

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
ESTATE OF THOMAS JOSEPH
HARRIS, DECEASED.

Electronically Filed
Jul 07 2023 11:46 AM
Elizabeth A. Brown
Case No. 86096
Clerk of Supreme Court

TODD ROBBEN,

Appellant,

vs.

THE ESTATE OF THOMAS
JOSEPH HARRIS; AND THE
THOMAS J. HARRIS TRUST,

Respondents.

**RESPONDENTS' MOTION FOR RECONSIDERATION OF THE
COURT'S JUNE 30, 2023 ORDER REGARDING MOTIONS**

BRIEF INTRODUCTION

The Estate of Thomas J. Harris, by and through its Personal Representative, the Honorable Tara M. Flanagan (the "Estate"), and the Thomas J. Harris Trust, by and through its Successor Trustee, Ms. Flanagan, (the "Trust") jointly move this Court for reconsideration of the

Court's June 30, 2023 Order denying the Respondents' Motion to Dismiss.¹

The Respondents request reconsideration of the Court's June 30, 2023 Order Regarding Motions (the "Order") because the Court's ruling appears to rest upon an error of fact. Specifically, in response to the Respondents' Motion to Dismiss this Appeal, the Court stated it "is not convinced that appellant lacks standing where respondent filed the underlying district court petition." *See Exhibit 1*, at pg. 1. However, the Respondents did not file the "underlying district court petition" as the Order erroneously states. Thus, the Court's basis for denial of the Trust's and Estate's Motion to Dismiss is based on an erroneous premise, because Mr. Robben, the Appellant, initiated the underlying District Court action by filing the Verified Petition to Invalidate the Thomas J. Harris Will and Trust, attached hereto as **Exhibit 2**. The District Court then dismissed Mr. Robben's underlying Petition for lack of standing among other reasons. *See District Court Order Granting Motion for Summary Judgment; Motion to Dismiss; & Deeming Petitioner a Vexatious Litigant attached as Exhibit 3*. As such, reconsideration of the Court's

¹ The Trust and Estate may collectively be referred to as "Respondents."

June 30, 2023 Order may be appropriate because the Court's denial of Respondents' Motion to Dismiss is based upon an erroneous factual premise.

Additionally, the Court's June 30, 2023 Order contradicts this Court's ruling previously issued in Case No. 84948 (the "Estate Matter") stating the Appellant was not an interested person in the Estate and lacked standing to maintain an appeal against the Estate. In the Estate Matter, Ms. Flanagan, acting as Administrator of the Estate of Thomas J. Harris, fully administered the Estate before the 9th Judicial District Court of the State of Nevada in Case No.: 2021-PB-00034. Mr. Robben, the Appellant in this matter, previously attempted to appeal the District Court's Order resolving the Estate. *See* Todd Robben's Notice of Appeal filed in Case No. 84948 attached as **Exhibit 4**. However, this Court dismissed Mr. Robben's appeal in the separate Estate Matter because Mr. Robben lacked standing to maintain an appeal against the Estate. *See* July 8, 2022 Order Dismissing Appeal filed in Case No. 84948 attached as **Exhibit 5**.

Analogous to dismissal of Mr. Robben's appeal in the Estate Matter for lack of standing, the Respondents sought dismissal of this appeal

because Mr. Robben is not an interested person in the Trust or the Estate. *See generally* Respondent's March 22, 2023 Motion to Dismiss. In other words, for the same reason Mr. Robben lacked standing to maintain the appeal against the Estate in Case No. 84948, he lacks standing to maintain this appeal against the Trust and the Estate.

As referenced above, in its June 30, 2023 Order denying the Respondents' Motion to Dismiss this appeal, the Court stated it "is not convinced that appellant lacks standing where respondent filed the underlying district court petition." However, the Respondents did not file the "underlying district court petition." Therefore, because the sole basis upon which the Court found the Appellant could have standing is reliant upon a mistake of fact, reconsideration of the Court's June 30, 2023 Order is appropriate.

LAW & ARGUMENT

NRAP 27(a) states an application for an order or other relief is made by motion unless the Rules of Appellate Procedure prescribe another form. Since the Rules do not prescribe a specific form to seek reconsideration of an order denying a motion to dismiss, a motion is the proper form to seek such relief per NRAP 27(a). In this vein, a court may

reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors Ass'n of S. Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997).

Here, the Court denied the Respondents' Motion to Dismiss Mr. Robben's appeal because the Court mistakenly concluded the Respondents instituted the underlying district court action, which could give rise to Mr. Robben's appeal. See **Exhibit 1**, at pg. 1, stating "this court is not convinced that appellant lacks standing where respondent filed the underlying district court petition." However, the Respondents did not file the underlying district court petition as the Order erroneously concludes. Rather, Mr. Robben filed the underlying District Court Petition, which the District Court dismissed for lack of standing among other reasons. See **Exhibit 3**. Therefore, like in *Masonry & Tile Contractors Ass'n of S. Nevada* where the Court held reconsideration of an order is appropriate when the order is erroneous; here, the Respondents respectfully request the Court reconsider denial of Respondents' Motion to Dismiss based on Mr. Robben's lack of standing because the Order erroneously concluded the Respondents instituted the

underlying action as the only basis for denying the Motion regarding Mr. Robben's lack of standing to bring this appeal.

As a further example of the need for reconsideration of the Court's June 30, 2023 Order, it acts in direct contradiction to this Court's Order in the Estate Matter finding Mr. Robben was not an interested person to the Estate, and as a result lacked standing to appear in, or appeal, any proceedings related to the Estate. *See Exhibit 5*. As such, this Court has already determined Mr. Robben lacks standing to bring any action or appeal concerning the Estate, and as such his appeal in this matter is properly dismissed, as was the underlying District Court matter he initiated. The same analysis is also true for the Trust, in which Mr. Robben is not an interested person, resulting in Mr. Robben having no standing to appeal the dismissal of the District Court action he initiated by filing the underlying petition in District Court. *See also See Hughes' Estate v. First Nat. Bank of Nevada*, 96 Nev. 178, 180, 605 P.2d 1149, 1150 (1980); *see also* NRS 132.185.

The Respondents are conscientious of the Order's directive to address the issue of standing further in its forthcoming answering brief. However, the Court's directive was issued on the false premise that

Respondents instituted the underlying action, compelling Mr. Robben to respond. Therefore, the Trust and Estate respectfully seek reconsideration of the Order denying their Motion to Dismiss because it was Mr. Robben who instituted the underlying action and did so without standing. In that vein, Mr. Robben improperly instituted this appeal at great expense to the Estate, the Trust, and their named beneficiaries, only further supporting this Court's reconsideration of its June 30, 2023 Order.

CONCLUSION & REQUESTED RELIEF

The Trust and Estate respectfully request the Court reconsider its June 30, 2023 Order Regarding Motions, which erroneously concluded the Respondents instituted the underlying action as the basis upon for denial of the Motion to Dismiss. As such, the Trust and Estate respectfully request the Court dismiss Mr. Robben's appeal for lack of standing as described in the Trust's and Estate's March 22, 2023 Motion to Dismiss.

///

///

///

Dated this 7th day of July, 2023

By: F. McClure Wallace

F. McClure Wallace, Esq.

Nevada Bar No.: 10264

Patrick R. Millsap, Esq.

Nevada Bar No.: 12043

Wallace & Millsap

510 W. Plumb Lane, Suite A

Reno, Nevada 89509

(775) 683-9599

*Attorneys for the Thomas J. Harris
Trust and the Estate of Thomas J.
Harris*

CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am an employee of *WALLACE & MILLSAP* that I am over the age of eighteen (18) years, and that I am not a party to, nor interested in this action. On this date, I caused to be served a true and correct copy of the foregoing document on all parties to this action by placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada postage paid, following the ordinary course of business practices as follows:

Todd Robben
P.O. Box 4251
Sonora, California 95370

The foregoing document was also served upon Todd Robben through the Nevada Supreme Court's e-filing system.

DATED this 7th day of July 2023.

By: /s/ Caroline Carter.
Employee of Wallace & Millsap

LIST OF EXHIBITS

- Exhibit 1 - Order Regarding Motions
- Exhibit 2 – Petitioner Todd Robben’s Verified Petition to
Invalidate the Thomas J. Harris Will and Trust
- Exhibit 3 - Order Granting Motion for Summary Judgment;
Motion to Dismiss; & Deeming Petitioner a Vexatious
Litigant
- Exhibit 4 – Notice of Appeal
- Exhibit 5 – Order Dismissing Appeal

Exhibit 1

Exhibit 1

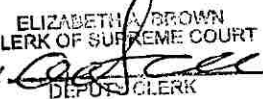
IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
THOMAS JOSEPH HARRIS,
DECEASED.

No. 86096

FILED

JUN 30 2023

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY 
DEPUTY CLERK

TODD ROBBEN,
Appellant,

vs.

THE ESTATE OF THOMAS JOSEPH
HARRIS; AND THOMAS J. HARRIS
TRUST,
Respondents.

ORDER REGARDING MOTIONS

Respondents have filed a motion to dismiss this appeal, contending that it is untimely and appellant lacks standing. Appellant opposes the motion, respondents have replied, and appellant has filed a sur-reply.¹ Appellant's notice of appeal was prematurely filed in the district court on February 3, 2023, prior to entry of a written order on February 8, 2023. Because the written order was entered before dismissal of the appeal, the notice of appeal is "considered filed on the date of and after entry of the order" NRAP 4(a)(6). Therefore, the notice of appeal is considered filed on February 8, 2023, after entry of the written order and is timely. Further, this court is not convinced that appellant lacks standing where respondent filed the underlying district court petition. Therefore, the motion to dismiss

¹Appellant's motion for leave to file a sur-reply is granted. The clerk shall detach the sur-reply from the motion filed on May 26, 2023, and file it separately. Any other relief requested in the motion is denied.

is denied at this time. However, the parties may further address the standing issue in their briefs, if deemed warranted.

Respondents' motion for an extension of time to file the answering brief is granted. NRAP 31(b). Respondents shall have 30 days from the date of this order to file and serve their answering brief. Failure to timely file and serve the answering brief may result in the imposition of sanctions. NRAP 31(d)(2).

It is so ORDERED.

 Stiglm , C.J.

cc: Todd Robben
Wallace & Millsap LLC

Exhibit 2

Exhibit 2

FILE RECEIVED

Todd Robben

In Pro per

PO Box 4251

Sonora, CA 95370

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(209)540-7713

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JUL 20 2022

Douglas County

District Court Clerk

BOBBIE R. WILLIAMS

CLERK

BY *[Signature]* DEPUTY

FILED

2022 JUL 20 PM 3:19

BOBBIE R. WILLIAMS

BY *[Signature]* DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

TODD ROB BEN,

Petitioner

Vs.

THE ESTATE OF THOMAS JOSEPH

HARRIS; THOMAS J. HARRIS TRUST,

Deceased,

Respondent.

CASE NO. 2021-PB-00034

PETITIONER TODD ROB BEN'S
VERIFIED PETITION TO INVALIDATE
THE THOMAS J. HARRIS WILL AND
TRUST

PETITIONER'S REQUEST FOR
APPOINTMENT OF COUNSEL
PURSUANT TO NRS § 136.200

EMERGENCY REQUEST FOR STAY
OF FINAL DISTRIBUTION

PEREMPTORY CHALLENGE TO
JUDGE NATHAN TOD YOUNG

Related Case Number: 2021 PB00034

Dept No:

Hearing Date:

1 Petitioner, Todd Robben, is a creditor of the Thomas J. Harris Trust, and an
2 interested person¹ pursuant to NRS § 132.185, respectfully requests the Court to
3 declare the Thomas J. Harris Will and Trust null and void on the grounds of presumed
4 undue influence by the Petitioner's brother Jeff D. Robben who is now deceased. A
5 previous will/trust called the Thomas Joseph and Olga Harris Living Trust existed prior
6 to being eliminated and replaced with the Thomas J. Harris Will and Trust after the
7 presumed undue influence and undue influence by Jeff D. Robben over Thomas J.
8 Harris. The Petitioner is the son of Olga Harris and stepson of Thomas J. Harris and
9 was a beneficiary in the Thomas Joseph and Olga Harris Living Trust.

10 The Petitioner requests the court to take notice and judicial notice of the
11 attached March 6, 2020 letter from Abigail G. Stephenson, Esq. from Blanchard,
12 Krasner & French acknowledging the existence of the August 26, 1998 trust known as
13 the Thomas Joseph and Olga Harris Living Trust. Please see **EXHIBIT A**.

14 Petitioner uses his peremptory challenge to disqualify judge Nathan Tod Young
15 and requests his case to be heard by the elected Judge in Department 2.

16 The Petitioner is indigent and this Court has granted indigent status to file this
17 motion without any filing fee in case number 2021 PB00034 .

18 Judge Nathan Tod Young is bias and prejudiced against this Petitioner in case
19 number 2021 PB00034. Judge Young violated this Petitioner's State and Federal
20 Constitutional due-process and equal protection rights violated as well as the State
21 Statutory right to appointed counsel. All Judge Young's orders are null and void since
22 he is bias against this Petitioner and did not even issue a verbal or written order with a
23 reason as to his alleged claim that this Petitioner is not an interested person.

24
25
26 ¹ Petitioner is named in the Thomas J. Harris Will and Trust as being disinherited. No legal
27 reason or fact exists to claim the Petitioner is not an interested person otherwise anyone in
28 Nevada with a presumed undue influence or undue influence claim would never be able to
petition the courts for probate/redress.

1 Petitioner, Todd Robben, respectfully requests the Court to appoint counsel
2 pursuant to NRS § 136.200 since the Petitioner is an interested person pursuant to
3 NRS § 132.185 and a non resident of Douglas County, Nevada. Counsel is requested
4 to assist the Petitioner file briefs, motions and any amendments to this instant petition
5 to probate and invalidate the Thomas J. Harris Trust and argue the Petitioner is
6 entitled to his fair share of the Thomas J. and Olga Harris Living Trust or preferably,
7 negotiate a settlement with the Respondent so all current beneficiaries still receive
8 money and the Petitioner is fairly compensated. The Respondent must account and
9 return all stolen assets from the Thomas J. Harris Trust including the contents of the
10 safe deposit box, at least one house in Minden and possibly more in Genoa and South
11 Lake Tahoe. All money, cash, metal (gold, silver, coins, etc.) stocks, bonds, annuities,
12 401K, IRAs, pensions, crypto currency, etc. **See EXHIBIT B.**

13 The Petitioner asserts the value of the Thomas J. Harris Trust (and former
14 Thomas J and Olga Harris Living Trust) is worth much more than the estimated
15 \$600,000.00 value of about \$1.5 million dollars. Based on personal knowledge, the
16 Petitioner asserts the value may exceed 5 million dollars or way more based early
17 stock investments in Apple Computer, P G & E and other high performing stocks and
18 also based on the missing money, cash, metal (gold, silver, coins, etc.) stocks, bonds,
19 annuities, 401K, IRAs, pensions, crypto currency, etc.

20 Counsel may be better suited to settle the matter than the Petitioner who is
21 ready to file common law liens on assets against various entities involved including the
22 Respondents lawyer for the theft and fraud.

23 Petitioner requests a stay of any final distribution of funds to preserve funds to
24 cover any recovery by the Petitioner and legal costs.

25 The Petitioner has an undisputed *prima facie* case of presumed undue
26 influence based on the undisputed facts that Jeff D. Robben, the brother of the
27 Petitioner, was 1: The caretaker of Thomas J. Harris; 2: The Financial advisor for
28

1 Thomas J. Harris; 3: Helped create the current Thomas J. Harris trust; 4: Had "undue
2 influence" and "presumed undue influence" of Thomas J. Harris; 5: Jeff D. Robben
3 influenced Thomas J. Harris to disinherit this Petitioner based on the animus and
4 vexation of Jeff D. Robben against his brother and allowed Jeff D. Robben to gain
5 financially.

6 "A rebuttable presumption of undue influence is raised if the testator and the
7 beneficiary shared a fiduciary relationship, but undue influence may also be proved
8 without raising this presumption." *In re Estate of Bethurem*, 313 P. 3d 237, 241 (2013),
9 at 329. "The essence of a fiduciary or confidential relationship is that the parties do
10 not deal on equal terms, since the person in whom trust and confidence is reposed
11 and who accepts that trust and confidence is in a superior position to exert unique
12 influence over the dependent party." *Hoopes v. Hammargren*, 725 P. 2d 238, 242
13 (1986) quoting *Barbara A. v. John G.*, 145 Cal.App.3d 369, 193 Cal.Rptr. 422, 432
14 (1983).

15 "Once raised, a beneficiary may rebut such a presumption by clear and
16 convincing evidence." *Bethurem, supra*, at 241. The highest standard of proof,
17 "beyond a reasonable doubt," exists only in criminal litigation. In civil litigation, "clear
18 and convincing evidence" is the highest evidentiary standard. "Clear and convincing
19 evidence" is "evidence establishing every factual element to be highly probable, or as
20 evidence [which] must be so clear as to leave no substantial doubt." *In re Discipline of*
21 *Drakulich*, 908 P. 2d 709, 715 (1995)(internal quotations and citations omitted).

22 Thus, the Respondent must meet a difficult, nearly impossible burden, after the
23 burden shift. The burden shift occurs when the contesting party establishes the
24 existence of a fiduciary of confidential relationship. The Respondent cannot overcome
25 the Petitioner's undisputed presumed undue influence and undue influence claims
26 and the Petitioner must prevail on the merits if the court allows the Petitioner his due
27

1 process as mandated by the Nevada and U.S. Constitutions. This petition is based on
2 the following points and authority.

3 The Petitioner is pro se and requests the court to consider, and for judicial
4 economy, he is consolidating multiple motions into this single pleading since
5 everything is related and the page length may exceed norms or rules. NRCP 1 using
6 the word "may" is permissible² and not mandated by the word "shall".

7 "... the right to file a lawsuit pro se is one of the most important rights under the
8 constitution and laws." Elmore v. McCammon (1986) 640 F. Supp. 905; "Pro se
9 pleadings are to be considered without regard to technicality; pro se litigants'
10 pleadings are not to be held to the same high standards of perfection as lawyers."
11 Jenkins v. McKeithen, 395 U.S. 411, 421 (1959); Picking v. Pennsylvania R. Co., 151
12 Fed 2nd 240; Pucket v. Cox, 456 2nd 233; "Pleadings are intended to serve as a
13 means of arriving at fair and just settlements of controversies between litigants. They
14 should not raise barriers which prevent the achievement of that end. Proper pleading
15 is important, but its importance consists in its effectiveness as a means to accomplish
16 the end of a just judgment." Maty v. Grasselli Chemical Co., 303 U.S. 197 (1938).

17 18 MEMORANDUM OF POINTS & AUTHORITY

19 I. INTRODUCTION

20 The Douglas County, Nevada District Court has jurisdiction over this matter
21 since both Thomas J. Harris and Olga Harris were Douglas County Residents and the
22 related trusts and safe deposit box all reside in Douglas County, NV.

23 This petitioner is timely. The Petitioner appeared in Douglas County, NV case
24 number 2021 PB00034 after learning of the existence of the death of Thomas J. Harris
25

26
27 ² "In statutes, "may" is permissive and "shall" is mandatory unless the statute demands a
28 different construction to carry out the clear intent of the legislature" Tarango v. State Indus.
Ins. System, 25 P. 3d 175 - Nev: Supreme Court 2001

1 and his will, trust and estate. The Petitioner also learned on his brothers 2020 death
2 just prior to the May hearing in case number 2021 PB00034.

3 The Petitioner was never informed by the Trustee or anyone else about the
4 Thomas J. Harris Trust or related probate. This Petitioner is timely since the Petitioner
5 has been diligently working on resolving the matter upon learning of said Thomas J.
6 Harris Trust and the death of Jeff D. Robben and the fraud and theft that has occurred
7 with undisputed assets including a \$450,000.00 home on Pebble Beach Court in
8 Minden, NV transferred from the Thomas J. Harris Trust into the position of Jeff D.
9 Robben. The entire contents of the safe deposit box of Thomas J. Harris is not
10 accounted for along with stocks, cash, gold, annuities, 401K, IRAs, pension,
11 insurance, etc.

12 Petitioner is also entitled to relief based on the fraud discussed in this petition
13 and NRCP Rule 60 which allows the court to correct orders based on fraud, etc.,
14 Petitioner is also entitled to equitable tolling as he has pursued his claim in court upon
15 learning of the Thomas J. Harris Trust. "undue influence ... is a species of fraud."
16 Bethurem, supra at 241.

17 For judicial economy, the court may take judicial notice of all the history and
18 facts related to the Thomas J. Harris and his will, trust and estate are documented in
19 case number 2021 PB00034 as well as evidence of death i.e. death certificate. The
20 facts also appear in the filings of this Petitioner as to the presumed undue influence
21 which is undisputed. Petitioner refers the court to the facts in case number 2021
22 PB00034 related to the Thomas J. Harris and his will, trust and estate and reiterates
23 the Petitioner's facts supporting his positions. The court may order the records from
24 the clerk for judicial economy since the court has a record right there.

25 On June 21st, 2022 in case 2021 PB00034 Judge Young denied the Petitioner's
26 request for counsel on grounds he was not an interested person without explanation
27 and Judge Young did not allow evidence of the former Thomas J. and Olga Harris
28

1 Living Trust incorrectly claiming hearsay despite a litany of exceptions to hearsay, non
2 hearsay and sworn affidavits and sworn testimony. See the record in case 2021
3 PB00034 the court JAVS video³.

5 II. JUDGE YOUNG MUST BE DISQUALIFIED

6 This Petitioner uses his peremptory challenge⁴ to disqualify Judge Young from
7 Department 1. Judge Nathan Tod Young is bias and prejudice against the Petitioner,
8 Todd Robben, and the Petitioner will not have a fair hearing before Judge Young.

