMINISTRATION (the “Objection”) through counsel.

18 13. As of the date of the hearing on the Petition, Objector had not initiated any action
19 to annul the Decedent’s marriage to Lorena.

20 14. In the Objection, Objector asserts his *intention* to seek annulment of the marriage
21 pursuant to NRS 125.330 and NRS 125.340, and further to seek summary administration.

22 15. The net value of the Decedent’s estate, as of Decedent’s date of death, does not
23 exceed \$100,000.00.

24 16. Decedent died more than thirty (30) days prior to the filing of the Petition.

25 ///

II. CONCLUSIONS OF LAW

1. In Nevada, probate petitions are adjudicated under summary judgment standards provided by NRCP 56.

2. In Nevada, "[s]ummary judgment is appropriate ... when the pleadings ... demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law." Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005).

3. "[I]n order to defeat summary judgment, the nonmoving party must transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact." Cuzze v. Univ. & Cmty. Coll. Sys. of Nev., 123 Nev. 598, 602, 172 P.3d 131, 134 (2007).

4. NRCP 56(d) provides that:

If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

- (1) defer considering the motion or deny it;
- (2) allow time to obtain affidavits or declarations or to take discovery; or
- (3) issue any other appropriate order.

5. Pursuant to NRCP 56, no genuine issue of material fact exists which would preclude summary judgment, and no motion or affidavit has been presented pursuant to NRCP 56(d).

6. EDCR 2.20(e) provides as follows:

(e) Within 14 days after the service of the motion, and 5 days after service of any joinder to the motion, the opposing party must serve and file written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion and/or joinder should be denied. Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

1 7. Pursuant to EDCR 2.20(e), neither the Opposition nor the Objection was timely
2 filed.

3 8. EDCR 2.20(i) provides in part that:

4 Supplemental briefs will only be permitted if filed within the original time
5 limitations of paragraphs (d), (e), or (g), or by order of the court.

6 9. Pursuant to EDCR 2.20(i), the Objection was not timely filed as a supplement to
7 the Opposition.

8 10. Pursuant to NRS 146.070, if a decedent's estate does not exceed \$100,000.00 as
9 of Decedent's date of death, the estate may not be administered upon, but the whole estate must
10 be assigned and set apart to a decedent's surviving spouse and/or minor children.

11 11. As Decedent's estate did not exceed \$100,000.00 as of Decedent's date of death,
12 and as Decedent was survived by his spouse and no minor children, the Decedent's estate should
13 be set aside in its entirety to Lorena as Decedent's surviving spouse.

14 12. NRS 125.330 and NRS 125.340 provide that a marriage may be *voidable* if a
15 party thereto lacked sufficient mental capacity, or if the marriage was induced by fraud.

16 13. The authority of the probate court does not extend to the annulling of the marriage
17 of a decedent pursuant to NRS 125.330 or NRS 125.340, notwithstanding that the court has
18 assumed jurisdiction over such decedent's probate estate.

19 14. The Court cannot find, and Objector has not provided, any authority which would
20 delay the setting aside of a decedent's estate pursuant to NRS 146.070(3) based on a party's
21 "intent" to file to annul such decedent's marriage.

22 15. No evidence has been presented to substantiate Objector's claim for
23 reimbursements from the Decedent's estate for post-death mortgage payments.

24 16. Letters of Administration have never been issued to Objector, and he had no
25 authority to undertake actions on behalf of the Decedent's estate.

III. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law:

1. IT IS HEREBY ORDERED that the PETITION FOR ORDER TO SET ASIDE ESTATE WITHOUT ADMINISTRATION is granted in its entirety;

2. IT IS FURTHER ORDERED that the ESTATE OF FRANK JOE GONZALEZ be, and is hereby set aside in its entirety to LORENA CARRILLO-ARELLANO;

3. IT IS FURTHERED ORDERED that the ESTATE OF FRANK JOE GONZALEZ's interest in the real property commonly known as 3609 Park Oliver Dr., Las Vegas NV 89110 APN 140-30-311-035 and more particularly described as follows:

LOT EIGHTEEN (18) IN BLOCK THREE (3) IN CASA LOMAS NO. 1, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 28 OF PLATS, PAGE 20, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

be, and the same is hereby set aside to LORENA CARRILLO-ARELLANO;

4. IT IS FURTHERED ORDERED that this order transfer the title of the real property commonly known a 3609 Park Oliver Dr., Las Vegas NV 89110 APN 140-30-311-035 and as more particularly described above to LORENA CARRILLO-ARELLANO; and

5. IT IS FURTHER ORDERED that KIMBERLY PENA is discharged as special administrator of the ESTATE OF FRANK JOE GONZALEZ.

Dated this 8th day of July, 2022

DISTRICT JUDGE

~~Department VIII signing for Department V~~

Approved as to Form **C99 4AF 526F A93B**
Veronica M. Barisich
District Court Judge

/s/ Carmen Avello, Esq.

CARMEN AVELLO, ESQ.

Nevada Bar No. 7257

ASPIRE LAW GROUP

Attorney for Mark Gonzalez

Submitted by:

Brian Nelson

BRIAN H. NELSON, ESQ.

Nevada Bar No. 13203

LAW OFFICES OF BRIAN H. NELSON

Attorney for Lorena Carrillo-Arellano

From: [Carmen Avello, Esq.](#)
To: [Brian Nelson](#)
Cc: [Deana DePry](#)
Subject: Re: Gonzalez, Estate of Frank
Date: Wednesday, July 6, 2022 3:57:55 PM
Attachments: [ORDR Set Aside.pdf](#)
[ORDR Set Aside.docx](#)

Brian,
You have my permission to affix my electronic signature.

Carmen Avello, Esq.

On Jun 29, 2022, at 2:30 PM, Brian Nelson <Brian@bhnelson.com> wrote:

Carmen,

Attached is my proposed order from today's hearing. If acceptable, please either digitally sign and return to me, or otherwise send an email back authorizing me to affix your digital signature to the order. Otherwise, please track your proposed changes in the word document, and return the same to me.

Thank you.

Cordially,

Brian H. Nelson, Esq.

Law Offices of Brian H. Nelson

9525 Hillwood Drive, Suite 140

Las Vegas, NV 89134

Tel.: 702.485.4567

Fax: 702.485.4568

www.bhnelson.com

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 In the Matter of:

CASE NO: P-21-109705-E

7 Frank Gonzalez, Deceased

DEPT. NO. Department 5

8
9 **AUTOMATED CERTIFICATE OF SERVICE**

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

13 Service Date: 7/8/2022

14 John Gubler

jgg@gublerlaw.com

15 Carmen Avello

carmen@algoffice.com

16 Assistant ALG

assistant@algoffice.com

17 Deana Depry

deana@algoffice.com

18 Vanessa Johnson

Vanessa@bhnelson.com

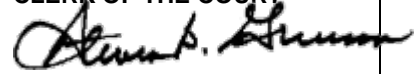
19 Brian Nelson

brian@bhnelson.com

20 Frank Gonzalez

markgonzalez5723@gmail.com

21
22
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24
25
26
27
28



1 **NEOJ**
2 BRIAN H. NELSON, ESQ.
3 Nevada Bar No. 13203
4 LAW OFFICES OF BRIAN H. NELSON
5 9525 Hillwood Drive, Suite 140
6 Las Vegas, NV 89134
7 Tel.: 702.485.4567
8 Fax: 702.485.4568
9 Email: brian@bhnelson.com
10 Attorney for Lorena Carrillo-Arellano

6 **DISTRICT COURT**
7 **CLARK COUNTY, NEVADA**

8 In the Matter of the Estate of

Case No: P-21-109705-E

Dept. No: PC-1

9 FRANK JOE GONZALEZ,
10 Aka FRANK J. GONZALEZ,

Deceased.

11 **NOTICE OF ENTRY OF ORDER**

12 PLEASE TAKE NOTICE that an ORDER, a copy of which is attached hereto, was
13 entered in the above-entitled matter on the 8th day of July, 2022.

14 DATED July 8, 2022



15 BRIAN H. NELSON, ESQ.
16 Nevada Bar No. 13203
17 LAW OFFICES OF BRIAN H. NELSON
18 9525 Hillwood Drive, Suite 140
19 Las Vegas, NV 89134
20 Attorney for Lorena Carrillo-Arellano
21
22
23
24
25

LAW OFFICES OF
BRIAN H. NELSON
ATTORNEY AT LAW
9525 HILLWOOD DRIVE, SUITE 140 LAS VEGAS, NV 89134
TEL 702.485.4567 FAX 702.485.4568

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that service of the NOTICE OF ENTRY OF ORDER and ORDER was made this 8th day of July, 2022, by depositing a copy of the same in the U.S. Mail, postage prepaid, addressed to:

HMS
P.O. Box 97337
Las Vegas, Nevada 89193

LORENA CARRILLO-ARELLANO
5120 Farndale Ave. #A
Las Vegas, NV 89122

ELIZABETH GONZALEZ
1180 Jacqueline Dr.
Hollister, CA 95023

I FURTHER CERTIFY that the NOTICE OF ENTRY OF ORDER and ORDER were submitted electronically for filing and/or service with the Eighth Judicial District Court on the, 2022, Electronic service of the foregoing documents has been made in accordance with the Service Contacts List as follows¹:

LAW OFFICES OF BRIAN H. NELSON

Brian Nelson
Vanessa Johnson

brian@bhnelson.com
vanessa@bhnelson.com

ASPIRE LAW GROUP

Carmen Avello
Assistant ALG
Deana Depry

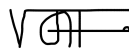
carmen@algotoffice.com
assistant@algotoffice.com
deana@algotoffice.com

JOHN G. GUBLER

jgg@gublerlaw.com

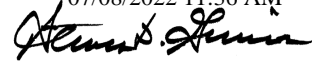
OTHER

markgonzalez5723@gmail.com



An Employee of LAW OFFICES OF BRIAN H. NELSON

¹ Pursuant to EDCR 8.05(a), each party who submits an E-filed document through the court's E-filing System consents to electronic service in accordance with NRCP 5(B)(2)(D).


CLERK OF THE COURT

ORDR

BRIAN H. NELSON, ESQ.
Nevada Bar No. 13203
LAW OFFICES OF BRIAN H. NELSON
9525 Hillwood Drive, Suite 140
Las Vegas, NV 89134
Tel.: 702.485.4567
Fax: 702.485.4568
Email: brian@bhnelson.com
Attorney for Lorena Carrillo-Arellano

**DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the Estate of

FRANK JOE GONZALEZ,
Aka FRANK J. GONZALEZ,

Deceased.

Case No: P-21-109705-E
Dept. No: PC-1

ORDER

The PETITION FOR ORDER SETTING ASIDE ESTATE WITHOUT
ADMINISTRATION (the “Petition”) filed in this matter by LORENA CARRILLO-
ARELLANO (“Lorena”) having come on for hearing this 29th day of June, 2022, and the Court
having reviewed the pleadings and papers on file herein, and having heard the oral arguments of
counsel, and good cause appearing therefore, enters the following Findings of Fact and
Conclusions of Law:

I. FINDINGS OF FACT

1. On December 3, 2015, Decedent purchased the real property located at 3609 Park Oliver Dr., Las Vegas NV 89110 APN 140-30-311-035 (the “Real Property”).
2. On December 8, 2017, Decedent and Lorena were married at VEGAS ADVENTURE WEDDING CHAPEL (“Vegas Adventure”) by REVEREND NATURE LINYEA WOODALL (“Reverend Woodall”) in Clark County, Nevada.
3. On or about March 6, 2018, Decedent died in and as a resident of Clark County, Nevada.

1 4. The Decedent died intestate without leaving any testamentary documents.

2 5. Lorena is the surviving spouse of Decedent.

3 6. Decedent was survived by his adult children MARK GONZALEZ (“Objector”)
4 and ELIZABETH GONZALEZ.

5 7. On December 21, 2021, an order was entered appointing KIMBERLY PENA (the
6 “Special Administrator”).

7 8. On December 22, 2021, LETTERS OF SPECIAL ADMINISTRATION were
8 issued to the Special Administrator.

9 9. On March 22, 2022, Lorena filed the Petition.

10 10. On March 22, 2022, the Petition, and its corresponding Clerk’s Notice of Hearing
11 were mailed to all interested parties.

12 11. On June 17, 2022, 87 days following the service of the Petition to Objector,
13 Objector filed the OPPOSITION TO PETITION FOR ORDER SETTING ASIDE ESTATE
14 WITHOUT ADMINISTRATION (the “Opposition”).

15 12. On June 21, 2022, 91 days following the service of the Petition to Objector,
16 Objector filed the OBJECTION TO PETITION FOR ORDER TO SET ASIDE ESTATE
17 WITHOUT ADMINISTRATION (the “Objection”) through counsel.

18 13. As of the date of the hearing on the Petition, Objector had not initiated any action
19 to annul the Decedent’s marriage to Lorena.

20 14. In the Objection, Objector asserts his *intention* to seek annulment of the marriage
21 pursuant to NRS 125.330 and NRS 125.340, and further to seek summary administration.

22 15. The net value of the Decedent’s estate, as of Decedent’s date of death, does not
23 exceed \$100,000.00.