10 "The Due Process Clause of the Fourteenth Amendment establishes a
11 constitutional floor, not a uniform standard," for a judicial bias claim. Bracy
12 v. Gramley, 520 U.S. 899, 904, 117 S.Ct. 1793, 138 L.Ed.2d 97 (1997).
13 While most claims of judicial bias are resolved "by common law, statute, or
14 the professional standards of the bench and bar," the "floor established by
15 the Due Process Clause clearly requires a 'fair trial in a fair tribunal' before
16 a judge with no actual bias against the defendant or interest in the
17 outcome of his particular case." *Id.* at 904-05, 117 S.Ct. 1793 (quoting
18 Withrow v. Larkin, 421 U.S. 35, 46, 95 S.Ct. 1456, 43 L.Ed.2d 712 (1975)).
19 **The Constitution requires recusal where "the probability of actual**
20 **bias on the part of the judge or decisionmaker is too high to be**
21 **constitutionally tolerable."** Withrow, 421 U.S. at 47, 95 S.Ct. 1456. Our
22 inquiry is objective. Caperton v. A.T. Massey Coal Co., 556 U.S. 868, 881,
23 129 S.Ct. 2252, 173 L.Ed.2d 1208 (2009). [Footnote omitted.] **We do not**
24 **ask whether [the judge] actually harbored subjective bias . *Id.***
25 **Rather, we ask whether the average judge in her position was likely**
to be neutral or whether there existed an unconstitutional potential

26 ³ https://youtu.be/BPXc_05zszsA

27 ⁴ Nevada SCR Rule 48.1

1 for bias . Id. "Every procedure which would offer a possible
2 temptation to the average . . . judge to forget the burden of proof
3 required to convict the defendant, or which might lead him not to
4 hold the balance nice, clear and true between the State and the
5 accused, denies the [accused] due process of law." Tumey v. Ohio,
6 273 U.S. 510, 532, 47 S.Ct. 437, 71 L.Ed. 749 (1927).

7 [The petitioner] need not prove actual bias to establish a due
8 process violation, just an intolerable risk of bias . Aetna Life Ins. Co.
9 v. Lavoie, 475 U.S. 813, 825, 106 S.Ct. 1580, 89 L.Ed.2d 823 (1986); see
10 also Caperton, 556 U.S. at 883, 129 S.Ct. 2252 ("[T]he Due Process
11 Clause has been implemented by objective standards that do not
12 require proof of actual bias .") (citing Lavoie, 475 U.S. at 825, 106 S.Ct.
13 1580; Mayberry v. Pennsylvania, 400 U.S. 455, 465-66, 91 S.Ct. 499, 27
14 L.Ed.2d 532 (1971); Tumey, 273 U.S. at 532, 47 S.Ct. 437). Thus, we
15 must ask "whether 'under a realistic appraisal of psychological
16 tendencies and human weakness,' the [judge's] interest 'poses such
17 a risk of actual bias or prejudgment that the practice must be
18 forbidden if the guarantee of due process is to be adequately
19 implemented.'" Caperton, 556 U.S. at 883-84, 129 S.Ct. 2252 (quoting
20 Withrow, 421 U.S. at 47, 95 S.Ct. 1456). Due process thus mandates a
21 "stringent rule" that may sometimes require recusal of judges "who
22 have no actual bias and who would do their very best to weigh the
23 scales of justice equally" if there exists a "probability of unfairness."
24 Murchison, 349 U.S. at 136, 75 S.Ct. 623. But this risk of unfairness
25 has no mechanical or static definition. It "cannot be defined with
26 precision" because "[c]ircumstances and relationships must be
27 considered." Id.

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1 A similar situation occurred in California in Barefoot v. Jennings, 456 P. 3d 447
2 - Cal: Supreme Court 2020.⁵

3 In early November 2019, the California Supreme Court heard oral
4 arguments in the Barefoot case, and in late January 2020, the California
5 Supreme Court issued its opinion reversing the Court of Appeal decision.
6 The California Supreme Court held as follows: "We disagree with the
7 Court of Appeal, and hold today that the Probate Code grants standing in
8 Probate Court to individuals who claim that trust amendments eliminating
9 their beneficiary status arose from incompetence, undue influence or
10 fraud."

11 California probate Section 17200, subdivision (b)(3) contemplates the
12 court's determination of "the validity of a trust provision." Plainly, the term
13 "trust provision" incorporates any amendments to a trust. Section 24,
14 subdivision (c) defines a "beneficiary" for trust purposes, as "a person who
15 has any present or future interest, vested or contingent." Assuming
16 plaintiff's allegations are true, she has a present or future interest, making
17 her a beneficiary permitted to petition the probate court under section
18 17200.[vii] (Emphasis added).

19 The California Supreme Court held that with this interpretation, when a
20 plaintiff claims to be a rightful beneficiary of a trust, if the challenged
21 amendments are deemed invalid, then the plaintiff has standing to petition
22 the Probate Court under Section 17200.[viii] The Court added that this
23 expansive reading of the standing requirement afforded to trust contests
24 under Section 17200 "not only makes sense as a matter of judicial
25 economy, but it also recognizes the probate court's inherent power to
26 decide all incidental issues necessary to carry out its express powers to
27 supervise the administration of the trust."

28 Section 17200, subdivision (b)(3) contemplates the court's determination
of "the validity of a trust provision." Plainly, the term "trust provision"
incorporates any amendments to a trust. Section 24, subdivision (c)
**defines a "beneficiary" for trust purposes, as "a person who has any
present or future interest, vested or contingent."** Assuming plaintiff's
allegations are true, **she has a present or future interest**, making her a
beneficiary permitted to petition the probate court under section 17200.[vii]
(Emphasis added).

⁵ Source: <https://keystone-law.com/legal-standing-trust-contests/>

1 The Supreme Court held that with this interpretation, when a plaintiff
2 claims to be a rightful beneficiary of a trust, if the challenged amendments
3 are deemed invalid, then the plaintiff has standing to petition the Probate
4 Court under Section 17200.[viii] The Court added that this expansive
5 reading of the standing requirement afforded to trust contests under
6 Section 17200 "not only makes sense as a matter of judicial economy, but
it also recognizes the probate court's inherent power to decide all
incidental issues necessary to carry out its express powers to supervise
the administration of the trust."

7 The Court cautioned, however, that its ruling in Barefoot did have certain
8 limitations in its applicability, stating: "Our holding does not allow
9 individuals with no interest in a trust to bring a claim against the trust.
10 Instead, we permit those whose well-pleaded allegations show that they
11 have an interest in a trust — because the amendments purporting to
12 disinherit them are invalid — to petition the probate court." Thus, by so
13 holding, the Supreme Court's ruling could potentially exclude a Decedent's
14 heirs (who were not named as beneficiaries in any prior version of the
15 Decedent's estate plan, but who would otherwise have a beneficial
16 interest through intestate succession in the event the Decedent did not
17 have a valid estate plan) from filing a Section 17200 contest in Probate
18 Court. Thus, any such contests currently pending by such heirs in Probate
19 Court may be subject to attack based on the heirs' lack of standing.

20 **Accordingly, the effect of the California Supreme Court's**
21 **decision was not to limitlessly expand the universe of potential**
22 **litigants who can bring trust contest claims in the future, but rather,**
23 **to confirm that Section 17200 can be used by disinherited**
24 **beneficiaries as it had been in the past,** while leaving open this
25 unresolved issue concerning a Decedent's heirs.

26 In this instant case, the Petitioner has a right and property interest to both the
27 estate and trust which is be materially affected by a decision of a fiduciary or a
28 decision of the court.

29 In case number: 2021 PB00034, the Respondent offers no points of authority,
30 nor any precedent or case law to support its argument and NRS 132.185 is inapposite
31 to the Respondent's argument. Nether does Judge Young offer any points of authority,
32 nor any precedent or case law to support his order ...and the Nevada supreme Court's

1 order in case 84948. The NRS 132.185 issue was never decided on the merits in any
2 court and does not preclude adjudication in this case on grounds of *res judicata*.

3 The Nevada Legislature amended NRS 132.185 in 2015SB 185. The
4 Legislative intent is explained in the SENATE BILL NO. 484—COMMITTEE ON
5 JUDICIARY CHAPTER 524⁶ [Approved: June 10, 2015] AN ACT relating to personal
6 financial administration; revising provisions relating to the distribution and
7 administration of the estate of a deceased person; revising provisions governing
8 certain non-probate transfers; revising provisions relating to the creation and
9 administration of trusts; providing for the creation and administration of public benefit
10 trusts; revising the powers that may be exercised by a trustee; revising provisions
11 relating to directed trusts; revising provisions relating to the jurisdiction of a court in
12 cases concerning the administration of the estate of a deceased person and the
13 administration of trusts; and providing other matters properly relating thereto.

14 Legislative Counsel's Digest: Existing law defines the term "interested person"
15 for the purpose of determining who is entitled to receive notice of, and participate in, a
16 proceeding relating to the estate of a deceased person. (NRS 132.185) Sections 9
17 and 11 of this bill amend this definition to include all persons whose interest in an
18 estate or trust will be materially affected by a decision of a fiduciary or a decision of
19 the court and that a person's status as an interested person is determined according
20 to the particular purposes of, and the matter involved in, each proceeding.

21 The previous version stated:

22 NV Rev Stat § 132.185 (2013)

23 1. Interested person includes, without limitation, an heir, devisee, child,
24 spouse, creditor, settlor, beneficiary and any other person having a
25 property right in or claim against a trust estate or the estate of a decedent,
26 including, without limitation, the Director of the Department of Health and

27 ⁶ (Added to NRS by 1999, 2252; A 2007, 2395; 2011, 1435; 2015, 3526)
28 https://www.leg.state.nv.us/Statutes/78th2015/Stats201532.html#Stats201532_CH524

1 Human Services in any case in which money is owed to the Department of
2 Health and Human Services as a result of the payment of benefits for
3 Medicaid. The term includes a person having priority for appointment as a
4 personal representative and other fiduciaries representing interested
5 persons. The meaning as it relates to particular persons must be
determined according to the particular purposes of, and matter involved in,
a proceeding.

6 2. The term does not include:

7 (a) After a will has been admitted to probate, an heir, child or spouse who
8 is not a beneficiary of the will, except for purposes of NRS 133.110,
133.160 and 137.080.

9 (b) A person with regard to a motion, petition or proceeding that does not
10 affect an interest of that person.

11 (c) A creditor whose claim has not been accepted by the personal
12 representative if the enforcement of the claim of the creditor is barred
13 under the provisions of chapter 11 or 147 of NRS or any other applicable
statute of limitation.

14 (Added to NRS by 1999, 2252; A 2007, 2395; 2011, 1435)

15
16 Also, according to NRS 137.010 (1), "the attorney general *or any interested*
17 *person, including a devisee under a former will*, may contest the will by filing written
18 grounds of opposition to the probate thereof at any time before the hearing of the
19 petition for probate." Here, the Petitioner is an "*interested person*" and "*a devisee*
20 *under a former will*" and he is contesting the will/trust. ... by filing written grounds of
21 opposition to the probate thereof at any time before the hearing of the petition for
22 probate.

23 Additionally, the Petitioner is entitled to declaratory relief including a declaration
24 of rights, status or other legal relations thereunder. Petitioner challenges the validity of
25 the Thomas J. Harris will and trust pursuant to NRS 30.040 Questions of
26 construction or validity of instruments, contracts and statutes:

1. Any person interested under a deed, *written contract* or *other writings constituting a contract*, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

IV. NRS CHAPTER 134 IS INAPPOSITE

Webster's dictionary definition of intestate⁷ is "having made no valid will". There was is a will and trust called the Thomas J. Harris Trust, and a previous will/trust called the Thomas Joseph and Olga Harris Living Trust. The Petitioner is the son of Olga Harris and stepson of Thomas J. Harris.

Conversely, according to NOLO⁸, "Stepchildren inherit when both spouses die without a will. If you have children from a previous relationship and die without a will and then your spouse later dies without a will, your spouse's property goes to your children. Nev. Rev. Stat. Ann. § 134.210."

NRS 134.210 states "Vesting of estate if both spouses die intestate. Whenever one spouse dies intestate, leaving heirs, if the other spouse dies intestate after the first spouse, without heirs, leaving property, the estate of the second spouse to die vests in the heirs of the first spouse to die, subject to expenses of administration and payment of legal debts against the estate."

⁷ <https://www.merriam-webster.com/dictionary/intestate>

⁸ <https://www.nolo.com/legal-encyclopedia/intestate-succession-nevada.html>

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V. APPOINTMENT OF ATTORNEY

Petitioner, Todd Robben, requests the Court to appoint counsel in this civil/probate matter for good cause and pursuant to NRS § 136.200 since the Petitioner is an interested person who resides outside the county. The Petitioner, a "non-resident" of Douglas County, Nevada, Petitioner resides in Tuolumne County, California. "being non-residents — Judge Waters appointed appellant Flanagan as their counsel pursuant to NRS 136.200." Matter of Estate of Herrmann, 677 P. 2d 594 - Nev: Supreme Court 1984

NRS136.200 Appointment of attorney to represent minors, unborn members of interested class or nonresidents; retention of other counsel.

If a will is offered for probate and it appears there are minors or unborn members of a class who are interested, or if it appears there are other interested persons who reside out of the county and are unrepresented, the court may, whether there is a contest or not, appoint an attorney for them.

Petitioner, Todd Robben, the step-son of Thomas J. Harris and son of Olga Harris is an "interested person" pursuant to NRS 132.185 "Interested person" defined. "Interested person" means 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. The fiduciary or court shall determine who is an interested person according to the particular purposes of, and matter involved in, a proceeding.

The Petitioner is indigent, the court has granted Petitioner indigent status. At the hearing on May 24th, 2022 in case 2021 PB00034, the court granted the Petitioner's request for a continuance, "in an abundance of caution", and gave the Petitioner to June 21st, 2022 to obtain counsel.

1 On June 21st, 2022 in case 2021 PB00034 Judge Young denied the Petitioner's
2 request for counsel on grounds he was not an interested person without explanation
3 and Judge Young did not allow evidence of the former Thomas J. and Olga Harris
4 Living Trust incorrectly claiming hearsay despite a litany of exceptions to hearsay, non
5 hearsay and sworn affidavits and sworn testimony.

6 The Nevada Supreme Court has identified NRS 136.200 as a "statutory
7 right" to appointment of counsel in other types of civil cases. "there is no statutory
8 right to appointment of counsel for appellate review in this type of civil case as there is
9 in criminal cases and other types of civil cases. ...NRS 136.200" Casper v. Huber, 456
10 P. 2d 436 - Nev: Supreme Court 1969

11 This Petitioner requests the Court to grant the request and appoint a reputable
12 and conflict free attorney "in an abundance of caution"... The Petitioner has an
13 undisputed *prima facie* case of undue influence and presumed undue influence.

14 "A rebuttable presumption of undue influence is raised if the testator and the
15 beneficiary shared a fiduciary relationship, but undue influence may also be proved
16 without raising this presumption." In re Estate of Bethurem, 313 P. 3d 237, 241 (2013),
17 at 329. "The essence of a fiduciary or confidential relationship is that the parties do
18 not deal on equal terms, since the person in whom trust and confidence is reposed
19 and who accepts that trust and confidence is in a superior position to exert unique
20 influence over the dependent party." Hoopes v. Hammargren, 725 P. 2d 238, 242
21 (1986) quoting Barbara A. v. John G., 145 Cal.App.3d 369, 193 Cal.Rptr. 422, 432
22 (1983).

23 "Once raised, a beneficiary may rebut such a presumption by clear and
24 convincing evidence." Beturem, at 241. The highest standard of proof, "beyond a
25 reasonable doubt," exists only in criminal litigation. In civil litigation, "clear and
26 convincing evidence" is the highest evidentiary standard. "Clear and convincing
27 evidence" is "evidence establishing every factual element to be highly probable, or as
28

1 evidence [which] must be so clear as to leave no substantial doubt." In re Discipline of
2 Drakulich, 908 P. 2d 709, 715 (1995)(internal quotations and citations omitted).

3 Thus, the Respondent must meet a difficult, nearly impossible burden, after the
4 burden shift. The burden shift occurs when the contesting party establishes the
5 existence of a fiduciary of confidential relationship.

6 Under NRS 155.097(2), estate planning documents and other beneficiary
7 designations are presumptively invalid as a result of undue influence, fraud or duress
8 under the following circumstances, where the beneficiary:

- 9
- is the person who drafted the document or instrument.
 - 10 • is the caregiver of the person executing the document or instrument.
 - 11 • "materially participated in formulating the dispositive provisions" of the
12 instrument or document.

13 In addition to the fact Jeff D. Robben was the caretaker, financial advisor and
14 helped draft the Thomas J. Harris trust, the Petitioner has at least three affidavits to
15 support facts proving Jeff D. Robben influenced Thomas J. Harris to disinherit based
16 on the animus and vexation of Jeff D. Robben. Petitioner indents to include all
17 beneficiaries, administrators and lawyers of the Thomas J. Harris Trust and Thomas J.
18 Harris and Olga Harris Trust. Additionally, the pleading/filings in a federal lawsuit
19 2:13-cv-00238-MCE-DAD UNITED STATES DISTRICT COURT EASTERN DISTRICT
20 OF CALIFORNIA describe the animus and vexation of Jeff D. Robben against his
21 brother, Todd Robben, the Petitioner. The complaint named Jeff D. Robben as one of
22 the defendants and the following facts:

23 On or about October 18, 2012 Plaintiff Todd Robben was out on bail,
24 which was bonded and insured by defendant Bail Bonds Inc (BBI) of
25 Fallon, Nevada, a Nevada Corporation dba Justin Brothers Bail Bonds,
26 herein "Justin Bros." Defendants Richard Justin is the President and
27 Treasurer, and employee of said Nevada Corporation, Dennis Justin is
the employee and agent of Justin Bros. and co-participant in the events
complained of herein.

1
2 On or about the same said date the brother of plaintiff Jeff Robben acting
3 as an officious intermeddler implored and insisted to his mother (also the
4 mother of plaintiff) who was assuring the bond to withdraw her assurance
5 out of a black heart and with the vile intent to vex, annoy, inflict emotional
6 distress, and injure plaintiff (his own brother) as much as possible;
7 Defendant Jeff Robben knowingly and falsely asserted that plaintiff was
8 both suicidal and homicidal to their mother and to defendants Justin Bros.
9 and Richard and Dennis Justin. This caused plaintiff to lose his bail bond
10 when his mother withdrew her assurance, at the insistence of officious
11 intermeddler Defendant Jeff Robben. The said withdrawal off assurance
12 started a chain reaction where tortfeasors Justin Bros. and their
13 owner/actors Richard Justin and Dennis Justin, employees and agents of
14 (BB1)/ Justin Bros. crossed the state line from Carson City, Nevada where
15 their office is located and entered the state of California, City of South
16 Lake Tahoe ,went to plaintiff's residence without any legal authority, or
17 warrant pursuant to California Penal Code Section 847.5, but under color
18 of state law(either California or Nevada or both) went to plaintiff's home,
19 broke down his home's front door with brute force, assaulted and battered
20 plaintiff with a taser gun, shooting him no less than three times with said
21 device, and beating him. Plaintiff was further brutalized under color of law.
22 He was handcuffed and brutally taken from his home into unlawful custody
23 under color of law. Plaintiff never consented to this touching which was
24 both painful and injurious both physically and mentally to plaintiff.

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Untimely, the federal civil case was dismissed with the Plaintiff settling with the various defendants including Jeff D. Robben with an understanding/contract that the Petitioner was not to be disinherited.

The Petitioner has the right to challenge the validity of the trust pursuant to NRS 30.040 Questions of construction or validity of instruments, contracts and statutes:

1. Any person interested under a deed, written contract or other writings constituting a contract, or whose rights, status or other legal relations are affected by a statute, municipal ordinance, contract or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status or other legal relations thereunder.

1 The Petitioner also alleges fraud and the failure of the Thomas J. Harris
2 trust to notify the Petitioner of any disinheritance or even the death of Thomas J.
3 Harris and anything related to the will, trust, instruments and probate of the
4 Thomas J. Harris trust.
5

6 Since NRCP Rule 60 includes provisions for fraud and other things like
7 surprises, there is no limiting Petitioner's ability to challenge the validity of the
8 Thomas J. Harris trust. The Petitioner can successfully render the current
9 Thomas J. Harris trust null and void to which the original Thomas J. Harris and
10 Olga Harris Trust would be controlling and to which the Petitioner is a
11 beneficiary.
12

13 The Petitioner is interested in pursuing an amicable resolution to this
14 matter using the court/legal system. The Petitioner feels there is settlement
15 potential since the facts, and as a matter of law, create a presumption of undue
16 influence by Jeff D. Robben over Thomas J. Harris to disinherit the Petitioner and
17 also transfer assets including the home of Thomas J. Harris in Minden, Nevada
18 into the name and/or trust/instrument of Jeff D. Robben. The entire contents of a
19 Wells Fargo safe deposit box in the name of Thomas J. Harris and may include
20 Olga Harris is missing. Said safe deposit box contained various assets including
21 stock certificates, property, and other legal documents.
22

24 This Petitioner demands a full accounting and paper trails of all assets of
25 Thomas J. Harris, Olga Harris and Jeff Robben and any and all trusts and sub-
26 trusts, shell trusts or corporations, etc.
27
28

1 This Petitioner's intent is not to have the current beneficiaries of the
2 Thomas J. Harris trust lose anything. The lawyer for the trust, F. McClure
3 Wallace, has the authority to encourage the trust manager/trustee to settle the
4 matter in an amicable fashion.
5

6 The lawyer, F. McClure Wallace has been unethical in his conduct before
7 this very court when he denied existence of the Thomas J. Harris and Olga
8 Harris trust.
9

10 Since there appears to be evidence and eyewitnesses to these facts, the
11 Petitioner is starting the process of working with the proper authorities in various
12 jurisdictions to pursue any and all criminal matters. This includes the Douglas Co.
13 Sheriff and D.A. Mark Jackson who remembers Todd Robben from a set of previous
14 false charges:
15

16 Source: [http://www.nevadaappeal.com/news/crime/10985994-113/robben-](http://www.nevadaappeal.com/news/crime/10985994-113/robben-charges-jackson-carson)
17 [charges-jackson-carson](http://www.nevadaappeal.com/news/crime/10985994-113/robben-charges-jackson-carson)
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19 and
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21 [https://www.mtdemocrat.com/news/da-protester-charged-with-trying-to-solicit-](https://www.mtdemocrat.com/news/da-protester-charged-with-trying-to-solicit-murder/comment-page-2/)
22 [murder/comment-page-2/](https://www.mtdemocrat.com/news/da-protester-charged-with-trying-to-solicit-murder/comment-page-2/)
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24 and here
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26 [https://www.mtdemocrat.com/news/charges-dropped-da-protester-out-of-](https://www.mtdemocrat.com/news/charges-dropped-da-protester-out-of-prison/)
27 [prison/](https://www.mtdemocrat.com/news/charges-dropped-da-protester-out-of-prison/)
28

All charges against South Tahoe resident Ty Robben have now been
dropped in jailhouse HIT MAN to kill corrupt Carson City Judge Tatro and

1 Slander/Libel/Internet Stalking by Geoff Dornan
2 gdornan@nevadaappeal.com

3 Douglas County District Attorney Mark Jackson, the special prosecutor
4 named to handle the cases, previously dismissed libel and harassment
5 charges.

6 He served notice Thursday that he was dropping the charge **Ty Robben**
7 **AKA "Top Ramen"** (new 'jail name' obtained at the Carson City jailhouse
8 since it sounds like his name) **tried to hire a hit man to kill Justice of**
9 **the Peace John Tatro.**

10 Mark Jackson was brought in after the **Carson City DA's office was**
11 **disqualified** from handling the case.

12 **"Based on a full and complete review of all the evidence and the**
13 **existing constitutional, statutory and case law, I filed a notice of**
14 **dismissal today in the Carson Township Justice Court," Jackson**
15 **said in a statement.**

16 He said that means Robben's \$50,000 bail has been lifted, and all
17 pending charges against him have been dismissed.
18 "It is my understanding that Mr. Robben is in the process of being
19 released from the Carson City Jail," Jackson said. Robben stopped by the
20 Tahoe Daily Tribune Friday and said he was hoping to restore his life and
21 family. **He thanked his attorneys for their work to get him released.**

22 **"Thank you to Mark Jackson for standing up and supporting the U.S.**
23 **Constitution," Robben said.**

24 Two weeks ago, Jackson dismissed the other case against Robben, which
25 accused him of libel and stalking and two counts of attempting to
26 intimidate Tatro and his family. He did so stating that Nevada's libel law
27 was "unconstitutionally vague." The stalking charge, he said, simply didn't
28 have enough evidence to support it.

Robben has been battling the state and criminal justice system since he
was terminated by the Taxation Department.

He was angry with Tatro for his conviction on charges of disorderly
conduct centered on his attempt to — allegedly — serve papers on behalf
of a friend on then-NDOT Director Susan Martinovich. Robben said Judge
Tatro and Assistant DA Mark "Freddie" Krueger must resign and criminal
charges must be filed against Judge Tatro for filing a

1 false report against me. Thank you Douglas County DA Mark Jackson
2 for respecting the US Constitution and my 1st & 14th Amendment rights in
3 these matters and the honor to respect the law(s) and look at the facts
4 unbiased.

5 Robben also posted a story and photos of an alleged requirement for
6 Judge Tatro to take a breathalyzer test prior to taking the bench everyday.
7 Special thanks Attorney Jarrod Hickman and to the entire State of
8 Nevada Public Defenders office including the folks behind the scenes
9 answering my numerous phone calls from jail.

10 Are you aware of the ruling in Times v. Sullivan (1964) which states this, in
11 part:

12 As Americans we have a profound national commitment to the principle
13 that debate on Public Issues should be uninhibited, robust, and wide open.
14 And that it may well include vehement, caustic, and sometimes
15 unpleasantly sharp attacks on government and public officials.

16 Petitioner's brother Jeff D. Ruben was a grifter and all he cared about was
17 money. At all costs, he defraud and stole money and assets from his mother
18 Olga Harris, stepdad Thomas J. Harris and his brother Todd Robben the
19 Petitioner.

20 Going back to the Petitioner's home in South Lake Tahoe (2640 Pinter
21 Ave.) and the lot behind the house on Fountain Ave. and Petitioner's home in
22 Carson City at 610 Mary St. Jeff D. Robben influenced both Olga Harris and
23 Thomas J. Harris to breach contracts and force the sale of these properties.

24 The Petitioner had invested in these properties with his mom and stepdad
25 and Jeff D.. Ruben had undue influence on both of them forcing the sale, and
26 making me buy out the Petitioner's mom and step dad's shares at inflated prices
27 other than were agreed upon prior.

1 Jeff Robben caused strife in Petitioner's life and destroyed relationships
2 with the Petitioner's mother and stepdad. Later, Jeff D. Robben made false
3 allegations to the Carson City authorities that Petitioner was suicidal during the
4 first wave of false arrests and during the divorce with Petitioner's ex-wife JoAnne
5 R. Michael. It was later established that the Petitioner was not suicidal, but
6 instead, in fear of being "suicided" or killed by the Carson City and Nevada
7 government official for exposing massive corruption in the Department of
8 Taxation where millions of dollars was embezzled and the computer system was
9 not functioning. The Petitioner was the IT administrator for the State Tax
10 department and later exposed judicial corruption in the courts.
11
12

13 Jeff D. Robben used undue influence and exploited these situations to
14 damage relationships with the Petitioner's mom, stepdad and ex-wife and son
15 Jacob.
16

17 Jeff D. Robben was sailing ships and working as a pilot in the Fort
18 Lauderdale port in Florida during this timeframe. Jeff D. Robben had a condition
19 called macular degeneration and his eyesight was failing. Jeff D. Robben tried to
20 keep this a secret. After Jeff D. Robben caused the Petitioner problems and a
21 psych evaluation ordered by the Carson City, NV court judge John Tatro. I
22 passed the psych evaluation and was declared not a threat to myself or others... I
23 reported Jeff D. Robben to the port authority for sailing ships with macular
24 degeneration.
25
26
27
28

1 It appears there was and still is a conspiracy to defraud Petitioner (and the
2 other beneficiaries) out of vast sums of money. Interestingly, this is a multi-state
3 problem involving California, Nevada and Washington states. It's understood
4 Scott Barton is a resident of Washington state. Since this involves interstate
5 commerce and mail fraud, perhaps the feds will be interested too.
6

7 With the known conflicts-of-interests between Scott Barton and
8 Blanchard, Krasner & French working both Jeff Robben's trust/will/instruments
9 and Thomas J. Harris's trust/will/instruments it appears there is a conspiracy
10 along with Tara Flannagan and you to cover-up the money trail. Indeed, follow-
11 the-money... Where is it?
12

13 The Petitioner has been subject to vexation by the Thomas J. Harris trust
14 administrator, Tara M. Flanagan who has abuse her position as a California
15 Superior Court Judge in volition the state judicial ethics & canons to have the
16 Alameda County authorities attempt to intimate this Petitioner from his legal
17 rights to pursue his claims and expose the corruption. According to Cal. Judicial
18 Canon 2: A Judge Shall Avoid Impropriety and the Appearance of Impropriety in
19 All of the Judge's Activities A. Promoting Public Confidence B. Use of the
20 Prestige of Judicial Office.
21
22

23 According to Cal. Judicial Canon 4: A Judge Shall So Conduct the Judge's
24 Quasi-Judicial and Extrajudicial Activities as to Minimize the Risk of Conflict with
25 Judicial Obligations
26

- 27 A. Extrajudicial Activities in General
28 B. Quasi-judicial and Avocational Activities

- C. Governmental, Civic, or Charitable Activities
- D. Financial Activities**
- E. Fiduciary Activities**
- F. Service as Arbitrator or Mediator
- G. Practice of Law**
- H. Compensation and Reimbursement**

There has been a total break-down and failure to communicate by Tara M. Flanagan, F. McClure Wallace and Scott Barton. Tara M. Flanagan knows of the fraud and theft conducted by Scott William Barton Cal. State BAR # 160262, a California lawyer. Pursuant to California Judicial Canon III, D II: (2) Whenever a judge has personal knowledge that a lawyer has violated any provision of the Rules of Professional Conduct, the judge shall take appropriate corrective action.

"Silence can only be equated with fraud where there is a legal or moral duty to speak or where an inquiry left unanswered would be intentionally misleading." *United States v. Prudden*, 424 F.2d 1021 p. 1032.(5th Cir. 1970), cert. denied, 400 U.S. 831, 91 S.Ct. 62, 27 L.Ed.2d 62 (1970).

In an effort to carry out any litigation in this case, a court appointed lawyer is requested to act as an intermediary and legal counsel. The Petitioner cannot be subjected to false claims of harassment or threats to harm anyone. An honest lawyer will be able to work with the opposing counsel to obtain an amicable solution and justice for any criminal wrongdoings.

In an abundance of caution, and in the interests and furtherance of justice, the Petitioner has a "statutory right" to counsel in this matter and the Court has an opportunity to remedy the situation simply by appointing counsel to which any

1 costs, fees, etc can be paid back by the Petitioner upon a successful resolution
2 and the inclusion of attorneys fees and costs.

3 In good faith, this Petition is holding back evidence, facts and the names
4 of certain individuals to preserve confidentiality upon the Courts decision on
5 appointing counsel. Once counsel is appointed, the evidence can be disclosed to
6 the Respondent's counsel and/or the court.
7

8 If the Court decides against appointing counsel, the Petitioner will pursue
9 this case in pre per. The Petitioner reserves all rights including using extra-
10 judicial remedies, common law liens, salvage liens and any and all other tools
11 and resources to accomplish justice and a fair remedy
12

13
14 **VI. THOMAS J. HARRIS WILL AND TRUST MUST BE INVALIDATED**

15 If no settlement can be reach by the parties, based on the facts, the law and
16 admissible evidence argued above, the Thomas J. Harris Trust must be decaled
17 invalid, null & void and the Thomas Joseph and Olga Harris Living Trust controls.
18

19 If it turns out the Thomas Joseph and Olga Harris Living Trust is lost or
20 destroyed, the Petitioner can produce two witnesses, Todd C. Robben and Stephen J.
21 Robben to attest to the existence and contents of the Thomas Joseph and Olga Harris
22 Living Trust. A third witness may include Abigail G. Stephenson, Esq since the
23 Thomas Joseph and Olga Harris Living Trust was addressed by Abigail G.
24 Stephenson, Esq. dated March 6, 2020 from Blanchard, Krasner & French
25 acknowledging the existence of the August 26, 1998 trust known as the Thomas
26 Joseph and Olga Harris Living Trust. Please see **EXHIBIT A**
27

1 Further research will determine if a copy of the Thomas Joseph and Olga
2 Harris Living Trust exists. If not, Petitioner can produce two witnesses, Todd C.
3 Robben and Stephen J. Robben to attest to the existence and contents of the Thomas
4 Joseph and Olga Harris Living Trust pursuant to [1] NRS 136.240(3) which provides:
5 No will shall be allowed to be proved as a lost or destroyed will unless the same shall
6 be proved to have been in existence at the death of the person whose will it is claimed
7 to be, or be shown to have been fraudulently destroyed in the lifetime of such person,
8 nor unless its provisions shall be clearly and distinctly proved by at least two credible
9 witnesses.

10 Todd C. Robben and Stephen J. Robben could have attested under oath that
11 Olga Harris, the mother of Petitioner Todd C. Robben spoke of the will/trust several
12 times, including Petitioner's wedding day. The beneficiaries included Thomas J.
13 Harris's son Todd Harris, note Thomas A. Harris was *not* a beneficiary and
14 disinherited; Olga Harris's sons Jeff D. Robben and Todd C. Robben. Each was to
15 receive one third.

16 If the court decides otherwise, the case goes to probate with only two
17 remaining blood hairs, Thomas. A. Harris and Petitioner, Todd C. Robben.

18 This Petitioner has stated and will state again in simple terms that he desires a
19 situation either by settlement, or court order, to remedy the matter to include the
20 Petitioner into to trust with a reasonable percentage and to include a full accounting of
21 any and all assets, money, expenses, etc. A complete transparent paper trail of the
22 money trail. Where are the contents of the missing safe deposit box addressed as
23 "Exhibit "A" to Declaration of Trust by Thomas J. Harris". See EXHIBIT B.

24
25 **1. Safe Deposit Box:** All of Trustor's right, title and interest in and to all
26 contents in the safe deposit box located at Wells Fargo Bank in Carson
27 City, NV, branch office, including but not limited to cash, bonds, stock,
28 securities, and tangible property therein.

1
2 **2. Bank Accounts:** All cash, bonds, stock, securities and other property
3 held with Wells Fargo Bank, including but not limited to account
4 #####1233.

5 **3. All Other Personal Property:** All of Trustor's right, title, and interest
6 subject to all liabilities attached thereto in all automobiles, boats, airplanes,
7 vehicles, trailers, silverware, chinaware, wine, books, pictures, paintings,
8 works of art, household furniture and furnishings, clothing, jewelry, pets,
9 assets in digital form for which Trustor is the owner or author, including
10 without limitation, lists of passwords, user account information, social
11 media sites, blogs, e-books, and other Web-hoster materials, all digital
12 albums and videos, websites on which Trustor conducts business
13 transactions, and all other personal property (together with any insurance
14 on such property) now owned or acquired later during Trustor's lifetime.

15 It is undisputed that the house in Minden, Nevada on Pebble Beach Court was
16 transferred into the name of Jeff D. Robben and/or Jeff D. Robben Trust or sub trust.
17 Said house of Thomas J. Harris was worth approximately \$450,000.00 dollars and the
18 money should be put back into the Thomas J. Harris Trust to be distributed to the
19 beneficiaries. There are questions as to another home on April Drive in South Lake
20 Tahoe worth approximately \$1, 500,000.00 dollars that should have been in the
21 Thomas J. Harris trust.

22 This Petitioner believes the estate and trust value of the Thomas J. Harris Trust
23 is grossly undervalued because of the fraud and theft that has occurred to transfer
24 assets into other accounts to defraud the Thomas J. Harris beneficiaries of millions of
25 dollars when just the two homes are added back in addition to the missing contents on
26 the safe deposit box. Furthermore, Petitioner must see all insurance (death and life
27 insurance payouts), Pension and 401K information in addition to at least the least
28 twenty years of IRS and state tax returns.

VII. PETITIONER'S EVIDENCE IS ADMISSIBLE

1
2 The Petitioner affirmatively asserts his evidence of the previous Thomas J. And
3 Olga Harris Living Trust is admissible. Judge Nathan Tod Young's refusal to accept
4 non hearsay relevant evidence and sworn testimony from the Petitioner and his
5 witnesses on June 21, 2022 is an unconscionable violation of due-process of U.S. 14th
6 Amend. & Nev. Const. Art. 1, Sec 1 & 8(2) and NRS 51.035 "The statement is one
7 made by a witness while testifying at the trial or hearing."

8 NRS 48.015 "Relevant evidence" defined. As used in this chapter, "relevant
9 evidence" means evidence having any tendency to make the existence of any fact that
10 is of consequence to the determination of the action more or less probable than it
11 would be without the evidence. Also see NRS 48.025:

12
13 Relevant evidence generally admissible; irrelevant evidence inadmissible:

14
15 1. All relevant evidence is admissible, except:

16 (a) As otherwise provided by this title;

17 (b) As limited by the Constitution of the United States or of the State
18 of Nevada; or

19 (c) Where a statute limits the review of an administrative
20 determination to the record made or evidence offered before that
21 tribunal.

22 2. Evidence which is not relevant is not admissible.

23 On June 22, 2022 this Petitioner was denied by Judge Young the ability to
24 email the evidence to Judicial Assistant – Kelly Wagstaff: kwagstaff@douglas.nv.gov
25 or other court clerk, and/or share the screen for an in-camera display of the
26 confidential evidence.

1 Any transactions and conversations with or actions the Petitioner, Stephen J.
2 Ruben or others had with Olga Harris is admissible. NRS 48.075 Transactions and
3 conversations with or actions of deceased person. Evidence is not inadmissible solely
4 because it is evidence of transactions or conversations with or the actions of a
5 deceased person.

6 The relevant material evidence proffered by the Petitioner's sworn statement on
7 the record was not, and is not, "hearsay" as wrongfully stated by Judge Nathan Tod
8 Young and supported by Nevada statute NRS §§ 51 and controlling case law.

9 NRS 51.035 "Hearsay" defined. "Hearsay" means a statement offered
10 in evidence to prove the truth of the matter asserted unless:

11 **1. The statement is one made by a witness while testifying at**
12 **the trial or hearing;**

13 **2. The declarant testifies at the trial or hearing and is subject to**
14 **cross-examination concerning the statement, and the**
15 **statement is:**

16 (a) Inconsistent with the declarant's testimony;

17 (b) Consistent with the declarant's testimony and offered to rebut an
18 express or implied charge against the declarant of recent
19 fabrication or improper influence or motive;

20 (c) One of identification of a person made soon after perceiving the
21 person; or

22 (d) A transcript of testimony given under oath at a trial or hearing or
23 before a grand jury; or

24 **3. The statement is offered against a party and is:**

25 (a) The party's own statement, in either the party's individual or a
26 representative capacity;

27 (b) A statement of which the party has manifested adoption or belief in
28 its truth;

1 (c) A statement by a person authorized by the party to make a
2 statement concerning the subject;

3 (d) A statement by the party's agent or servant concerning a matter
4 within the scope of the party's agency or employment, made
5 before the termination of the relationship; or

6 (e) A statement by a coconspirator of a party during the course and in
7 furtherance of the conspiracy.

8 Even if the Petitioner is wrong, the evidence of the Thomas Joseph and Olga
9 Harris Living Trust is exempt from Nevada hearsay law pursuant to the following
10 statutes:

11 NRS 51.075 General exception; other exceptions illustrative.

12 1. A statement is not excluded by the hearsay rule if its nature and
13 the special circumstances under which it was made offer assurances of
14 accuracy not likely to be enhanced by calling the declarant as a witness,
15 even though the declarant is available.

16 NRS 51.105 Then existing mental, emotional or physical condition.

17 1. A statement of the declarant's then existing state of mind,
18 emotion, sensation or physical condition, such as intent, plan, motive,
19 design, mental feeling, pain and bodily health, is not inadmissible under
20 the hearsay rule.

21 2. A statement of memory or belief to prove the fact remembered or
22 believed is inadmissible under the hearsay rule unless it relates to the
23 execution, revocation, identification or terms of declarant's will.

24 NRS51.135 Record of regularly conducted activity. A memorandum,
25 report, record or compilation of data, in any form, of acts, events,
26 conditions, opinions or diagnoses, made at or near the time by, or from
27 information transmitted by, a person with knowledge, all in the course of a
28 regularly conducted activity, as shown by the testimony or affidavit of the
custodian or other qualified person, is not inadmissible under the hearsay
rule unless the source of information or the method or circumstances of
preparation indicate lack of trustworthiness.

1 NRS51.215 Records of documents affecting interest in property. The
2 record of a document purporting to establish or affect an interest in
3 property, as proof of the content of the original recorded document and its
4 execution and delivery by each person by whom it purports to have been
5 executed, is not inadmissible under the hearsay rule if the record is a
6 record of a public office and an applicable statute authorized the recording
7 of documents of that kind in that office.

8 NRS51.225 Statement in document affecting interest in property. A
9 statement contained in a document purporting to establish or affect an
10 interest in property is not inadmissible under the hearsay rule if the matter
11 stated was relevant to the purpose of the document, unless dealings with
12 the property since the document was made have been inconsistent with
13 the truth of the statement or the purport of the document.

14 NRS51.235 Statements in ancient documents. Statements in a
15 document more than 20 years old whose authenticity is established are
16 not inadmissible under the hearsay rule.

17 NRS 51.315 General exception; other exceptions illustrative.

18 1. A statement is not excluded by the hearsay rule if:

19 (a) Its nature and the special circumstances under which it was made
20 offer strong assurances of accuracy; and

21 (b) The declarant is unavailable as a witness.

22 2. The provisions of NRS 51.325 to 51.355, inclusive, are illustrative
23 and not restrictive of the exception provided by this section.

24 In this case, the Petitioner has a letter from Abigail G. Stephenson, Esq. dated
25 March 6, 2020 from Blanchard, Krasner & French acknowledging the existence of the
26 August 26, 1998 trust known as the Thomas Joseph and Olga Harris Living Trust.
27 Please see EXHIBIT A.

28 Ms. Stephenson is a witness and a lawyer and officer of the court. As a
declarant was unavailable as a witness pursuant to NRS 51.075 and NRS
51.315(1)(a)(b).

1 **CONCLUSION**

2 Even without a lawyer, this Petitioner has provided the facts, evidence and law
3 to support the Thomas J. Trust to be declared null & void based on the undisputed
4 showing of presumed undue influence and undue influence.

5 If this court insists on additional litigation and hearings or agrees with the
6 Petitioner that a court appointed lawyer from the State Bar pro bono program or the
7 State Supreme Court will help encourage settlement – this court may assign a lawyer.

8 A stay is requested to preserve funds for any settlements or reimbursements as
9 well as legal costs and any attorney fees.
10

11 Respectfully signed under penalty of perjury,
12

13 

14 /s/ Todd Robben
15

16 July 20, 2022
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CERTIFICATE OF SERVICE

I, Stephen James Robben, declare under penalty of perjury under the law of the State of Nevada that the following is true and correct copy of the filed document. That on (month) July (day) 20th, 2022, service of the document was made pursuant to NRCP 5(b) by depositing a email to: F. McClure Wallace, counsel for Respondent, mcclure@wallacemillsap.com

DATED this 20th day of July, 2022

Submitted By: /s/ Stephen James Robben

EXHIBIT A:

EXHIBIT A:

BLANCHARD, KRASNER & FRENCH

A PROFESSIONAL LAW CORPORATION

ANGAIL G. STEPHENSON, ESQ.