24 16. Decedent died more than thirty (30) days prior to the filing of the Petition.

25 ///

II. CONCLUSIONS OF LAW

1. In Nevada, probate petitions are adjudicated under summary judgment standards provided by NRCP 56.

2. In Nevada, "[s]ummary judgment is appropriate ... when the pleadings ... demonstrate that no genuine issue of material fact exists, and the moving party is entitled to judgment as a matter of law." Wood v. Safeway, Inc., 121 Nev. 724, 731, 121 P.3d 1026, 1031 (2005).

3. "[I]n order to defeat summary judgment, the nonmoving party must transcend the pleadings and, by affidavit or other admissible evidence, introduce specific facts that show a genuine issue of material fact." Cuzze v. Univ. & Cmty. Coll. Sys. of Nev., 123 Nev. 598, 602, 172 P.3d 131, 134 (2007).

4. NRCP 56(d) provides that:

If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the court may:

- (1) defer considering the motion or deny it;
- (2) allow time to obtain affidavits or declarations or to take discovery; or
- (3) issue any other appropriate order.

5. Pursuant to NRCP 56, no genuine issue of material fact exists which would preclude summary judgment, and no motion or affidavit has been presented pursuant to NRCP 56(d).

6. EDCR 2.20(e) provides as follows:

(e) Within 14 days after the service of the motion, and 5 days after service of any joinder to the motion, the opposing party must serve and file written notice of nonopposition or opposition thereto, together with a memorandum of points and authorities and supporting affidavits, if any, stating facts showing why the motion and/or joinder should be denied. Failure of the opposing party to serve and file written opposition may be construed as an admission that the motion and/or joinder is meritorious and a consent to granting the same.

1 7. Pursuant to EDCR 2.20(e), neither the Opposition nor the Objection was timely
2 filed.

3 8. EDCR 2.20(i) provides in part that:

4 Supplemental briefs will only be permitted if filed within the original time
5 limitations of paragraphs (d), (e), or (g), or by order of the court.

6 9. Pursuant to EDCR 2.20(i), the Objection was not timely filed as a supplement to
7 the Opposition.

8 10. Pursuant to NRS 146.070, if a decedent's estate does not exceed \$100,000.00 as
9 of Decedent's date of death, the estate may not be administered upon, but the whole estate must
10 be assigned and set apart to a decedent's surviving spouse and/or minor children.

11 11. As Decedent's estate did not exceed \$100,000.00 as of Decedent's date of death,
12 and as Decedent was survived by his spouse and no minor children, the Decedent's estate should
13 be set aside in its entirety to Lorena as Decedent's surviving spouse.

14 12. NRS 125.330 and NRS 125.340 provide that a marriage may be *voidable* if a
15 party thereto lacked sufficient mental capacity, or if the marriage was induced by fraud.

16 13. The authority of the probate court does not extend to the annulling of the marriage
17 of a decedent pursuant to NRS 125.330 or NRS 125.340, notwithstanding that the court has
18 assumed jurisdiction over such decedent's probate estate.

19 14. The Court cannot find, and Objector has not provided, any authority which would
20 delay the setting aside of a decedent's estate pursuant to NRS 146.070(3) based on a party's
21 "intent" to file to annul such decedent's marriage.

22 15. No evidence has been presented to substantiate Objector's claim for
23 reimbursements from the Decedent's estate for post-death mortgage payments.

24 16. Letters of Administration have never been issued to Objector, and he had no
25 authority to undertake actions on behalf of the Decedent's estate.

III. ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law:

1. IT IS HEREBY ORDERED that the PETITION FOR ORDER TO SET ASIDE ESTATE WITHOUT ADMINISTRATION is granted in its entirety;

2. IT IS FURTHER ORDERED that the ESTATE OF FRANK JOE GONZALEZ be, and is hereby set aside in its entirety to LORENA CARRILLO-ARELLANO;

3. IT IS FURTHERED ORDERED that the ESTATE OF FRANK JOE GONZALEZ's interest in the real property commonly known as 3609 Park Oliver Dr., Las Vegas NV 89110 APN 140-30-311-035 and more particularly described as follows:

LOT EIGHTEEN (18) IN BLOCK THREE (3) IN CASA LOMAS NO. 1, AS SHOWN BY MAP THEREOF ON FILE IN BOOK 28 OF PLATS, PAGE 20, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY, NEVADA.

be, and the same is hereby set aside to LORENA CARRILLO-ARELLANO;

4. IT IS FURTHERED ORDERED that this order transfer the title of the real property commonly known a 3609 Park Oliver Dr., Las Vegas NV 89110 APN 140-30-311-035 and as more particularly described above to LORENA CARRILLO-ARELLANO; and

5. IT IS FURTHER ORDERED that KIMBERLY PENA is discharged as special administrator of the ESTATE OF FRANK JOE GONZALEZ.

Dated this 8th day of July, 2022

DISTRICT JUDGE

~~Department VIII signing for Department V~~

Approved as to Form **C99 4AF 526F A93B**
Veronica M. Barisich
District Court Judge

/s/ Carmen Avello, Esq.