TELEPHONE: (775) 384-0022
FACSIMILE: (775) 236-0901
E-MAIL: astephen@bklfllaw.com
WEB: <http://www.bklfllaw.com>

5470 KIEITZ LANE, SUITE 200
RENO, NEVADA 89511

ALAN W. FRENCH
(Deceased)

ADMITTED IN:
California and Nevada

March 6, 2020

VIA U.S. PRIORITY MAIL/DELIVERY CONFIRMATION REQUESTED

Mr. Thomas Anthony Harris
P.O. Box 364
Santa Cruz, CA 95061

Re: Estate and Trust of Thomas J. Harris
Our File No.: 8269-020

Dear Mr. Harris:

Please accept our condolences on the death of Thomas J. Harris ("Thomas"). As you may know, Thomas' wife Olga Harris predeceased him on March 23, 2019. As part of Thomas' and Olga's estate plan, they created a trust known as the Thomas Joseph and Olga Harris Living Trust dated August 26, 1998 (the "Thomas and Olga Harris Trust"). After Olga's death, Thomas terminated the Thomas and Olga Harris Trust, and established a new living trust called the Thomas J. Harris Trust on June 12, 2019. All of the remaining property of the Thomas and Olga Harris Trust was transferred to the Thomas J. Harris Trust (hereafter, the "Trust") on June 12, 2019. A copy of the Trust which includes all of the terms of the Trust as they pertain to you is enclosed for your information. Also enclosed is a copy of Thomas' Last Will and Testament naming the Trust as the sole beneficiary of his Estate, and a Trustee's Notice pursuant to Nevada Revised Statutes § 164.021. The purpose of this letter is to make you aware of the existence of the Trust, the specific gift intended for you from the Trust, and to explain briefly the process of trust administration.

Under NRS Section 164.021, a Trustee may serve a notification to beneficiaries, heirs, or other interested persons when a trust becomes irrevocable by reason of the death of the person who created the trust (the "settlor" or "trustor"). You are receiving the enclosed notice because Thomas, either personally or in honor of Olga (or both), named you as a beneficiary of the Trust.

Pursuant to Paragraph A-4(a) of the Trust, the specific gift intended for you from the Trust is seventeen and one-half percent (17.5%) of the remaining Trust property after paying all of Thomas' just debts, medical expenses, taxes, and other costs of administration of his Estate and the Trust. *Please bear in mind distribution of this gift is subject to availability of funds after all such expenses have been ascertained and satisfied.*

Jeff D. Robben ("Jeff") is the successor trustee of the Trust. As Trustee, Jeff has authority to manage the Trust, make investment decisions, distribute property, and otherwise deal with the Trust's property in accordance with the terms of the Trust. The Trustee is also responsible for keeping financial records and filing tax returns for the Trust. Jeff is working diligently to satisfy the terms of the Trust. These efforts generally take several months or even years before a trust is

in a position to distribute property to its beneficiaries. Please be patient as this work is being done. *To assist the Trustee in fulfilling his duties, please complete the enclosed IRS Form W-9 and return it to the undersigned in the postage-paid envelope provided.*

The Trust's property consists mainly of the Trust's beneficial interest in an annuity. At this time, I am unable to provide you an estimate of the funds you may receive from the residual Trust estate. Paragraph B-42 of Schedule B of the Trust provides, "The Trustee shall account to the beneficiaries periodically and, if requested by a beneficiary, at least annually." Please take note the Trustee intends to provide the first accounting to the beneficiaries in January 2021, for the period commencing with Thomas' date of death on December 30, 2019 (the date upon which Jeff became the Trustee), and ending December 30, 2020. The Trustee would like you to be aware that each beneficiary of the Trust will receive a Schedule K-1 commencing with tax year 2020, which will be prepared by the Trust's CPA and mailed directly to the beneficiaries, and which you will, in turn, need to provide to your own tax professionals for your own income tax returns.

The law firm of Blanchard, Krasner & French, APC, represents the Trustee and not the beneficiaries. Thus, we cannot give you legal advice concerning your interest as a beneficiary. If you have any questions concerning your rights and interests with respect to the Trust, please consult your own attorney.

Sincerely,



Abigail G. Stephenson, Esq.
for Blanchard, Krasner & French

AGS:mew
Enclosures
cc: Jeff D. Robben, Trustee

EXHIBIT B:

EXHIBIT B:

EXHIBIT "A"
TO
DECLARATION OF TRUST

I, THOMAS JOSEPH HARRIS, as Trustor and Trustee, declare the following property is my separate property, is hereby assigned to this trust, and shall constitute the property of the THOMAS J. HARRIS TRUST:

1. Safe Deposit Box:

All of Trustor's right, title and interest in and to all contents in the safe deposit box located at Wells Fargo Bank, in the Carson City, NV, branch office, including but not limited to cash, bonds, stock, securities, and tangible property therein.

2. Bank Accounts:

All cash, bonds, stock, securities, and other property held with Wells Fargo Bank, including but not limited to account [REDACTED] 1233.

3. All Other Personal Property:

All of Trustor's right, title, and interest subject to all liabilities attached thereto in all automobiles, boats, airplanes, vehicles, trailers, silverware, chinaware, wine, books, pictures, paintings, works of art, household furniture and furnishings, clothing, jewelry, pets, assets in digital form for which Trustor is the owner or author, including without limitation, lists of passwords, user account information, social media sites, blogs, e-books, and other Web-hosted materials, all digital albums and videos, websites on which Trustor conducts business transactions, and all other personal property (together with any insurance on such property) now owned or acquired later during Trustor's lifetime.


THOMAS JOSEPH HARRIS, Trustor and Trustee

EXHIBIT C:

EXHIBIT C:

**NOTIFICATION BY TRUSTEE UNDER
NEVADA REVISED STATUTES SECTION 164.021**

Pursuant to Nevada law, you are hereby provided with notice of the following information regarding the Thomas J. Harris Trust (the "Trust"):

1. The name of the Trustor of the Trust is: Thomas Joseph Harris.
2. The Trust was created on June 12, 2019; and it was neither amended nor revoked prior to Thomas J. Harris' date of death on December 30, 2019.
3. The name, address, and telephone number of the duly appointed and acting successor Trustee of the Trust is:
Jeff Dewey Robben
1051 Pebble Beach Court
Minden, NV 89423
Tel. (775) 790-4744

Please address correspondence relating to the Trust to the Trustee's attorneys at the following address:

Blanchard, Krasner & French
c/o Abigail G. Stephenson, Esq.
5470 Kietze Lane, Suite 200
Reno, NV 89511
Tel: (775) 384-0022
Fax: (775) 236-0901

4. The principal place of administration of the Trust is:
1051 Pebble Beach Court
Minden, NV 89423
5. Pursuant to NRS Section 164.021(2)(c), the Trustee has enclosed for your information a redacted copy of the entire Trust instrument, which includes all provisions of the Trust pertaining to your interest in the Trust. The unredacted terms are the only terms which you are entitled to receive.

WARNING: YOU MAY NOT BRING AN ACTION TO CONTEST THE TRUST MORE THAN 120 DAYS FROM THE DATE THIS NOTIFICATION BY THE TRUSTEE IS SERVED UPON YOU.

Date: March 3rd, 2020



Jeff Dewey Robben, Trustee

BLANCHARD, KRASNER & FRENCH

A PROFESSIONAL LAW CORPORATION

ABIGAIL G. STEPHENSON, ESQ.

TELEPHONE: (775) 384-0022
FACSIMILE: (775) 236-0901
E-MAIL: astephenson@bkflaw.com
WEB: <http://www.bkflaw.com>

5470 KIETZE LANE, SUITE 200
RENO, NEVADA 89511

ALAN W. FRENCH
(Deceased)

ADMITTED IN:
California and Nevada

March 6, 2020

VIA U.S. PRIORITY MAIL/DELIVERY CONFIRMATION REQUESTED

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P.O. Box 364
Santa Cruz, CA 95061

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Our File No.: 8269-020

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Under NRS Section 164.021, a Trustee may serve a notification to beneficiaries, heirs, or other interested persons when a trust becomes irrevocable by reason of the death of the person who created the trust (the "settlor" or "trustor"). You are receiving the enclosed notice because Thomas, either personally or in honor of Olga (or both), named you as a beneficiary of the Trust.

Pursuant to Paragraph A-4(a) of the Trust, the specific gift intended for you from the Trust is seventeen and one-half percent (17.5%) of the remaining Trust property after paying all of Thomas' just debts, medical expenses, taxes, and other costs of administration of his Estate and the Trust. *Please bear in mind distribution of this gift is subject to availability of funds after all such expenses have been ascertained and satisfied.*

Jeff D. Robben ("Jeff") is the successor trustee of the Trust. As Trustee, Jeff has authority to manage the Trust, make investment decisions, distribute property, and otherwise deal with the Trust's property in accordance with the terms of the Trust. The Trustee is also responsible for keeping financial records and filing tax returns for the Trust. Jeff is working diligently to satisfy the terms of the Trust. These efforts generally take several months or even years before a trust is

in a position to distribute property to its beneficiaries. Please be patient as this work is being done. *To assist the Trustee in fulfilling his duties, please complete the enclosed IRS Form W-9 and return it to the undersigned in the postage-paid envelope provided.*

The Trust's property consists mainly of the Trust's beneficial interest in an annuity. At this time, I am unable to provide you an estimate of the funds you may receive from the residual Trust estate. Paragraph B-42 of Schedule B of the Trust provides, "The Trustee shall account to the beneficiaries periodically and, if requested by a beneficiary, at least annually." Please take note the Trustee intends to provide the first accounting to the beneficiaries in January 2021, for the period commencing with Thomas' date of death on December 30, 2019 (the date upon which Jeff became the Trustee), and ending December 30, 2020. The Trustee would like you to be aware that each beneficiary of the Trust will receive a Schedule K-1 commencing with tax year 2020, which will be prepared by the Trust's CPA and mailed directly to the beneficiaries, and which you will, in turn, need to provide to your own tax professionals for your own income tax returns.

The law firm of Blanchard, Krasner & French, APC, represents the Trustee and not the beneficiaries. Thus, we cannot give you legal advice concerning your interest as a beneficiary. If you have any questions concerning your rights and interests with respect to the Trust, please consult your own attorney.

Sincerely,



Abigail G. Stephenson, Esq.
for Blanchard, Krasner & French

AGS:mew
Enclosures
cc: Jeff D. Robben, Trustee

LAST WILL AND TESTAMENT

OF

THOMAS JOSEPH HARRIS

I, THOMAS JOSEPH HARRIS, being of sound mind and memory, declare this to be my Will, and I revoke all other Wills and Codicils previously made by me.

ARTICLE ONE: DECLARATIONS

1.1 Family Declarations. I am a widower, formerly married to OLGA HARRIS (deceased March 23, 2019). I was previously married to MARLENE HARRIS (deceased April 22, 1972), and have two (2) adult children of my first marriage whose names and dates of birth are:

THOMAS ANTHONY HARRIS, born August 20, 1958; and
TODD EDWARD HARRIS, born May 15, 1960 (deceased with no children).

I have two (2) adult stepchildren from my marriage to OLGA HARRIS (aka OLGA ROBBEN), whose names and dates of birth are:

JEFF DEWEY ROBBEN, born September 12, 1964; and
TODD CHRISTIAN ROBBEN, born April 16, 1969.

No other child has ever been born to or adopted by me.

1.2 Declaration of Citizenship. I am a citizen of the United States of America.

1.3 Declaration of Testamentary Intent. I want this Will to dispose of all property and assets I am entitled to dispose of by Will. This Will is not an exercise of any power of appointment retained by me or granted to me by Will or trust instrument.

ARTICLE TWO: DISPOSITION OF ESTATE

2.1 Gift to Trust. Except as otherwise provided herein, I give my entire estate, including all lapsed and failed legacies and devises, to the Trustee of the THOMAS J. HARRIS TRUST, established under Declaration of Trust dated June 12, 2019 (the "THOMAS J. HARRIS TRUST"), of which I am the Trustor and the initial Trustee. My estate shall be held, administered and distributed as provided in the THOMAS J. HARRIS TRUST, as it may be amended according to its terms.

2.2 Tangible Personal Property. I give all of my jewelry, clothing, household furniture and furnishings, personal automobiles and other tangible articles of a personal nature, or my interest in any such property, not otherwise specifically disposed of by this Will or in any other

manner, together with any insurance on the property, to the Trustee of the THOMAS J. HARRIS TRUST, to be held, administered and distributed as provided for in the THOMAS J. HARRIS TRUST, as it may be amended according to its terms.

2.3 Residue. I give the residue of my estate, including all lapsed and failed legacies and devises, to the Trustee of the THOMAS J. HARRIS TRUST. The residue of my estate shall be held, administered and distributed as provided for in the THOMAS J. HARRIS TRUST, as it may be amended according to its terms. Should the THOMAS J. HARRIS TRUST not exist or be determined to be invalid, the residue of my estate shall be administered pursuant to the terms of the THOMAS J. HARRIS TRUST as last amended immediately prior to its non-existence or determination of invalidity. If for any reason the disposition made in this Section 2.3 is not operative or is invalid, or if the trust referred to in this Section 2.3 has failed or has been revoked, then I hereby incorporate herein by reference the terms of the above-described instrument on the date of the execution of this Will, without giving effect to any subsequent amendments thereto; and I give the residue of my estate to the Trustee(s) named therein for said trust, in trust, to be held, administered, and distributed as therein provided.

ARTICLE THREE: DEATH TAXES AND EXPENSES

3.1 Death Taxes. All Death Taxes attributable to assets in my probate estate shall be charged and paid as provided in the THOMAS J. HARRIS TRUST.

3.2 Other Expenses. All debts, funeral, and administrative expenses shall be charged and paid as provided in the THOMAS J. HARRIS TRUST.

ARTICLE FOUR: NOMINATION OF EXECUTOR

4.1 Nomination of Executor. I nominate the following in the indicated order of priority as the Executor of this Will:

- 1st: JEFF D. ROBBEN;
- 2nd: SCOTT BARTON;
- 3rd: TARA FLANAGAN;
- 4th: LAURIE DUNN.

Vacancies in the executorship shall be filled by following the above order of priority. The term "Executor" herein shall include any personal representative or representatives of my estate.

4.2 No Bond Required. I direct that no bond shall be required of any individual Executor appointed in accordance with this Article, whether such person acts alone or as a Co-Executor.

ARTICLE FIVE: EXECUTOR'S POWERS

5.1 General Powers. My Executor shall have all powers now or hereafter conferred upon executors by law. Additionally, I specifically authorize my Executor to lease, encumber or sell assets of my estate, and to hold, manage and operate any asset or business belonging to my estate, at the risk of my estate as a whole. My Executor may exercise these powers even though my Executor, in his or her individual capacity, has an interest as a partner, shareholder, creditor or otherwise in any such asset or business. My Executor is also authorized to borrow funds and to invest my estate's assets as my Executor deems proper, exercising the judgment and care that persons of prudence, discretion and intelligence would exercise under the circumstances then prevailing in regard to the permanent disposition of their assets, considering probable income and safety of their capital. My Executor may prosecute, defend, contest or otherwise litigate legal actions or other proceedings for the protection or benefit of the estate; pay, compromise, release, adjust, or submit to arbitration any debt, claim or controversy; and insure the estate against any risk, and the Executor against any liability with respect to third persons. My Executor may employ and compensate from the estate accountants, lawyers, investment and tax advisors, agents, and others to aid or assist in the management, administration and protection of the estate.

5.2 GST Exemption. I authorize my Executor to allocate or not allocate my Generation-Skipping Transfer ("GST") Tax exemption, in whole or in part, pursuant to section 2631(a) of the Internal Revenue Code of 1986, as it may be amended from time to time, or pursuant to the provisions of any federal or state statute of similar import that may be in force at the time of my death, to any property with respect to which I am the transferor—including, without limitation, any property transferred by me during my life as to which I did not make such an allocation—as my Executor shall determine, without any obligation to make such allocation equally or pro rata to such property.

5.3 Distribution Powers. Whenever my Executor is required, pursuant to the provisions of this Will, to divide the assets in my estate into shares for the purpose of distribution, my Executor may, in my Executor's discretion, make the division and distribution in undivided interests, in kind, or partly in money and partly in kind, prorata or nonprorata. My Executor may sell such assets as my Executor deems proper to make the division or distribution.

ARTICLE SIX: GENERAL PROVISIONS

6.1 Disinheritance Clause. Except as otherwise provided for in this Will, I have intentionally failed to provide for my heirs, specifically including but not limited to any former spouse (or estate of a deceased former spouse), my stepson, TODD C. ROBBEN, and any child, stepchild, foster child, grandchild or other heir of mine not mentioned by name or provided for in this Will.

6.2 No-Contest Clause. If any devisee, legatee or heir of mine, or any person claiming under any of them, (i) contests this Will, (ii) institutes any legal proceeding that attacks or seeks to impair or invalidate any of the provisions of this Will or the distribution of my estate according to this Will, (iii) seeks to obtain an adjudication in any court challenging a transfer of property concerning any trust established under this document on the grounds it was not the transferor's property at the time of the transfer, or (iv) conspires with or voluntarily assists

anyone attempting to do any of the things just mentioned, I disinherit that person and all gifts, legacies and devises given to him or her under this Will shall be forfeited and shall augment proportionately the shares of my estate going under this Will to those devisees and legatees of mine who did not participate in such acts or proceedings. If all of my devisees and legatees participate in such acts or proceedings, I give my entire estate to my heirs as determined under Nevada's laws of intestate succession, excluding all contestants and persons conspiring with or voluntarily assisting them.

6.3 No Interest. No interest shall be paid on any cash gift or bequest under this Will.

6.4 Definitions. As used in this Will, unless the context clearly indicates otherwise:

"Child" or "Children" includes any child born to or adopted by me as a minor child after I signed this Will.

"Code" refers to the Internal Revenue Code of 1986, as amended, and its successors. References to a specific section of the Code include future amendments, and successors, to it.

"Death Taxes" includes all federal or state estate, inheritance, or other succession taxes payable because of my death, but does not include (i) any federal or state generation-skipping transfer taxes or (ii) any additional tax that may be assessed under Code section 2032A(c).

"Executor" includes Co-Executor.

"Will" includes any Codicil to it.

6.5 Gender and Number. The masculine, feminine and neuter gender, and the singular and plural number, each include the other(s), unless the context indicates otherwise.

6.6 Headings. The headings in this Will are for convenience only and do not in any way limit or amplify the terms of the Will.

6.7 No Contracts. I have not entered into any contract to make wills nor any contract not to revoke a will.

SIGNATURE

This Will is signed by me on June 12, 2019, at Reno, Nevada.


THOMAS JOSEPH HARRIS

ATTESTATION

On this date, THOMAS JOSEPH HARRIS signed this document and declared it to be his Will, in our presence; and we, at his request and in his presence, and in the presence of each other, signed as witnesses below. Each of us observed the signing of this Will by THOMAS JOSEPH HARRIS and by each other subscribing witness and knows that each signature is the true signature of the person whose name was signed.

Each of us is a competent witness and resides at the address set forth below. We are acquainted with THOMAS JOSEPH HARRIS, and he is now more than eighteen (18) years of age. To the best of our knowledge, THOMAS JOSEPH HARRIS is of sound mind at this time and is not acting under duress, menace, fraud, misrepresentation or undue influence.

Each of us declares under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct, and that each of us signed below on June 12, 2019, at Reno, Nevada.

Margaret D. Stephen
Witness 1

Residing at 10325 Culiacan Pass Trl.
Reno, NV 89521

S. Smith
Witness 2

Residing at 850 Arrow Creek Pkwy #10602
Reno, NV 89511

Andrew
Witness 3

Residing at 895 Pinebrook Road
Reno NV 89502

NEVADA REVISED STATUTE 133.050 AFFIDAVIT

STATE OF NEVADA)
) ss.
WASHOE COUNTY)

THEN AND THERE personally appeared Abigail Stephenson,
Stephanie Small, and Steven Silva, who do
hereby swear, under penalty of perjury, that the assertions of this affidavit are true:

That they witnessed the execution of the foregoing Will of the Testator, THOMAS JOSEPH HARRIS; that the Testator subscribed the Will and declared it to be his Last Will and Testament in their presence; and that they thereafter subscribed the Will as witnesses in the presence of the Testator and in the presence of each other and at the request of the Testator; and that the Testator at the time of the execution of the Will appeared to them to be of full age and of sound mind and memory, and that they make this affidavit at the request of the Testator.

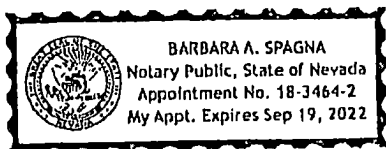
Abigail Stephenson
Witness 1

Stephanie Small
Witness 2

Steven Silva
Witness 3

On June 12, 2019, personally appeared before me, a notary public, the above individuals, personally known (or proved) to me to be the persons whose names are subscribed to the above instrument, who acknowledged that they executed the above instrument.

Barbara A. Spagna
NOTARY PUBLIC



**DECLARATION OF TRUST
KNOWN AS THE
THOMAS J. HARRIS TRUST,
DATED JUNE 12, 2019**

This DECLARATION OF TRUST is entered into this 12th day of June, 2019, by THOMAS JOSEPH HARRIS as Trustor, and delivered to and received by THOMAS JOSEPH HARRIS as Trustee.

TRUST ASSETS

THOMAS JOSEPH HARRIS ("Trustor") hereby declares he as Trustee ("Trustee") now holds in trust the property and assets described in Exhibit "A" attached hereto and all other property hereafter received. The interest now and hereafter received by the Trustee in such property, together with all property now or hereafter subject to this trust, shall constitute the trust estate of the THOMAS J. HARRIS TRUST, which is the trust established under this document, and shall be held, managed, and distributed as hereinafter provided.

All property and assets now or hereafter transferred into this trust shall be held by the Trustee in the following manner:

THOMAS JOSEPH HARRIS, AS TRUSTEE OF THE THOMAS J.
HARRIS TRUST, U/D/T (UNDER DECLARATION OF TRUST)
DATED JUNE 12, 2019, WHEREIN THOMAS JOSEPH HARRIS IS
TRUSTOR, OR ANY SUCCESSOR TRUSTEE THEREUNDER.

TRUST DISTRIBUTION

The Trustee shall apply and distribute the net income and principal of the trust established under this document as set forth in the attached Schedule A, which is incorporated herein by this reference.

TRUST ADMINISTRATION

The Trustor, the Trustee(s), and the beneficiaries of each trust established under this document shall have the powers, rights, duties, and obligations (and are subject to all the provisions) set forth in the attached Schedules B and C, which are incorporated herein by this reference.

SUCCESSOR TRUSTEES

If the original Trustee fails, ceases, or otherwise is unable to serve, the following individuals are nominated to serve as the successor Trustee of all trusts created hereunder, in the order of priority indicated: (1) JEFF DEWEY ROBBEN; (2) SCOTT BARTON; (3) TARA FLANAGAN; (4) LAURIE DUNN. Thereafter, whenever there is a vacancy in the trusteeship of any trust established under this document, a majority of the adult beneficiaries then entitled to

receive income of the Trust may nominate and appoint a successor trustee. If a majority of the adult beneficiaries then entitled to receive income of the Trust are unwilling or unable to appoint a successor trustee, or if for any other reason there is ever a complete vacancy in the trusteeship of any trust established under this document, the successor trustee shall be the person or institution (or both) appointed by a court of competent jurisdiction.

Any designation of a successor trustee may be, or may include, the person making the designation. Any designation of a successor trustee must be set forth in a document signed by the person making the designation and delivered to the trustee, if there is one, or otherwise delivered to the next successor trustee. If more than one such designation is made, the one made nearest to the creation of the vacancy to be filled shall control.

Despite the foregoing, while Trustor is living, the Trustor may appoint an additional person(s) or institution, or both, as a Co-Trustee or successor Trustee or Co-Trustee of any trust established under this document. Such appointment must be made by giving written notice of the appointment to each Trustee then serving. In addition, the Trustor may remove any additional Co-Trustee he so appointed. Such removal must be made by giving written notice of the removal to each Trustee serving at the time of such removal.

Whenever an individual or corporation is acting as sole Trustee, whether pending appointment of a Co-Trustee or otherwise, such Trustee shall have full powers with respect to the management, investment and distribution of the trust estate, including final distribution of the trust estate upon the trust's termination.

SIGNATURE

As the Trustor and initial Trustee, I have signed this Declaration of Trust on June 12, 2019, at Reno, Nevada.


THOMAS JOSEPH HARRIS

NOTARY ACKNOWLEDGMENT

STATE OF NEVADA)
) ss.
COUNTY OF WASHOE)

On June 12, 2019, before me, Barbara A. Spagna, Notary Public, personally appeared THOMAS JOSEPH HARRIS, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Nevada that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Barbara A. Spagna
Signature of Notary

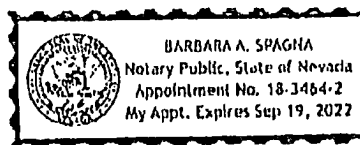


EXHIBIT "A"
TO
DECLARATION OF TRUST

I, THOMAS JOSEPH HARRIS, as Trustor and Trustee, declare the following property is my separate property, is hereby assigned to this trust, and shall constitute the property of the THOMAS J. HARRIS TRUST:

1. Safe Deposit Box:

All of Trustor's right, title and interest in and to all contents in the safe deposit box located at Wells Fargo Bank, in the Carson City, NV, branch office, including but not limited to cash, bonds, stock, securities, and tangible property therein.

2. Bank Accounts:

All cash, bonds, stock, securities, and other property held with Wells Fargo Bank, including but not limited to account [REDACTED] 1233.

3. All Other Personal Property:

All of Trustor's right, title, and interest subject to all liabilities attached thereto in all automobiles, boats, airplanes, vehicles, trailers, silverware, chinaware, wine, books, pictures, paintings, works of art, household furniture and furnishings, clothing, jewelry, pets, assets in digital form for which Trustor is the owner or author, including without limitation, lists of passwords, user account information, social media sites, blogs, e-books, and other Web-hosted materials, all digital albums and videos, websites on which Trustor conducts business transactions, and all other personal property (together with any insurance on such property) now owned or acquired later during Trustor's lifetime.



THOMAS JOSEPH HARRIS, Trustor and Trustee

SCHEDULE A
DISTRIBUTION OF TRUST
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SCHEDULE A

DISTRIBUTION OF TRUST

The Trustee shall apply and distribute the net income and principal of the trusts created under this document as follows:

A-1. Income Distribution. To the extent income is distributable, net income shall be distributed in monthly or other convenient installments, but at least annually, to or for the benefit of the person or persons entitled to receive such net income.

A-2. Distributions During Life of Trustor. During the life of the Trustor, the Trustee shall pay the net income of the trust estate to Trustor or pursuant to Trustor's written directions which are delivered to Trustee, from time to time. In addition, Trustee shall pay to Trustor or pursuant to the directions of Trustor as much of the principal of the trust estate as Trustor may direct in a writing that is delivered to Trustee. Notwithstanding the foregoing, while the Trustor is living and serving as Trustee, oral instructions or requests are sufficient. For such periods as Trustee determines that Trustor is physically or mentally unable to direct Trustee, Trustee shall pay to or for the benefit of Trustor as much of the net income and principal of the trust estate as Trustee in Trustee's discretion deems reasonably necessary for the comfortable support, health, and welfare of Trustor. Such discretion shall be liberally applied with a view to maintain the lifestyle of the Trustor existing at the time he became physically or mentally unable to direct the Trustee. Any net income not distributed during such periods shall be accumulated and added to the principal of the trust estate.

A-3. Payments at Death of Trustor. Upon the death of the Trustor, the Trustee may pay out of income or principal (other than principal from any qualified plan or individual retirement account, unless such payments are made before September 30 of the year after the death of the Trustor, in which case, principal from any qualified plan or individual retirement account may be used) any part or all of the tax and other expenses as set forth in Paragraph C-1 of Schedule C of this Trust that are attributable to the trust estate of the THOMAS J. HARRIS TRUST, to the extent these obligations are not paid or responsibility for their payment assumed by some other person or estate.

A-4. Specific Gifts Following the Trustor's Death. After the Trustor's death, and after making any payments required by the preceding paragraphs, the Trustee shall divide, allocate and distribute the remaining trust estate as set forth below, outright and free of trust except where otherwise specified:

a. Seventeen and One-Half Percent (17.5%) to my son, THOMAS ANTHONY HARRIS, if he is then living. If THOMAS ANTHONY HARRIS predeceases all or any portion of this gift, such gift shall lapse and fail in its entirety, and shall be added to and augment the trust estate, to be distributed pursuant to Paragraph A-4(dd) below;

dd. Any lapsed gift for a designated beneficiary in Paragraphs A-4(a) through (cc) above who predeceases distribution (a "Lapsed Gift") shall be added to and augment pro rata the gifts for the then living beneficiaries designated in Paragraphs A-4(a)-(cc) above. Any Lapsed Gift(s) which cannot be distributed under the foregoing terms shall be distributed under the contingent disposition provisions in Paragraph A-6 below.

A-5. Distribution of Personal Effects. Despite any contrary provision of this document, following the Trustor's death if the Trustee holds or receives any automobile, boat, household furniture, works of art, collections, furnishings, clothing, jewelry, coins, silver, books, or other effects of a personal nature, the Trustee shall distribute such property to (or hold it for the use of) JEFF D. ROBBEN and THOMAS ANTHONY HARRIS, in equal shares as they may agree or as the Trustee shall determine if they cannot agree (or all to the survivor of them, if only one is then living). If both JEFF D. ROBBEN and THOMAS ANTHONY HARRIS predecease or disclaim any one or more of items of Trustor's tangible personal property, this gift shall lapse and fail in its entirety, and the Trustee may liquidate the personal effects, insofar as practical, and the net proceeds shall be added to and augment the remaining trust estate for distribution pursuant to

Paragraph A-4 above. If any effect of a personal nature is not salcable or is of nominal value, in the Trustee's sole and absolute discretion, the Trustee may donate, give to any named beneficiary under Paragraph A-4 of this Trust, or abandon such item(s) of property, as the Trustee deems best.

A-6. Contingent Disposition. Any portion of the trust not disposed of pursuant to the foregoing provisions shall be distributed outright and free of trust among the then-living beneficiaries designated in Paragraphs A-4(a) through A-4(cc) of this Trust, in the proportions stated therein. Any portion of the trust not disposed of pursuant to the foregoing provisions shall be distributed outright and free of trust to the Trustor's legal heirs, excluding TODD C. ROBBEN, as a remainder interest and not by way of reversion. The identity and respective shares of those heirs shall be determined in all respects as though the death of the Trustor had occurred immediately following the happening of the event requiring that distribution, and according to Nevada's laws of intestate succession then in force relating to the succession of separate property not received from a previously deceased spouse, parent or grandparent. The identity and the respective shares of those heirs shall be determined by the Trustee, and those determinations shall be conclusive on all heirs and other persons interested in the trust. The Trustee shall not be liable for any errors or omissions in making those determinations.

A-7. Definition of Education. Whenever provision is made in this trust for payment for the education of a beneficiary, the term "education" shall be construed to include education at a private primary or secondary institution, and vocational, college and postgraduate study, so long as pursued to advantage by the beneficiary as a full-time student at an institution of the choice of the beneficiary. In determining payments to be made for such education, Trustee shall take into consideration the beneficiary's related living expenses, if any, to the extent that they are reasonable. The term "education" shall also be construed to include athletic, musical, artistic or other special activities so long as seriously pursued to advantage by the beneficiary in a recognized program of the choice of the beneficiary.

A-8. Spendthrift Provision. No interest in the principal or income of this Trust shall be anticipated, assigned, encumbered, or subjected to a creditor's claim or other legal process, including bankruptcy, before actual receipt by the beneficiaries. If the creditor or bankruptcy trustee of any beneficiary who is entitled to any distribution from this Trust attempts by any means to subject to the satisfaction of such creditor's or bankruptcy claim that beneficiary's interest in any distribution, then notwithstanding any other provisions in this instrument, until the release of the writ of attachment or garnishment or termination of such other legal process, the distribution set aside for such beneficiary shall be disposed of as follows:

(a) Distributions Limited to Health, Education, Maintenance, or Support: The Trustee shall pay to or apply for the benefit of such beneficiary all sums the Trustee determines to be necessary for the reasonable health, education, maintenance, or support of the beneficiary according to his or her accustomed mode of life; and

(b) Remainder Added to Principal: The portion of the distribution the Trustee determines to exceed the amount for the support, maintenance, health, or education shall instead in the Trustee's discretion either be added to and become principal in whole or in part or be paid to or applied for the benefit of the other beneficiary then entitled to receive payments from any trust established under this instrument, in proportion to their respective interests in the trust estate.

A-9. Release of Powers. Notwithstanding the spendthrift provision contained in the immediately preceding Paragraph or any other language in this Declaration of Trust, any power created by this Declaration of Trust may be disclaimed, released or restricted in scope, whether that power is expressly granted in this Declaration of Trust or is implied by law. Any such power may be released to the extent and in the manner prescribed by Nevada Revised Statutes 120.100–120.350 (the Uniform Disclaimer of Property Interests Act) as it exists at the time that this trust is executed. Any disclaimed or released power shall pass to and be exercised by the independent individual or corporate trustee next appointed herein.

A-10. The Trustee May Terminate Trust. If after the death of the Trustor, in the Trustee's discretion, the Trustee determines the total value of the property held in trust pursuant to this instrument is sufficiently small that the administration thereof is no longer economically desirable, the cost of administration is disproportionate to the value of the assets, or the continuation of the trust is no longer in the best interests of all of the current and future beneficiaries of the trust, the Trustee may terminate such trust. Upon termination as herein provided, the Trustee shall distribute the property of that trust to the person or persons who are then entitled to receive the income from that trust in the proportion that such persons are then entitled to receive the income, insofar as such distribution is specified in the trust, otherwise the Trustee shall distribute such trust equally to such persons.

A-11. Maximum Duration of Trust. The trusts created hereunder shall be perpetual to the fullest extent permitted by Nevada law. If any trust created hereunder is deemed to be subject to the law of a jurisdiction that has a rule against perpetuities or similar rule which limits the period during which property can be held in trust, then such trust (other than a trust created by the exercise of a general power of appointment, as defined in §2041 of the Internal Revenue Code conferred hereunder which exercise commences a new rule against perpetuities period under the law of such jurisdiction) shall terminate in all events upon the expiration of the longest period that property may be held in trust under this Trust under the law of such jurisdiction (including any applicable period in gross, such as 21 years, 90 years or 365 years); provided, however, that if the jurisdiction has a rule against perpetuities or similar rule which applies only to certain types of property, such as real property, the provisions of this Paragraph shall apply only to such property. Upon such termination, the balance of any trust so terminated shall be distributed to the income beneficiaries of that trust who are then living in the proportions in which they are, at the time of termination, entitled to receive income. However, if the rights to income are not then fixed by the terms of that trust, distribution under this Paragraph shall be made, by right of representation, to such issue of the Trustor's who are then living and are entitled or authorized in Trustee's discretion to receive income payments, or, if there are no such issue of the Trustor, in equal shares to those beneficiaries who are then entitled or authorized in Trustee's discretion to receive trust payments.

A-12. Disinheritance Clause. Except as otherwise provided in this Trust, the Trustor has intentionally and with full knowledge failed to provide for the Trustor's heirs, specifically including but not limited to any former spouse (or estate of a deceased former spouse), Trustor's stepson, TODD CHRISTIAN ROBBEN, and all legal and alleged heirs, children, stepchildren, adopted children, parents, foster parents, and all persons of any degree of relationship whatsoever, including said individuals who are not in being at the date of execution of this Trust or who are adopted by the Trustor after this Trust is executed.

[END OF SCHEDULE A]

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SCHEDULE B
POWERS AND GENERAL PROVISIONS
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SCHEDULE B

POWERS AND GENERAL PROVISIONS

The Trustor, the Trustee and the beneficiaries of each trust established under this document shall have the following powers, rights and duties, in addition to any now or hereafter conferred by law, and are subject to the following provisions:

B-1. Investment Directions from Trustor.

(a) While the Trustor is living, the Trustor shall have the right at any time to direct the Trustee to retain, sell, exchange or lease any asset of the trust; to invest and/or deposit funds of the trust; or to purchase any asset the Trustor may designate and that is acceptable to the Trustee. Upon receiving such a direction, the Trustee must comply with it, and the Trustee shall have no liability to any beneficiary for the consequences of complying with that direction. In the absence of such directions, the Trustee shall have full power and authority to invest and reinvest the trust's assets.

(b) During the legally declared or medically certified disability of the Trustor, or during such time as the Trustee determines, in the Trustee's sole discretion, that the Trustor is unable to exercise such investment rights because of physical incapacity or for any other reason, the Trustee shall have and exercise full powers and duties of management. Upon such a disability of the Trustor, and whenever the Trustor is not a Trustee, the Trustee is requested, when it is practical, to consult with the Trustor concerning the retention, sale, exchange, lease or other investment of the trust's assets. The Trustee is requested to give consideration to the Trustor's recommendations relating to such matters, without, however, being required to follow such recommendations.

B-2. General Management Powers.

(a) Regarding the trust or any of its assets, the Trustee shall have the power:

- (i) to hold undivided interests in the same property;
- (ii) to sell, convey, exchange, partition, convert, improve, repair, manage, operate or control;
- (iii) to lease for terms within or beyond the term of the trust for any purpose, including exploration for and removal of gas, oil or other minerals;
- (iv) to enter into community oil leases;
- (v) to carry insurance of such kind and in such amounts as the Trustee deems advisable, at the expense of the trust;
- (vi) to pay, compromise or settle by arbitration, compromise or otherwise any claim against or in favor of the trust;

(vii) to release, in whole or in part, any claim belonging to the trust to the extent the Trustee, in the Trustee's discretion, deems it uncollectible;

(viii) to commence, compromise or defend litigation with respect to the trust or any of its assets as the Trustee, in the Trustee's discretion, deems advisable, at the expense of the trust;

(ix) to invest and/or deposit and reinvest in such assets as the Trustee, in the Trustee's discretion, deems advisable, whether or not permitted by law for the investment of trust funds, including, but not limited to, general or limited partnership interests, mineral interests, mutual funds, promissory notes (secured by deeds of trust or mortgages, or unsecured), encumbered or unencumbered real property, or interests in any common trust fund administered by the Trustee solely for the investment of trust assets;

(x) to grant an option involving the disposition of an asset or a lease or to take an option for the acquisition of an asset or a lease;

(xi) to make ordinary or extraordinary repairs or alterations in buildings or other trust assets; to demolish any improvement; and to raze existing or erect new party walls or buildings;

(xii) to purchase or otherwise acquire unproductive property; provided, however, that any current income beneficiary by written instrument delivered to the Trustees shall have the right to direct the Trustees to convert any non-income producing property, held in the individual beneficiary's share, to income-producing property, and the Trustees shall comply with such direction within a reasonable time after it is received;

(xiii) to subdivide or develop real estate; to make or obtain the vacation of plats and adjust boundaries; to adjust differences in valuation on exchange or partition by giving or receiving consideration; and to dedicate land, or interests in land (such as easements), to public use without consideration; and

(xiv) to effect incorporation, dissolution, or other change in the form of organization of a business or enterprise; to form partnerships and limited liability companies; and to establish trusts.

(b) The Trustee may exercise the foregoing powers upon such terms and in such manner as the Trustee, in the Trustee's discretion, deems advisable. The enumeration of the foregoing powers of the Trustee shall not limit the Trustee's general or implied powers. Subject always to the discharge of the Trustee's fiduciary obligations, the Trustee shall have all of the rights, powers and privileges that an owner of the trust's assets would have. The Trustee may also continue to exercise any power or discretion for a reasonable period after the termination of the trust, but only for so long as no law relating to perpetuities would be violated.

B-3. Access, Use and Control of Digital Assets and Media. The Trustee shall have the power to access, use, hold and control any asset held by any kind of computing or digital storage device or that is otherwise in digital form, in which the Trustor is the owner or the author,

including without limitation lists of passwords; user account information; social media sites; blogs, e-books, and other Web-hosted materials; all digital albums and videos; and websites on which the Trustor conducts business transactions. The Trustor hereby authorizes any person or entity that possesses or controls any electronically stored information, or that provides to the Trustor an electronic communication service, to divulge to the Trustee any electronically stored information or any record or other information pertaining to the Trustor. This authorization is to be construed as the lawful consent of each Trustor to all such access or disclosure under the Electronic Communications Privacy Act of 1986, the Computer Fraud and Abuse Act of 1986, and any other applicable state or federal data privacy law, as such laws may be amended. The Trustee is authorized to employ any consultants or agents to advise or assist the Trustee in decrypting any encrypted electronically stored information of the Trustor, or in bypassing, resetting, or recovering any password or other kind of authentication; and the Trustor hereby authorizes the Trustee to take any of the foregoing actions to access: (1) any kind of computing device of the Trustor; (2) any kind of data storage device or medium of the Trustor; (3) any electronically stored information of the Trustor; and (4) any user account of the Trustor. The terms used in this Paragraph are to be construed as broadly as possible, including as contemplated in the Uniform Fiduciaries Access to Digital Assets Act, and any other applicable state or federal data privacy law, as such laws may be amended. The term "user account" includes without limitation an established relationship between a user and a computing device or between a user and a provider of Internet or other network access, electronic communication services, or remote computing services, whether public or private.

B-4. Election of Directors. The Trustee may elect one or more of the individual Trustees to the Board of Directors or similar governing body of any corporation or organization in which the trust has an interest. Any Trustee may serve as a director, trustee, officer, employee, partner, manager, trustee or agent of such a corporation or organization, and, in addition to his or her compensation as the Trustee, may retain all compensation received for such services without accounting to the trust. The Trustee may obtain liability insurance for the Trustee's services as such an officer or director and may pay the premiums on such insurance from the trust. Such premium payments shall not reduce the compensation otherwise payable to the Trustee.

B-5. Trustee's Conflicts of Interest.

(a) The Trustee may exercise all of the rights and powers accorded the Trustee by law, or by the provisions of this document, with respect to shares of stock, corporate obligations, partnership interests and other assets that are a part of, or that may become a part of, the trust, regardless of any interest the Trustee (or the Trustees, if there is more than one), either individually or as a fiduciary of any estate or trust, may have in such assets. Without limiting the generality of the foregoing, the Trustee may exercise such powers even if the Trustee (or any Trustee) may, at the time of such exercise, be an officer, director, partner, manager, member, employee or shareholder of any corporation or other entity, the securities of which are a part of the trust, or an Executor, Administrator, Conservator, Guardian or Trustee of an estate or trust having an interest in any such corporation or other entity.

(b) No individual Trustee shall be liable because of the investment of his or her own assets, or the assets of others for which he or she may have investment responsibility, in common with the assets of the trust, nor shall any such investment made on behalf of the trust be void or voidable by any person.

(c) Each individual Trustee may act individually as a partner (limited or general), director, officer, manager, member or employee of any partnership, corporation or other business organization in which the trust has an interest. In addition to his or her compensation as the Trustee, an individual Trustee may receive from such business organization compensation for his or her services, without accounting to the trust.

(d) The selection of the Trustee (including the successor Trustees and the method of their selection) was made with full knowledge that the situations mentioned in the proceeding subparagraphs of this Paragraph might arise and, accordingly, no Trustee shall be subject to surcharge or any other claim by or on behalf of anyone who may be interested in the trust arising out of, or claimed to arise out of, any possible conflict of interest based upon the interest of any Trustee (either individually or as a fiduciary of any estate or trust) in any asset that is, or may become, a part of the trust.

(e) The preceding subparagraphs of this Paragraph shall be liberally construed to the end that any Trustee (as an individual or as a fiduciary of any other estate or trust) may deal with himself (or herself or itself, as the case may be) as a Trustee of the trust in matters pertaining to any asset that is, or may become, a part of the trust as if such Trustee were a stranger to the trust.

B-6. Money Market Funds. The Trustee may invest in so-called "money market" funds. For the sole purpose of making such an investment, the Trustee may affect short sales and buy on margin and may pledge any security of the trust, whether held by the Trustee or in a margin account with a securities broker, as security for loans and advances made to the Trustee. The Trustee may execute such agreements and other documents, including margin and securities lending agreements, that may be required by securities brokerage firms in connection with any investment in a "money market" fund.

B-7. Retention of Assets. The Trustee may retain in the trust, for such time as the Trustee deems proper, any asset received by the Trustee. The Trustee may also operate at the risk of the trust any asset or business received by the Trustee, and the profits and losses from it shall inure to (or be chargeable against the trust as a whole and not to the Trustee. The foregoing applies to any asset or business, whether received during the lifetime of the Trustor or on or after the death of the Trustor, or purchased by the Trustee pursuant to the directions of the Trustor, and whether or not such asset or business is of the character permitted by law for the investment of trust funds. The foregoing provisions specifically apply to shares of any corporate Trustee's own stock.

B-8. Residence of the Trustor. If a residence, or any interest in a residence, is ever held as part of the trust, the Trustor may reside in such residence without being required to pay rent. The Trustee shall pay all of the taxes, insurance, mortgage, maintenance, repairs or other capital expenditures, and other expenses in connection with that residence, or any other residence subsequently obtained.

(a) Upon the request of the Trustor, or if the Trustee determines that (i) the retention of such residence results in a burden on the trust that is economically unfeasible, or (ii) that another residence would be more suitable, the Trustee may sell, lease, or otherwise dispose of such residence. Unless such a sale, lease or other disposition was at the request of the Trustor, the Trustee should obtain the consent of the Trustor before making the sale, lease, or other

disposition. However, if the Trustor cannot give such consent, the Trustee may act without first obtaining it. Upon any such sale, lease, or other disposition, the Trustee may buy, lease, or otherwise acquire a new residence.

(b) The Trustee may sell the interest of the trust in any residence to any beneficiary of the Trust at its then current market value, despite the fact such beneficiary may be a Trustee of the trust.

(c) For purposes of this Paragraph, "residence" includes both a primary residence and a secondary residence, such as a vacation residence.

B-9. Securities. Regarding securities, the Trustee shall have all of the rights, powers and privileges of any owner, including without limitation the power to give proxies, pay calls, assessments, and other sums deemed by the Trustee necessary for the protection of the trust. The Trustee may participate in voting trusts, pooling agreements, foreclosures, reorganizations, consolidations, mergers, and liquidations, and, in connection with them, may deposit securities with and transfer title to any protective or other committee under such terms as the Trustee deems proper. The Trustee may exercise or sell stock subscription and conversion rights. Regardless of any limitation elsewhere in this document relative to investments by the Trustee (other than the Survivor's right to make non- or low-income producing assets productive), the Trustee may accept and retain as a trust investment securities received through the exercise of any of the foregoing powers.

B-10. Borrowing. The Trustee may borrow money for any trust purpose, upon such terms and conditions as the Trustee deems proper, and may obligate the trust for the repayment of such borrowing. The Trustee may encumber the trust's assets by mortgage, deed of trust, pledge or otherwise. The Trustee may transfer any trust asset for the purpose of effecting any encumbrance, including leases, and retransferring to the Trustee subject to such encumbrance. Any such transfer and retransfer shall in no way suspend or impair the trust. The Trustee may also replace, renew or extend any encumbrance upon the trust's assets.

B-11. Loans from the Trustee. The Trustee may lend or advance the Trustee's own funds to the trust for any trust purpose, at the then current rate of interest. Such a loan or advance, together with interest, shall be a first lien against the trust's assets and shall be repaid from them.

B-12. Loans to Other Trusts or Probate Estates. The Trustee may lend trust principal at the then current interest rate to, or may purchase assets at their fair market value from, any other trust established under this document or the probate estate of either Trustor.

B-13. Guaranties and Security Interests. The Trustee may give such guaranties, warranties or indemnifications as the Trustee, in the Trustee's discretion, deems proper. While Trustor is living, the Trustee may encumber any asset of the THOMAS J. HARRIS TRUST by mortgage, deed of trust, pledge or otherwise, for the purpose of securing any indebtedness of the Trustor.

B-14. Insurance on a Trustee's Life. Despite any contrary provision of this document, no Trustee shall have any power, as a Trustee, to exercise any incident of ownership in any life insurance policy owned by the trust that insures that Trustee, in his or her individual capacity. All incidents of ownership in any such policy shall be exercised by the Co-Trustee(s), if any, other

than the person insured by that policy. If there is no non-insured Trustee, a special Trustee shall be appointed for this purpose as though there were a vacancy in the trusteeship of the trust.

B-15. Provisions Relating to Policies of Life Insurance.

(a) Trustor to pay premiums. Until the Trustor otherwise directs in writing and furnishes funds therefore, the Trustee shall not be required to pay premiums, assessments or other charges upon any of life insurance policy on the life of the Trustor, if any, and shall hold them subject to the order of the Trustor during his life without obligation other than the safekeeping of such policies that may be delivered to the Trustee.

(b) Rights reserved. The Trustor has reserved all rights, options and privileges conferred upon the insured by the terms of the policies; to the extent that the Trustor is the owner of such policies, sickness, disability or other benefits and all dividends accruing on the policies during his life shall be paid by the insurer directly to the insured, or to the Trustor/owner thereof, as the case may be, until the owner of the policy directs otherwise in a writing filed with the insurer and the Trustee.

(c) Insurance proceeds to the Trustee. Upon receipt of proof of death of the Trustor whose life is insured and upon receiving possession of the policies insuring the Trustor, the Trustee shall use all reasonable efforts to collect all sums payable thereon, which sums upon receipt shall become principal of the trust estate, except interest paid by the insurer, which shall be income.

(d) Insurance powers of the Trustee. The Trustee may exercise any settlement option under any policy and may compromise, arbitrate or otherwise adjust claims upon any of the policies. The receipt of the Trustee to the insurer shall be a full discharge, and the insurer is not required to see to the application of the proceeds. The Trustor agrees that any quasi-community property or community property interest that he may have in any policy of insurance and any proceeds thereof shall be included in the trust estate.

(e) Protection of the Trustee. The Trustee shall not be responsible for any acts or omissions of the Trustor in connection with or relating to any life insurance policy and shall not be required to prosecute any action to collect any such insurance or to defend any action relating to any of such policies unless indemnified in manner and amount satisfactory to the Trustee.

(f) Beneficiary/Trustee – Life Insurance. The Trustee shall continue to hold as part of the trust estate any policies of insurance on the life of any beneficiary of this trust, which policies shall become part of the trust estate in any manner. If that beneficiary is acting as Trustee, while that beneficiary is so acting, an appointed special trustee, other than that beneficiary, also referred to as “consultant for insurance,” shall exercise all powers conferred upon the owner of any such policy insuring that beneficiary. The Trustee shall take all steps necessary or appropriate to implement the actions of the consultant for insurance, who shall hold such powers in trust and shall designate this trust as beneficiary of all such policies. On the request of the insurer, the Trustee shall execute any documents required to implement the actions taken by the consultant for insurance relative to any such policy. The Trustee shall charge all premiums on such policies as are continued in force against the income, or if the income is insufficient, against the income and the principal of the trust estate.

B-16. Principal and Income Determination. Except as otherwise specifically provided in this trust, to determine all matters with respect to what is principal and income of the trust estate and the apportionment and allocation of receipts and disbursements between these accounts pursuant to the provisions of Nevada Revised Statutes 164.780-164.925 ("Nevada Revised Uniform Principal and Income Act") from time to time existing. Any such matters not provided for either in this trust or in the Nevada Revised Uniform Principal and Income Act shall be determined by the Trustee in a reasonable exercise of the Trustee's discretion. Premiums paid upon the purchase of bonds or other obligations may be charged (in whole or in part) to principal, or may be amortized out of, or charged immediately to, income. In exercising this discretion, the Trustee must act in a manner that is reasonable and equitable in view of the interests of the income beneficiaries and remaindermen, and in the manner in which persons of ordinary prudence, diligence, discretion and judgment would act in the management of their own affairs.

B-17. Proration of Income. Income accrued or unpaid on trust property when received into the trust shall be treated as any other income. Income accrued or held undistributed by the Trustee at the termination of any interest or estate under this trust shall go to the beneficiaries entitled to the next eventual interest in the proportions in which they take such interest. Periodic payments out of principal, not due upon the termination of any interest or estate, shall not be apportioned to that date. The Trustee shall not be required to prorate taxes and other current expenses to the date of termination. This provision shall not apply to a trust which otherwise qualifies for the federal estate tax marital deduction.

B-18. Budgeting. The Trustee may budget the trust's estimated annual income in order to equalize, so far as is practicable, periodic income payments to beneficiaries.

B-19. Reserves for Depreciation. Notwithstanding any other provision of this trust or of the Nevada Revised Uniform Principal and Income Act, any Trustee hereunder who is also a beneficiary of this trust ("beneficiary/Trustee"), shall, as the Trustee, be specifically subject to the Trustee's duty to treat income beneficiaries and remainder beneficiaries equitably, and the following requirements shall be observed by such Trustee, provided, however, the aggregate return from time to time of all investments of a trust which otherwise qualifies for the marital deduction is reasonable in light of the then existing circumstances:

(a) A reasonable reserve for depreciation of all income-producing depreciable real and personal property and for capital improvements and extraordinary repairs on income-producing property shall be charged to income from time to time;

(b) A reasonable reserve for depletion of all depletable natural resources, including but not limited to oil, gas, mineral, and timber property, shall be charged to income from time to time;

(c) Distributions by mutual funds and similar entities or gains from the sale or other disposition of property shall be credited to principal;

(d) A reasonable reserve for amortization of all intangible property having a limited economic life, including but not limited to patents and copyrights, shall be charged to income from time to time;

(e) All premiums paid and all discounts received in connection with the purchase of any bond or other obligation shall be amortized by making an appropriate charge or credit to income; and

(f) All deferred compensation, including but not limited to benefits payable under a qualified pension, profit-sharing, or stock bonus plan described in Internal Revenue Code Section 401, and all other income in respect of a decedent as defined in Internal Revenue Code Section 691 and the applicable United States Treasury regulations thereunder, shall constitute principal. If any of these items are allocated to a trust which otherwise qualifies for the marital deduction, however, and do not yield a reasonable amount of income as required by United States Treasury Regulations Section 20.2056(b)-5(f), the Trustee shall allocate a reasonable portion of that item to income, the amount of the allocation to be determined by the Trustee in the Trustee's discretion, taking into account the Trustor's desire to comply with this regulation for all amounts allocated to a trust which otherwise qualifies for the marital deduction.

B-20. Prohibited Administrative Powers. As to any subsequently created trust established in this Declaration of Trust, while a beneficiary of any trust is acting as Trustee, the beneficiary/Trustee is expressly prohibited from exercising any power vested in the Trustee primarily for the benefit of the beneficiary/Trustee, rather than for the benefit of other income or remainder beneficiaries. The beneficiary/Trustee shall not have the power to purchase, exchange, or otherwise deal with or dispose of the principal or income of the trust estate for less than adequate and full consideration in money or money's worth, or the power to borrow the principal or income of the trust estate, directly or indirectly, without adequate interest or without adequate security, or the power to vote any securities, directly or indirectly, transferred by the Trustor to the trust that are securities of a controlled corporation as defined by Internal Revenue Code Section 2036(b)(2) or any successor statute.

B-21. Cross-Dealing. With respect to any trust created hereunder, the Trustee shall have the power to make loans to or borrow from, to purchase property or assets of any kind from, or sell to, or in any other manner deal with the personal representative of the Trustor's estate, or among all trusts created herein, upon such terms and conditions or in such manner as the Trustee shall deem reasonable in the Trustee's sole discretion and in the interests of all the trusts and the beneficiaries thereof. Anything herein to the contrary notwithstanding, the Trustee may make any sales or exchanges among the trusts hereof as the Trustee shall deem desirable to avoid the holding of fractional interests. All such sales or exchanges among trusts shall have the approval of the then living adult income beneficiaries of the trust.

B-22. Purchase of Treasury Bonds. With respect to any trust created hereunder, the Trustee shall have the power to purchase at less than par United States Treasury Bonds that are redeemable at par in payment of any federal estate tax liability of the Trustor in such amounts as the Trustee deems advisable, and for that purpose, the Trustee may partition a portion of the community property of the trust estate and make such purchases from either or both portions. The Trustee shall exercise the Trustee's discretion and purchase such bonds if the Trustee has reason to believe that a Trustor is in substantial danger of death, and may borrow funds and give security for that purpose. The Trustee shall resolve any doubt concerning the desirability of making the purchase and its amount in favor of making the purchase and in purchasing a larger amount of such bonds than might otherwise be necessary. The Trustee shall not be liable to the Trustor, any heir of the Trustor, or any beneficiary of this trust for losses resulting from purchases made in

good faith. The Trustee shall redeem any such bonds that are part of the trust corpus to the fullest extent possible in payment of the federal estate tax liability of the Trustor with reference to assets included in this trust or otherwise.

B-23. Employment of Advisors. The Trustee may employ (and compensate from the trust) such attorneys, auditors, accountants, investment counselors, brokers, depositaries and agents as the Trustee deems proper. The Trustee may act on the recommendations of such persons without independent investigation.

B-24. Use of a Nominee or Custodian.

(a) The Trustee may hold any trust asset in the Trustee's name as the Trustee, or in the Trustee's own name, or in the name of the Trustee's nominee. The Trustee may also hold any trust asset unregistered so that ownership will pass by delivery.

(b) The Trustee may also keep the trust's assets in a custodial account with a brokerage firm, "mutual fund," insurance company, bank, trust company, or similar entity. Such a custodian may hold the trust's assets in the name of its nominee, and shall not be liable for following the Trustee's written instructions.

B-25. Powers of a Single Co-Trustee. Whenever there is more than one Trustee, the Co-Trustees, if they all agree, may establish accounts requiring the signature of only one Co-Trustee. Those accounts may be of any type, including bank accounts, brokerage accounts, and custodial accounts.

B-26. Delegation of a Co-Trustee's Powers. Any Co-Trustee may delegate and surrender to any one or more of the other Co-Trustees (including any corporate Trustee), such delegating Co-Trustee's powers regarding the investment, retention, sale, exchange, lease or other management of the trust's assets. Such a delegation must be set forth in a document signed by the delegating Co-Trustee and delivered to the other Co-Trustee(s). Upon giving similar notice, the delegating Co-Trustee may resume the right to exercise any delegated power. By accepting trusteeship of this trust or any trust created hereunder, the Trustee acknowledges under certain circumstances he or she may be liable for the acts of or other Co-Trustees and are advised to seek advice of competent legal counsel prior to authorizing an agent or Co-Trustee to act on behalf of the trust.

B-27. Distribution of Assets. Upon any division or distribution of the trust, the Trustee may partition, allot or distribute the trust's assets in undivided interests or in kind, or partly in money and partly in kind. The Trustee may sell such assets as the Trustee deems proper to make any such division or distribution. The Trustee may also distribute a disproportionate share of any asset to a beneficiary or a trust. However, the fair market value of all assets distributed to a beneficiary or trust must equal the fair market value of the proportionate interest that beneficiary or trust is entitled to receive in all of the assets available for distribution at that time. Such a distribution may be made without regard to the income tax basis of specific assets allocated to any beneficiary (including any trust). The powers granted by this Paragraph shall be exercised by the Trustee, in the Trustee's discretion, and no consent to any distribution shall be required.

B-28. Prefer Income Beneficiaries Over Remaindermen. The primary purpose in creating the trust is to provide for those persons entitled, either directly or in the Trustee's discretion, to the

trust's income, and the rights and interests of the remaindermen are subordinate and incidental to that purpose. The provisions of the trust shall be liberally construed in the interest of, and for the benefit of, the income beneficiaries.

B-29. Trustee May Consider Outside Resources When Exercising Discretion. Whenever the Trustee exercises any power to make a discretionary distribution to provide for a beneficiary's support, maintenance, health or education, the Trustee may, but need not, consider assets outside of the trust that are available for those purposes, of which the Trustee has actual knowledge.

B-30. Distributions to Minors and Incompetents. The Trustee may distribute any asset distributable to (or applicable to the use of) any minor or incompetent beneficiary by making the distribution (a) to the guardian or conservator of the person or the estate of that minor or incompetent, (b) to the parent(s) of (or a custodian for) that minor or incompetent, or (c) directly to that minor, or by applying the payments for the benefit of that minor or incompetent.

B-31. Defray Guardian's Expenses – Consider Family Needs. In interpreting the trust and its separate shares, payments made following the Trustor's death for the health, education, maintenance, or support of any beneficiary may include, in the Trustee's discretion, contributions to the health, education, maintenance, or support of that beneficiary's immediate family and other persons with whom that beneficiary resides, including, but not limited to, the beneficiary's guardian of the person and the guardian's spouse and children.

B-32. Delaying Divisions or Distributions. To ensure the availability of the alternate valuation date for federal estate tax purposes, the Trustee may delay making an actual division or distribution of the trust as required by other provisions of this document. Whenever there is such a delay, the interest of the beneficiaries in the assets affected by such delay shall vest as of the date of death. The Trustee may, during such a delay and pending such division or distribution, distribute income to those persons entitled to it.

B-33. Character of Trust's Assets. All community property assets (if applicable) transferred to the trust and the proceeds of them shall retain their character as community property during the lifetime of the Trustor, and all separate property assets of the Trustor and the proceeds of them shall retain their separate property character during the lifetime of the Trustor. If the trust is revoked in whole or in part, each asset subject to the revocation shall be returned to the Trustor, retaining its character as separate or community property as if the trust had not been created.

B-34. Additions to the Trust. Any person may add assets to the trust that are acceptable to the Trustee.

B-35. Separate Nature of Each Trust.

(a) Whenever the trust, or a portion of it, is divided into shares or parts, each such share or part shall constitute a separate trust, and it shall be held, administered, and distributed as such. The Trustee may hold undivided interests as a portion of any such share or part.

(b) The Trustee shall not be required to segregate physically or divide the assets of the various trusts created under this document except as may be required by a distribution to a

beneficiary. However, the Trustee must keep separate accounts for the different undivided interests.

B-36. Amending or Revoking the Trust. While the Trustor is living, the Trustor may revoke or amend the trust in any respect, as the Trustor deems appropriate. Each such amendment must be written and signed by the Trustor, and any revocation must be set forth in a document signed by the Trustor and delivered to the Trustee. Upon the Trustor's death, the Trust shall become irrevocable and shall not be subject to further amendment.

B-37. Resignation of Trustee.

(a) A Trustee may resign at any time, and a successor Trustee shall be selected as provided for elsewhere in this document. If none of these successor Trustees qualifies or acts, a successor Trustee shall be appointed by a court of competent jurisdiction upon the petition of the last resigning Trustee or of any person interested in the trust.

(b) All authority and powers, including discretionary powers, conferred on the original Trustee shall pass to any successor. No successor Trustee shall have any responsibility for the acts or omissions of any prior Trustee and shall not have any duty to audit or investigate the accounts or administration of any prior Trustee. Unless a successor Trustee receives a written request to do so from a person having a present or future beneficial interest in the trust, that successor Trustee shall have no duty to take action to obtain redress for any breach of trust by a prior Trustee.

(c) To resign, a Trustee must give written notice at least thirty (30) days before such resignation will take place. Such notice must be given to each of the resigning Trustee's Co-Trustees, if any. If there is no such Co-Trustee, such notice shall, instead, be given to each adult beneficiary of the trust who is living then and to the guardian, conservator or other fiduciary of the estate of each minor or incompetent beneficiary who is entitled to receive income then (either absolutely or in the Trustee's discretion).

B-38. Incapacity of Trustee. The determination of an individual Trustee's incapacity to serve as Trustee shall be established by a written statement to that effect from two licensed physicians who have separately examined the individual Trustee, and the successor Trustee (or Co-Trustee) as provided for elsewhere in this document shall assume the trusteeship (or co-trusteeship) at that time.

B-39. Beneficiary-Trustee's Provisions. Despite any contrary provision of this document or of law, following the Trustor's death, each individual Trustee shall be disqualified from exercising any discretion given to the Trustee to benefit, directly or indirectly, someone he or she is obligated to support. Instead, all such discretion shall vest solely in the other Co-Trustee(s) and, if there is none, a special Co-Trustee shall be appointed for such purpose in the manner set forth in this document as though there were a vacancy in the trusteeship of the trust.

B-40. Removal of Corporate Trustee.

(a) Whenever there is at least one individual Co-Trustee, he, she or they, as the case may be, may replace the acting corporate Co-Trustee, if any, with a new Trustee, and that new Trustee may be a corporation or an individual. Whenever there is no individual Co-Trustee, a

majority in number of the adult beneficiaries of the trust then entitled to receive income, either absolutely or in the Trustee's discretion, may replace any corporate Trustee with a new corporate Trustee. If there is no individual Co-Trustee, and if there is no adult income beneficiary, the power to replace a corporate Trustee with a new corporate Trustee shall be held, jointly, by the guardians of the estates of the minor beneficiaries who are living when a substitution is to be made.

(b) A replacement of the corporate Trustee pursuant to the foregoing provisions shall not occur more often than once during any twelve (12) month period. A corporate Trustee may be replaced by giving a written notice to it that states it is being replaced and designates the successor Trustee.

B-41. Remainder Beneficiaries with a Disability. If a remainder beneficiary under this trust is eligible for (or receiving) needs-based public benefits, e.g., Supplemental Security Income (SSI), Medi-Cal, In-Home Supportive Services (IHSS), or Regional Center services (the "Disabled Beneficiary"), it is the intent of the Trustor that the Disabled Beneficiary be able to both preserve his or her inheritance and preserve eligibility for these public benefits. It is also the Trustor's intent that, if any property of the Trust remains after the death of the Disabled Beneficiary, it be distributed to the Disabled Beneficiary's family members and friends rather than to pay back Medi-Cal for services provided during the Disabled Beneficiary's lifetime. Implementation of Trustor's intention as provided above shall be as follows:

(a) The Trustee has sole and absolute discretion to decide whether or not to establish a stand-alone third-party special needs trust ("SNT") on behalf of the Disabled Beneficiary. In no event shall the Disabled Beneficiary of the third-party SNT control the amount or frequency of trust distributions, have the ability to revoke the trust, or have the right to direct the use of funds for the Disabled Beneficiary's personal benefit. Nor shall the Disabled Beneficiary have the right to select a trustee (or successor trustee) of the trust, nor shall he or she be allowed to be the trustee.

(b) The Trustee, in exercising its discretion to establish a third-party SNT, shall have the right to hire experienced counsel familiar with establishing third party SNTs to prepare the trust. The Trustee shall also have the right to establish himself or herself as Trustee of the trust or to appoint an entirely different fiduciary and/or management team for the SNT (e.g., professional trustee, trust advisory committee, or trust protector) as he or she decides in his or her own sole and absolute discretion. The Trustor recommends (but does not require) that the trust allow the Disabled Beneficiary to have a limited (or special) testamentary power of appointment over the assets of the trust to maintain some control over the ultimate distribution of the inheritance. Expenses for this purpose, including reasonable attorneys' fees, will be a proper charge to the trust estate held for the benefit of the Disabled Beneficiary.

In exercising its discretion under this provision, the Trustee shall not be liable to any beneficiary or other person with an interest in this Trust for the Trustee's acts or omissions in deciding whether or not to establish a third-party SNT, except in cases of willful misconduct, bad faith, or gross negligence.

B-42. Accounting. The Trustee shall account to the beneficiaries periodically and, if requested by a beneficiary, at least annually.

B-43. Compensation. Whenever SCOTT BARTON or TARA FLANAGAN is serving as Trustee (a "Designated Trustee"), compensation for such Designated Trustee shall be paid pursuant to Paragraph A-4 of this Trust. At any such time as neither Designated Trustee is available or able to serve, any other Trustee appointed to fill a vacancy in the trusteeship of any trust established under this document may receive reasonable compensation for his/her services as the Trustee. If any such Trustee is a professional person (such as a lawyer, accountant, or financial institution), each such Trustee shall be compensated for his or her services as such Trustee on the basis of his or her customary charges for providing professional services.

B-44. Liability of Trustee. No individual Trustee shall be liable to any beneficiary for any act or default of that Trustee, or of any other Trustee or of any other person, unless resulting from that individual Trustee's own bad faith or gross negligence.

B-45. Receipt of Notice. Until the Trustee receives written notice of any death, birth, marriage or other event upon which the right to income or principal of the trust depends, the Trustee shall not be liable for disbursements made in good faith to persons whose interests have been affected by that event.

B-46. Instructions to Trustee. Whenever any person is authorized by this document to give instructions or directions to the Trustee, those instructions or directions may be oral or written. Despite the foregoing, the Trustee may, in the Trustee's discretion, require that any such instruction or direction be written. In such an instance, the Trustee shall not be liable for not acting in accordance with the instruction or direction until it is delivered to the Trustee in writing. Notwithstanding the foregoing, while the Trustor is living and serving as Trustee, oral instructions or requests are sufficient.

B-47. No Contest Clause. If any beneficiary singly or in conjunction with any other person:

(a) contests in any court the validity of any trust established under this document or of the Will of the Trustor;

(b) seeks to obtain an adjudication in any court that any such trust or such Will or any of their provisions is void; or

(c) seeks otherwise to void, nullify, or set aside any such trust or Will or any of their provisions; or

(d) seeks to obtain an adjudication in any court challenging a transfer of property concerning any trust established under this document on the grounds it was not the transferor's property at the time of the transfer,

then the right of that beneficiary to take any interest given to him or her under the trust shall be determined as it would have been determined had he or she died before this document was signed. The Trustee may defend (at the expense of the trust) any contest or other attack of any nature on the trust or any of its provisions.

B-48. Trustee as Partner or Shareholder of Attorneys. Because the Trustor believes it would be in the best interests of the trusts created pursuant to this declaration of trust and because Abigail G. Stephenson, Esq. and the law firm Blanchard, Krasner & French, a Professional Corporation, have become very familiar with the Trustor's business and financial affairs, the Trustor deems it to be in the best interest of the Trust, that whether or not Kipp Williams, Esq. or any other member of the firm serves as Trustee, the law firm now known as Blanchard, Krasner & French, a Professional Corporation, or any successor to such firm, with which Abigail G. Stephenson, Esq. is associated, may nevertheless be retained to represent the trusts established by this declaration of trust, and such law firm shall be entitled to compensation both as Trustee, and as attorneys for the Trustee, or both, as the case may be. With full knowledge of such relationships, the Trustor waives all conflicts of interest which now or hereafter may exist.

B-49. Children of the Trustor. The Trustor has two Children of his first marriage to MARLENE HARRIS (deceased April 22, 1972); and two stepchildren of his second marriage to OLGA HARRIS (aka OLGA ROBBEN), whose names and dates of birth are:

THOMAS ANTHONY HARRIS, born August 20, 1958;
TODD EDWARD HARRIS, born May 15, 1960 (deceased with no issue);
JEFF DEWEY ROBBEN, born September 12, 1964; and
TODD CHRISTIAN ROBBEN, born April 16, 1969.

Neither JEFF DEWEY ROBBEN nor TODD CHRISTIAN ROBBEN was adopted by the Trustor. No other child has ever been born to or adopted by the Trustor.

B-50. Headings. The headings in this document are for convenience only and do not in any way limit or amplify the provisions of the trust.

B-51. Governing State Law. This trust has been accepted by the Trustee in the State of Nevada and, unless otherwise provided in this trust, its validity, construction and all rights under it shall be governed by the laws of that State. In the event the Trustee is or becomes domiciled outside the State of Nevada, and all movable assets of this trust become located within the state in which the Trustee is domiciled, then said Trustee shall be governed by the laws of that state with respect to this trust.

B-52. Definitions and Related Matters. As used in this document:

"Child" or "Children." References to Child or Children of the Trustor are to THOMAS ANTHONY HARRIS and JEFF DEWEY ROBBEN.

"Code." References to "Code" shall refer to the Internal Revenue Code of 1986, as amended, and its successors. References to a specific section of the Code include future amendments, and successors, to it.

"Corporate Trustee." The terms "corporate Trustee" and "corporate Co-Trustee" shall mean any Financial Institution as defined in Nevada Revised Statute Section 363A.050, or any Trust Company as defined in Nevada Revised Statute Section 669.070 that has either been appointed to serve as Trustee or Co-Trustee of the Trust, or may be appointed to serve as a Trustee or Co-Trustee of the Trust.

"Death Taxes." The term "death taxes" includes all federal or state estate, inheritance, or other succession taxes, but does not include (i) any federal or state generation-skipping transfer taxes, or (ii) any additional tax that may be assessed under Code section 2032A(c).

"Descendant," "Issue" and Related Terms. The terms "child," "descendant," "issue" and similar terms include persons who were adopted, but only if they were minors at the date of their adoption.

"Disclaimer." The terms "disclaimer" or "disclaim" shall refer to a qualified disclaimer, as defined in Code section 2518.

"Document." References to this document include any amendment to it.

"Gender and Number." The masculine, feminine and neuter gender, and the singular and plural number, each include the other(s), unless the context indicates otherwise.

"Support" and "Maintenance." References to a person's support or maintenance are to such person's support or maintenance in his or her accustomed manner of living.

"Trustee." The term "Trustee" in the singular includes the terms "Trustees" or "Co-Trustees" in the plural whenever there is more than one Trustee. Also, the term "Trustee" refers to the original Trustee and each successor, unless the context indicates otherwise.

"Will." The term "Will" includes any Codicil to it.

[END OF SCHEDULE B]

SCHEDULE C
ADDITIONAL POWERS AND PROVISIONS
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SCHEDULE C

ADDITIONAL POWERS AND PROVISIONS

In addition to the provisions of the accompanying Schedules A and B, the Trustor, the Trustee and the beneficiaries of each trust established under this document have the following powers, rights and duties, and are subject to the following provisions:

C-1. Payment of Trustor's Expenses or Taxes. Upon the Trustor's death, the Trustee may, in the Trustee's discretion, pay out of the THOMAS J. HARRIS TRUST:

- (a) the Trustor's last illness and funeral expenses;
- (b) the expenses of administering property includable in the Trustor's gross estate for federal estate tax purposes;
- (c) debts that would be enforceable against the Trustor if he were living; and
- (d) inheritance, estate or other taxes that arise by reason of the Trustor's death.

C-2. Proration of Taxes. Except as otherwise specifically provided in this trust or in Trustor's will, federal estate taxes imposed on or by reason of the inclusion of any portion of the trust estate in the gross taxable estate of the Trustor under the provisions of any federal tax law shall be paid by the Trustee and charged to, prorated among, or recovered from the trust estate or the persons entitled to the benefits under this trust as and to the extent provided by any applicable tax law or any proration statute. Except when otherwise specifically provided, state death taxes shall be paid and charged to the trust estate or deducted and collected as provided by applicable state law.

C-3. Generation-Skipping Transfer Tax Provisions.

- (a) As used in this document:
 - (i) "inclusion ratio," "GST exemption," "skip person," and "non-skip person" have the meanings given those terms in Chapter 13 of the Code and the regulations under it;
 - (ii) "GST tax" refers to the generation-skipping transfer tax imposed by Chapter 13 of the Code;
 - (iii) "GST-Exempt" refers to a trust or share that has an inclusion ratio of zero; and
 - (iv) "GST-Nonexempt" refers to a trust or share that has an inclusion ratio of more than zero.
- (b) Regarding any trust created (or to be created) under this document (an "Original Trust"), the Trustee shall have the discretionary authority to create two or more separate trusts of equal or unequal value ("New Trusts"), and to allocate the assets otherwise distributable

to or held in the Original Trust to those New Trusts. Each asset allocated upon a person's death to the New Trusts must be valued at its final federal estate tax value, provided, however, that in making allocations to the New Trusts, the Trustee must select assets that are fairly representative of the net appreciation or depreciation in value since that person's death of all assets available for distribution to the New Trusts.

(i) To amplify the intent of the foregoing, it is suggested (but not required) that, before allocating a deceased person's available GST exemption, the Trustee create, instead of an Original Trust that cannot be completely exempted from the GST tax by the available GST exemption, (1) first, a New Trust that can thereafter be completely exempted from the GST tax by an allocation of the available GST exemption, which New Trust will be GST-Exempt, and (2) second, another New Trust to which no GST exemption is allocated, which New Trust will be GST-Nonexempt.

(ii) It is further suggested (but not required) that the Trustee, in exercising the Trustee's discretion, not create New Trusts if the burden or costs of administering multiple New Trusts would be impractical or uneconomical, in the Trustee's discretion.

(c) To the extent the Decedent's available GST exemption is insufficient to completely exempt the property allocated to a trust from the GST tax, it is suggested (but not required) that, before allocating the Decedent's GST exemption, the Trustee divide such trust into two New Trusts as set forth above, so that a so-called "reverse QTIP election" may be made under Code section 2652(a)(3) for the New Trust that is GST-Exempt.

For convenience, the New Trusts that are created in place of an Original Trust are referred to below as being derived from the Original Trust.

(d) Except as otherwise specifically provided for in this document, upon the creation of New Trusts, each New Trust shall have the same provisions, and shall be held, administered and distributed in the same manner, as the Original Trust from which it was derived, and all references to that Original Trust shall collectively refer to the New Trusts derived from it.

(e) Any death taxes attributable to the assets of New Trusts that are derived from the same Original Trust, but which have different inclusion ratios, shall be paid as follows:

(i) First, these death taxes shall be paid from or charged against (to the maximum extent practicable, in the Trustee's discretion) the New Trust with the largest inclusion ratio.

(ii) Second, to the extent the New Trust with the largest inclusion ratio is insufficient, these death taxes shall be paid from the other New Trusts, in the order of their descending inclusion ratios.

(f) If, upon a person's death, other provisions of this document require a division of an Original Trust into shares in a specified manner (e.g., equal shares), the Trustee shall consider the death taxes paid from the New Trusts that are derived from that Original Trust in making that division so that, on a net after-tax basis, the division of the Original Trust is accomplished in the specified manner.

(g) When, pursuant to the other terms of this document, different trusts are to be combined, or when additional trusts are to be created from one or more sources, the GST-Exempt or GST-Nonexempt character of the trusts shall be preserved. Accordingly, GST-Nonexempt trusts shall only be added to (or combined with) other GST-Nonexempt trusts, and GST-Exempt trusts shall only be added to (or combined with) other GST-Exempt trusts, even if this means establishing or maintaining separate trusts. Despite the foregoing, if such GST-Nonexempt trusts have different inclusion ratios, the Trustee may maintain them as separate trusts to preserve their different inclusion ratios. Except as otherwise specifically provided for in this document, each such GST-Exempt and GST-Nonexempt trust shall be applied and distributed according to the terms of the combined or new trust to which they otherwise would have been added. To illustrate the foregoing, if, following a person's death, one or more trusts (a "Terminating Trust") are to be added to or combined with another trust (the "Continuing Trust"):

(i) Each GST-Exempt New Trust that is derived from a Terminating Trust shall only be added to or combined with a GST-Exempt Continuing Trust.

(ii) Similarly, each GST-Nonexempt New Trust that is derived from a Terminating Trust shall only be added to or combined with a GST-Nonexempt Continuing Trust.

(iii) If there is no GST-Exempt or GST-Nonexempt Continuing Trust, such a trust may be created as is necessary to receive the GST-Exempt or GST-Nonexempt New Trust derived from a Terminating Trust.

(h) Subject to the other provisions of this Paragraph, in establishing shares following a person's death, the Trustee shall have the following discretionary authority. If, in the Trustee's judgment, certain shares are likely to be distributed to skip persons ("Skip Person Shares"), the Trustee may, to the maximum extent possible, allocate to such Skip Person Shares assets of those trusts having the lowest inclusion ratios. Similarly, if, in the Trustee's judgment, certain shares are likely to be distributed to non-skip persons ("Non-Skip Person Shares"), the Trustee may, to the maximum extent possible, allocate to such Non-Skip Person Shares the assets of those trusts having the highest inclusion ratios.

(i) Despite any other provision of this Paragraph, regarding each New Trust, the Trustee shall have the following discretionary authority:

(i) Any payment of principal to a non-skip person shall be made, first, from the New Trust of which such non-skip person is a beneficiary that has the greatest inclusion ratio and, thereafter, from the other New Trusts of which such non-skip person is a beneficiary in the order of their descending inclusion ratios.

(ii) Any payment of principal to a skip person shall be made, first, from the New Trust of which such skip person is a beneficiary that has the lowest inclusion ratio and, thereafter, from the other New Trusts of which such skip person is a beneficiary in the order of their ascending inclusion ratios.

(iii) If the terms of an Original Trust require or permit the distribution of a fraction or percentage of that trust, that distribution shall be computed by multiplying the fraction or percentage by the aggregate value as of the distribution date of all New Trusts derived

from that Original Trust, and the distribution shall be made in accordance with subparagraphs (i) and (ii) immediately above.

(j) The Trustee shall not be liable to any person for the Trustee's exercise (or nonexercise) of any discretionary authority or power granted by this Paragraph.

C-4. Provisions Relating to Retirement Accounts.

(a) Notwithstanding any provision in this Trust Agreement to the contrary, all trusts which receive or are funded with or by retirement assets such as IRA, 401(k), and other qualified retirement plans described in IRC Section 4974 (c) (herein collectively referred to as "Retirement Account"), shall be subject to the following additional express conditions:

(i) Retirement Account income and assets shall not be utilized to pay funeral costs, estate taxes, or other administrative expenses of the deceased Trustor's estate, except as may be permitted during the "window" period until September 30 of the year following the year of decedent's death, as provided in Treasury Reg. Section 1.401(a)(9).

(ii) Retirement Account income and assets shall not be payable to non-individual beneficiaries, such as corporations, charities, or the deceased Trustor's estate (except as provided in the "window" period cited immediately above), and any distribution to a non-individual beneficiary which is not distributed during the "window" period shall lapse, such lapsed share to augment the share of the remaining individual beneficiaries.

(iii) The Trustee shall deliver to the Retirement Account plan administrator a copy of this trust document no later than October 31 of the year after the year of the Retirement Account plan participant's death.

(iv) The Trustee, in its sole and absolute discretion, and without liability to any trust beneficiary affected by such disclaimer, is vested with authority to disclaim some or all of an interest in a Retirement Account which names the trust as beneficiary, or an interest in a Retirement Account resulting from a testamentary transfer by Will, or by designation under trust, or otherwise, and in the event of a timely, proper and lawful disclaimer, the Retirement Account shall be distributed to the next contingent beneficiary designated thereby in accordance with the terms of such Retirement Account.

(b) To the extent the Trustor has designated separate trusts for Trustor's descendants to receive any allocation comprised of Retirement Account assets, the following shall apply. The day the Trustor dies is hereinafter referred to as the "Allocation Date." The Trustee shall create one share for each Child of the Trustor who is either living on the Allocation Date or who is deceased on the Allocation Date but who has one or more descendants who are then living. The Trustee shall divide any share created for a deceased Child into separate shares for such deceased Child's descendants, per stirpes. As thus divided, the Trustee shall hold each share created hereunder as a separate trust ("Separate Trust") for the benefit of the person for whom the share was created and shall administer the Separate Trust as provided herein. The Trustee shall take all necessary steps to ensure each Separate Trust is treated as a "separate account", as that term is used in Treasury Regulation sections 1.401(a)(9)-8, A-2(a)(2) & A-3.

The Trustee shall interpret the terms of this trust so the minimum required distributions from each retirement plan payable to a Separate Trust may be calculated and paid annually to such trust over the life expectancy of the beneficiary of such Separate Trust. The Trustees shall have the power to amend the terms of this Trust Agreement to the minimum extent necessary to accomplish such purpose.

The Trustee of each Separate Trust shall take whatever steps are required to assure that any interest such Separate Trust has in a retirement plan, to the extent not previously distributed, is (and will at all times remain) immediately distributable on demand to such Separate Trust. Accordingly, the Trustees shall retain the unrestricted power to accelerate any installment distributions elected under the minimum distribution rules or otherwise. The Trustee of the beneficiary's Separate Trust shall withdraw only the required minimum distribution from each retirement plan payable to such Separate Trust, unless more than the required minimum distribution is necessary for the support and maintenance in reasonable comfort, health, and education of the beneficiary.

The Trustees shall immediately distribute to the beneficiary all amounts received by the Separate Trust from any Retirement Account, after reduction for any trust expenses properly allocable thereto, distributed at least once per year prior to the calendar year end; provided if the beneficiary is under any legal disability, then the Trustees may make such distribution to a legal guardian for the beneficiary. In addition, the Trustee may also distribute so much or all of the net income and principal of the Separate Trust, to or for the use of the beneficiary, in such proportions, amounts and at such times as the Trustee, in the Trustee's discretion, may deem advisable to provide for the health, education, support, and maintenance of the beneficiary.

(c) To the extent the Trustee or Executor of the Trustor's estate makes a QTIP election under Internal Revenue Code Section 2056(b)(7), the following shall apply. The beneficiaries of a trust with IRA assets shall have the power to compel investment of the IRA so it produces reasonable income. The beneficiary of a trust with IRA assets shall have the power, exercisable annually, to compel the Trustee to withdraw from the IRA an amount equal to the greater of all the income of the IRA for that year, or the required minimum distribution from the IRA as required under IRC Section 408(a)(6), and to distribute to the beneficiary at least once per year prior the calendar year end at least all of the income of the IRA, and so much of the required minimum distribution as the beneficiary shall direct Trustee to distribute. Any excess of the required minimum distribution amount over the income of the IRA which is not distributed is to be added to the principal of the trust. If the beneficiary does not compel a withdrawal from the IRA for a particular year, the Trustee must withdraw from the IRA only the required minimum distribution amount for that year. No person shall have a power to appoint any part of the trust property to any person other than a surviving spouse (if any).

[END OF SCHEDULE C]

SCHEDULE C – PAGE 5

https://www.fastpeoplesearch.com/thomas-harris_id_G8310122928872894960

Phone Numbers

for Thomas Harris in Minden, NV

(775) 267-2296 (Primary Phone)

Landline

Frontier Communications of the Southwest Inc - NV

First reported March 2003

(209) 532-0414

Landline

Pacific Bell Telephone Company

First reported February 2004

(530) 544-0740

Landline

Pacific Bell Telephone Company

First reported March 2017

(209) 533-6032

Landline

Pacific Bell Telephone Company

First reported March 2016

Also Known As

Thomas J Harris

T J Harris

T Harris

Thomas Joseph Harris

Tom Harris

Mr Thomas J Harris

Tom J Harris

Sponsored Links

Previous Addresses

used by Thomas Harris

3503 April Dr ***

South Lake Tahoe CA 96150

El Dorado County

Recorded December 1969

Po Box 1391

Zephyr Cove NV 89448

Douglas County

Recorded October 2008

1819 SE 17th St, Unit 1604 ***

Fort Lauderdale FL 33316

Broward County

Recorded February 2008

1050 Pebble Beach Ct *****

Minden NV 89423

Douglas County

Recorded February 2003

2641 Fountain Ave
South Lake Tahoe CA 96150
El Dorado County
Recorded June 1999

110 N Federal Hwy, Unit 1112
Ft Lauderdale FL 33301
Broward County
Recorded November 2004

2640 Pinter Ave ***
S Lake Tahoe CA 96150
El Dorado County
Recorded October 2002

20476 Sherry Ln
Soulsbyville CA 95372
Tuolumne County
Recorded October 1986

610 Mary St
Carson City NV 89703
Carson City County
Recorded June 1999

249 Las Miradas Dr
Los Gatos CA 95032
Santa Clara County
Recorded November 1998

Exhibit 3

Exhibit 3

RECEIVED

FILED

Case No.: 22-PB-00119

FEB 08 2023

Dept. No.: II

Douglas County
District Court Clerk

2023 FEB -8 AM 11:57

BOBBIE R. WILLIAMS
CLERK

F. SHOEMAKER
BY DEPUTY

IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF DOUGLAS

TODD ROBBEN,

Petitioner;

vs.

THE ESTATE OF THOMAS J.
HARRIS and THE THOMAS J.
HARRIS TRUST,

Respondents.

ORDER GRANTING MOTION FOR
SUMMARY JUDGMENT; MOTION TO
DISMISS; & DEEMING PETITIONER
A VEXATIOUS LITIGANT

Petitioner Todd Robben (the "Petitioner") initiated this case by filing his Petition to Invalidate the Will and Trust of Thomas J. Harris signed on July 20, 2022. Both the Estate of Thomas J. Harris (the "Estate") and The Thomas J. Harris Trust (the "Trust") filed written Objections to the Petition. In addition to objecting to the Petition, the Estate moved to dismiss the Petition (the "Motion to Dismiss") and the Trust moved for summary judgment against the Petition (the "Motion for Summary Judgment"). The Petitioner filed Oppositions to both the Trust's Motion for Summary Judgment and the Estate's Motion to Dismiss. In addition, the Petitioner attempted to supplement his Oppositions without leave of court in various filings, and also moved to strike both the Trust's Motion for Summary Judgment and the Estate's Motion to Dismiss. The Court considered all of the briefings, together with the Petition and the Objections thereto, and ordered oral argument on the Motion for Summary Judgment and Motion to Dismiss on January 6, 2023 commencing at 9 a.m.

1 In advance of the oral argument, Petitioner filed papers with the Court
2 requesting the Court decide the Motion for Summary Judgment and Motion to
3 Dismiss *without* oral argument. In other words, Petitioner effectively moved to
4 vacate the oral argument ordered by the Court on each Motion. The Court did not
5 vacate the hearing date, and required the Trust, the Estate, and the Petitioner to
6 appear for the hearing.

7 The oral argument commenced on January 6, 2023 at 9 a.m. as scheduled. The
8 Court allowed Petitioner to appear by Zoom pursuant to his own request filed with
9 the Court. The Trust and the Estate, by and through its Counsel F. McClure Wallace,
10 appeared in person at the oral argument. At the inception of the argument, the Court
11 reconfirmed Petitioner's request to decide the Motion for Summary Judgment and
12 Motion to Dismiss the Petition without oral argument. In addition to the Petitioner
13 requesting the Court decide the Motion for Summary Judgment and Motion to
14 Dismiss without oral argument, the Court confirmed the Estate and Trust had no
15 objection to determining both Motions without oral argument. Having personally
16 confirmed the Petitioner requested decision on each Motion absent oral argument,
17 and considering the papers and pleadings on file before the Court, the Court finds
18 good cause to **GRANT** the Trust's Motion for Summary Judgment and Estate's
19 Motion to Dismiss based on the findings and conclusions of law stated below.

20 **I. Petitioner's Motions to Strike the Motion for Summary Judgment and**
21 **Motion to Dismiss are DENIED.**

22 The Petitioner moved to strike both the Motion for Summary Judgment and
23 Motion to Dismiss the Petition based on alleged violations of D.C.R. 13 and the Rules
24 of Civil Procedure. More specifically, the Petitioner seemingly argues the Motion for
25 Summary Judgment and Motion to Dismiss should be stricken from the record
26 because the Motions do not contain a "notice of motion" as required by D.C.R. 13(1).
27 Petitioner's argument is wrong. D.C.R. 5 makes clear the Local Rules of the Ninth
28 Judicial District Court ("NJDCR") apply even when inconsistent with the D.C.R.

1 Therefore, NJDCR supersedes the D.C.R. when they contain inconsistent provisions.
2 NJDCR 6 contains no "notice of motion" requirement. In fact, NJDCR 6 states
3 motions shall be decided without oral argument unless oral argument is ordered by
4 the Court or requested by the Parties.

5 In this case, no Party requested oral argument. The Court ordered oral
6 argument on its own initiative. Therefore, the Court finds the Motion for Summary
7 Judgment and Motion to Dismiss were not required to contain a notice of motion
8 contemplated by D.C.R. 13 because NJDCR 6 states the Motions will be decided
9 without oral argument unless ordered by the Court. The Court ordered oral
10 argument, Petitioner received lawful notice of the oral argument ordered by the
11 Court, Petitioner filed briefs in regard to the oral argument, including requesting the
12 Court decide the Motions without oral argument, and then Petitioner appeared at the
13 oral argument. Therefore, the Court finds Petitioner had lawful notice of the oral
14 argument hearing scheduled on January 6, 2023. The Court finds the Motion for
15 Summary Judgment and Motion to Dismiss were not required to contain a "notice of
16 motion" or some type of notice of the hearing under NJDCR 6 since the Court ordered
17 oral argument on its own initiative after the Motions had been filed. Consequently,
18 Petitioner's Motions to Strike the Motion for Summary Judgment and Motion to
19 Dismiss are **DENIED**. Having determined the Motion for Summary Judgment and
20 Motion to Dismiss are properly before the Court, the Court addresses each Motion in
21 turn.

22 **II. The Estate's Motion to Dismiss the Petition is GRANTED.**

23 The Estate moved to dismiss the Petition to invalidate the Will of Thomas J.
24 Harris in this case. The Estate argues the Petitioner is not an interested person in
25 the Will and Estate under NRS 132.185 and, therefore, lacks standing to contest the
26 validity of the Will. Additionally, the Estate contends the Court previously
27 determined Petitioner was not an interested person in the Will and Estate in a prior
28

1 action, implicating the doctrine of claim preclusion. The Court finds the Estate's
2 arguments persuasive.

3 More specifically, the Estate of Thomas J. Harris was previously administered
4 before the Ninth Judicial District Court of the State of Nevada, In and For the County
5 of Douglas, as Case No. 2021 PB 00034 (the "Probate Case"). Petitioner appeared in
6 the Probate Case and made various allegations of misconduct and fraud in
7 administration of the Estate and formation of the Will. Petitioner therefore requested
8 the Court continue approval of the Estate's request for final distribution of the Estate
9 to permit Petitioner additional time to produce evidence substantiating his
10 allegations. The Estate opposed the request because Petitioner was not an interested
11 person in the Will or Estate with standing to litigate the validity of the Will or
12 administration of the Estate. The Court granted Petitioner a continuance to produce
13 evidence demonstrating he is an interested person in the Will and/or Estate.
14 Petitioner produced no admissible evidence demonstrating he is an interested person
15 in the Will or Estate in the Probate Case. Petitioner produced no admissible evidence
16 reflecting fraud, theft, or embezzlement from the Estate in the Probate Case.
17 Consequently, the Court in the Probate Case approved the Estate's final accounting
18 and request for final distribution of the Estate, and in so doing, determined Petitioner
19 was not an interested person in the Estate and/or Will. *See* Order filed in the Probate
20 Case on June 22, 2022. Petitioner appealed this finding to the Nevada Supreme
21 Court, who dismissed the Petitioner's appeal. Therefore, this Court finds the Probate
22 Court determined Petitioner is not an interested person in the Estate and/or Will,
23 thereby precluding Petitioner from contesting the Will. More specifically, the Court
24 finds the Petition is barred by the elements of both the doctrine of claim preclusion,
25 as well as issue preclusion. Thus, the Petition to Invalidate the Will is barred by the
26 doctrine of claim preclusion, or in the alternative, is barred by the doctrine of issue
27 preclusion.

1 Further, even if the Petitioner were an interested person in the Decedent's
2 Estate, which he is not, this Court did not oversee the Probate Case. As such, this
3 Court lacks subject matter jurisdiction over the Decedent's Will per NRS 137.080.

4 Therefore, the Motion to Dismiss the Petition to Invalidate the Will of Thomas
5 J. Harris is **GRANTED**.

6 **III. The Trust's Motion for Summary Judgment is GRANTED.**

7 The Petitioner, Todd Robben, has moved this Court to declare him an
8 "Interested Person" pursuant to NRS 132.185, and thereby standing to challenge the
9 Thomas J. Harris Trust. Petitioner contends that he has made a *prima facie* showing
10 of "undue influence" upon the testator and as a result, the Respondent Trustee has
11 the burden of rebutting the validity of the Trust provisions by clear and convincing
12 evidence. Petitioner cites to In re Estate of Bethurem, 129 Nev. 869, 871, (2013),
13 which states, "A rebuttable presumption of undue influence is raised if the testator
14 and the beneficiary shared a fiduciary relationship, but undue influence may also be
15 proved without raising this presumption." Petitioner also attempts to invoke, without
16 citing to, NRS 155.097, which provides in pertinent part:

- 17
- 18 1. Regardless of when a transfer instrument is made, to the extent
19 the court finds that a transfer was the product of fraud, duress or
20 undue influence, the transfer is void and each transferee who is
21 found responsible for the fraud, duress or undue influence shall
22 bear the costs of the proceedings, including, without limitation,
23 reasonable attorney's fees.
 - 24 2. Except as otherwise provided in subsection 4 and NRS 155.0975,
25 a transfer is presumed to be void if the transfer is to a transferee
26 who is:
 - 27 (a) The person who drafted the transfer instrument;
 - 28 (b) A caregiver of the transferor who is a dependent adult;
 - (c) A person who materially participated in formulating the
dispositive provisions of the transfer instrument or paid
for the drafting of the transfer instrument; or
 - (d) A person who is related to, affiliated with or subordinate
to any person described in paragraph (a), (b) or (c).
 3. The presumption created by this section is a presumption
concerning the burden of proof and may be rebutted by proving,

1 by clear and convincing evidence that the donative transferee was
2 not the product of fraud, duress or undue influence.

3 Petitioner has declared that he has successfully raised a rebuttable
4 presumption of the undue influence by citing Bethurem and the other categories of
5 those capable of actionable undue influence (NRS 155.097(2)(a)-(d)). He has failed to
6 demonstrate and asserts, "as a matter of law," that he is an interested person.
7 However, Petitioner has failed to demonstrate that the above-cited authority apply
8 to the facts of this case or statute; a legal issue cannot be raised by doing nothing
9 more than quoting a case statute, it must be supported by some admissible,
10 competent, and relevant evidence.

11 In Bethurem, supra, two stepsisters challenged a will, amended, removing
12 them as beneficiaries. They alleged that an aunt had, by undue influence, caused the
13 decedent to disfavor them and remove them from the will. The aunt became a
14 beneficiary. Other evidence showed that the aunt had admitted to being a caretaker,
15 that there was ill-will between the aunt and the stepsisters, and that the aunt
16 induced another to draft the amended will. Neither the probate master nor the trial
17 court shifted the burden of proof to the respondent to rebut by clear and convincing
18 evidence the presumption of undue influence.

19 After trial, the court found that undue influence caused the revision of the will
20 and reinstated the petitioners as beneficiaries. The Supreme Court reversed holding
21 that:

22 ...influence resulting merely from [a] family relationship is not by
23 itself unlawful, and there is no indication in the record that any
24 influence [which] may have [been] exercised prevented [the testator]
from making his own decisions regarding his will

25 Bethurem, 129 Nev. At 877.

26 The Supreme Court has also held that "[a] presumption of undue influence
27 arises when a fiduciary relationship exists and the fiduciary benefits from the
28 questioned transaction." Bethurem, at 874, quoting In re Jane tiffany Living Trust

1 2001, 124 Nev. 74, 78 (2008) (addressing undue influence in the context of an attorney
2 receiving an inter vivos transfer from a client). Thus, the shift in the burden of proof
3 contemplated by NRS 155.097(3) may occur when a challenger establishes the
4 existence of a fiduciary or confidential relationship, and some evidence, at least, of
5 undue influence.

6 In the instant case, the Petitioner has produced no evidence that any other
7 beneficiary of the Thomas Harris Trust was the decedent's caretaker, fiduciary,
8 drafter of the transfer instrument, or materially participated in formulating any
9 dispositive provisions of the transfer instrument. See 155.097(2). Petitioner has
10 submitted no evidence to this Court whatsoever that the testator was incompetent,
11 infirm, needed a caretaker, or any other condition that might make him susceptible
12 to undue influence. Indeed, there is no evidence in the entire record of any fiduciary
13 relationship, caretakers, infirmity, or incompetency. The Petitioner has stated in his
14 petition that he can produce two, and possibly three, witnesses (which includes
15 himself) to show that he was a beneficiary of the a previous will or trust, and that
16 there was animosity between himself and his brother (a deceased beneficiary to the
17 Harris Trust). For approximately fifteen months he has failed to produce any
18 evidence that he was a previous beneficiary of any will or trust. Petitioner has failed
19 to demonstrate the existence of any of the relationships described above between the
20 testator and a beneficiary of the Harris Trust, he has likewise failed to establish a
21 presumption of undue influence for the respondent to rebut.

22 As the Supreme Court stated in Bethurem at 876, "in the absence of a
23 presumption, a will contestant must establish the existence of undue influence by a
24 preponderance of proof." Petitioner has also failed to make such a showing. He has
25 failed to demonstrate that he was a beneficiary of any previous trust, and has failed
26 to produce any admissible evidence at all.

27 Accordingly, this Court finds that Petitioner, Todd Robben, is not an interested
28 person and has no standing to contest the Thomas J. Harris Trust. While the finding

1 that Petitioner has no standing to contest the Harris Trust may make a motion for
2 summary judgment moot, the Court will nevertheless address Respondent's motion.

3 Procedurally, the "party moving for summary judgment bears the initial
4 burden of production to show the absence of a genuine issue of material fact." *Cuzze*
5 *v. Univ. & Cmty. Coll. Sys. of Nevada*, 123 Nev. 598, 602, 172 P.3d 131, 134 (2007).
6 "If such a showing is made, then the party opposing summary judgment assumes a
7 burden of production to show the existence of a genuine issue of material fact." *Id.*
8 The manner in which each party may satisfy its burden of production depends on
9 which party will bear the burden of persuasion on the challenged claim at trial." *Id.*

10 If the moving party will bear the burden of persuasion at trial, that party must
11 present evidence that would entitle it to a judgment as a matter of law in the absence
12 of contrary evidence. *Id.* However, if the nonmoving party will bear the burden of
13 persuasion at trial, the party moving for summary judgment may satisfy its burden
14 of production by either (1) submitting evidence that negates an essential element of
15 the nonmoving party's claim, or (2) pointing out there is an absence of evidence to
16 support the nonmoving party's case. *Id.* at 602-603. The nonmoving party must then
17 transcend the pleadings and, by affidavit or other admissible evidence, introduce
18 specific facts that show a genuine issue of material fact for trial or else summary
19 judgment is mandatory. *Id.* at 603. In this case, Petitioner would bear the burden of
20 persuasion at trial to invalidate the Trust.

21 Analogous to the Will, Petitioner must be an interested person in the Trust to
22 contest its validity. *See* NRS 164.015. The Trust moved for summary judgment
23 against the Petition to Invalidate the Trust because Petitioner is not an interested
24 person in the Trust under NRS 132.185 and NRS 132.390(1)(d). Once the Trust
25 moved for summary judgment by pointing out an absence of evidence to support the
26 Petitioner's claims, the burden of production shifted to Petitioner to refute the Motion
27 for Summary Judgment with admissible evidence creating a genuine issue of fact
28 regarding whether Petitioner is an interested person in the Trust. Petitioner failed

1 to produce any admissible evidence demonstrating he is an interested person in the
2 Trust as a current or prior beneficiary of the Trust; current, prior, or alternate trustee
3 of the Trust; holder of a power of appointment, prior holder of a power of appointment,
4 or heir of the Estate should the entire Trust be invalidated.

5 In addition, the Petitioner made various allegations regarding undue
6 influence, fraud, theft, embezzlement and unlawful administration of the Trust.
7 Petitioner produced no evidence to substantiate any of these allegations related to
8 administration of the Trust. Consequently, the Court finds Petitioner's allegations
9 of undue influence, fraud, theft, embezzlement, and unlawful administration of the
10 Trust are devoid of evidence and without merit, further warranting summary
11 judgment against Petitioner's unsubstantiated allegations in the Petition and papers
12 filed before the Court. Hence, the Court finds Petitioner failed to meet his burden to
13 refute summary judgment and concludes the Petitioner is not an interested person in
14 the Trust with standing to contest the validity or administration of the Trust based
15 on evidentiarily devoid claims. As such, the Trust's Motion for Summary Judgment
16 against the Petition to Invalidate the Trust is **GRANTED**.

17 **IV. The Court finds Petitioner is a vexatious litigant pursuant to NRS**
18 **155.165.**

19 NRS 155.165 permits the Court to find Petitioner is a vexatious litigant if
20 Petitioner has filed petitions and motions without merit, or that were designed to
21 harass the Trustee. The Court may also consider whether the Petitioner filed
22 pleadings in a prior case that were without merit when determining if Petitioner is a
23 vexatious litigant. *Id.* In that regard, the Court finds the Petitioner made various
24 allegations in the Probate Case related to the Estate, the Will of Thomas J. Harris
25 and the Trust of Thomas J. Harris. Those allegations were unsubstantiated.
26 Moreover, the Probate Court determined Petitioner was not an interested person in
27 the Estate, and, therefore, lacked standing to litigate any allegations he made in the
28 Probate Case. Despite the Probate Court ruling Petitioner is not an interested person

1 in the Estate with standing to litigate his allegations related to the Will, which was
2 affirmed on appeal to the Nevada Supreme Court, Petitioner filed a Petition to
3 Invalidate the Will in this case in an apparent attempt to circumvent the Order of
4 the Probate Court. The Court finds this tactic vexatious.

5 Similarly, the Petitioner sought to invalidate the Trust in this case based on
6 allegations of undue influence. In addition, Petitioner made various claims of fraud,
7 theft, embezzlement and mismanagement of the Trust. Petitioner never
8 substantiated any of his allegations related to the Trust with any admissible
9 evidence. In fact, Petitioner could not produce evidence to show he is an interested
10 person in the Trust with standing to even levy the allegations he made related to the
11 Trust. Therefore, the Court finds the Petitioner's tactic of forcing the Trust to expend
12 significant resources responding to serial filings devoid of evidence, without
13 preliminarily being able to establish standing to litigate any aspect of the Trust, to
14 be vexatious.

15 In addition, Petitioner has filed various papers with the Court outside the
16 bounds of permissible procedure absent leave of court. Considering the rogue filings
17 in this case mounted against the backdrop of the Probate Court previously holding
18 Petitioner is not an interested person in the Estate, the Court finds Petitioner's serial
19 filings to be vexatious.

20 Out of procedural fairness to Mr. Robben, who is representing himself in proper
21 person, the Trust and Estate have not requested Mr. Robben pay any of its prior
22 attorney's fees incurred in responding to his filings prior to entry of this Order under
23 NRS 155.165. Therefore, the Court is not entering an award for attorney's fees and
24 costs incurred by the Trust or Estate in responding to Petitioner's prior filings in this
25 case pursuant to NRS 155.165.¹ However, the Court now holds, finds, and concludes
26 Petitioner is barred as a vexatious litigant from filing any claims, petitions, motions,
27

28 ¹ This finding does not preclude the Trust or Estate from moving for its fees or costs incurred in this
matter from its inception under a separate statute, including but not limited to NRS 18.010.

1 pleadings, complaints, or papers with the Court related to The Thomas J. Harris
2 Trust, the Trustee of the Trust, the Will of Thomas J. Harris, the Estate of Thomas
3 J. Harris, the Personal Representative of the Estate of Thomas J. Harris, and the
4 Personal Representative's and Trust's Legal Counsel. Should the Petitioner violate
5 this Order, the Court will award fees and sanctions against Petitioner consistent with
6 NRS 155.165, the common law, and the inherent powers of the Court to administer
7 the proceedings before it. The Petitioner's right to appeal this Order and its findings
8 is excluded from the Court's vexatious litigant findings in order to respect Petitioner's
9 right to due process of law in appealing this Order.

10 V. Petitioner's Requests for Relief in the Petition and related filings are
11 **DENIED**, and the Petition is dismissed with prejudice.

12 Having concluded Petitioner is not an interested person in the Trust, Estate,
13 or Will of Thomas J. Harris, the Petition is dismissed with prejudice and all claims
14 for relief in the Petition, or any related filings brought forth by Petitioner in this Case,
15 are **DENIED**.

16
17 **IT IS SO ORDERED.**

18
19 Dated this 8th day of February 2023.

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22 The Honorable Robert Estes
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Copies served by mail on February 8th, 2023, addressed to:

Todd Robben
P.O. Box 4251
Sonora, California 95370

F. McClure Wallace, Esq.
510 West Plumb Lane
Reno, Nevada 89509

Erin C. Plante
Erin C. Plante

Exhibit 4

Exhibit 4

1 Todd Robben
2 In Pro per
3 PO Box 4251
4 Sonora, CA 95370