CARMEN AVELLO, ESQ.

Nevada Bar No. 7257

ASPIRE LAW GROUP

Attorney for Mark Gonzalez

Submitted by:

Brian Nelson

BRIAN H. NELSON, ESQ.

Nevada Bar No. 13203

LAW OFFICES OF BRIAN H. NELSON

Attorney for Lorena Carrillo-Arellano

From: [Carmen Avello, Esq.](#)
To: [Brian Nelson](#)
Cc: [Deana DePry](#)
Subject: Re: Gonzalez, Estate of Frank
Date: Wednesday, July 6, 2022 3:57:55 PM
Attachments: [ORDR Set Aside.pdf](#)
[ORDR Set Aside.docx](#)

Brian,
You have my permission to affix my electronic signature.

Carmen Avello, Esq.

On Jun 29, 2022, at 2:30 PM, Brian Nelson <Brian@bhnelson.com> wrote:

Carmen,

Attached is my proposed order from today's hearing. If acceptable, please either digitally sign and return to me, or otherwise send an email back authorizing me to affix your digital signature to the order. Otherwise, please track your proposed changes in the word document, and return the same to me.

Thank you.

Cordially,

Brian H. Nelson, Esq.

Law Offices of Brian H. Nelson

9525 Hillwood Drive, Suite 140

Las Vegas, NV 89134

Tel.: 702.485.4567

Fax: 702.485.4568

www.bhnelson.com

1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 In the Matter of:

CASE NO: P-21-109705-E

7 Frank Gonzalez, Deceased

DEPT. NO. Department 5

8
9 **AUTOMATED CERTIFICATE OF SERVICE**

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

13 Service Date: 7/8/2022

14 John Gubler

jgg@gublerlaw.com

15 Carmen Avello

carmen@algoffice.com

16 Assistant ALG

assistant@algoffice.com

17 Deana Depry

deana@algoffice.com

18 Vanessa Johnson

Vanessa@bhnelson.com

19 Brian Nelson

brian@bhnelson.com

20 Frank Gonzalez

markgonzalez5723@gmail.com

21
22
23
24
25
26
27
28

P-21-109705-E In the Matter of:
Frank Gonzalez, Deceased

June 29, 2022 09:00 AM All Pending Motions

HEARD BY: Peterson, Jessica K. COURTROOM: Phoenix Building 11th Floor 116

COURT CLERK: Gibson, David

RECORDER: Kirkpatrick, Jessica

REPORTER:

PARTIES PRESENT:

Brian H Nelson, ESQ Attorney for Petitioner, Special
Administrator

Carmen Avello, ESQ Attorney for Respondent

JOURNAL ENTRIES

PETITION FOR ORDER SETTING ASIDE ESTATE WITHOUT ADMINISTRATION...
OBJECTION TO PETITION FOR ORDER SETTING ASIDE ESTATE WITHOUT
ADMINISTRATION...

Colloquy regarding the status of the case. Arguments by counsel. The Court stated its findings. COURT ORDERED Petition GRANTED and Objection to Petition DENIED. The Court DIRECTED Counsel to prepare the order.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

CARMEN AVELLO, ESQ.
1980 FESTIVAL PLAZA DR., SUITE 300
LAS VEGAS, NV 89135

DATE: August 9, 2022
CASE: P-21-109705-E

RE CASE: In the Matter of: FRANK JOE GONZALEZ aka FRANK J. GONZALEZ

NOTICE OF APPEAL FILED: August 5, 2022

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
 - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☒ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

*****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

In the Matter of:

FRANK JOE GONZALEZ
aka FRANK J. GONZALEZ,

Deceased.

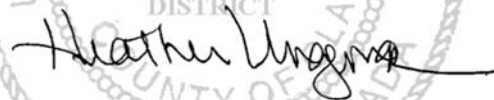
Case No: P-21-109705-E

Dept No: V

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 9 day of August 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk

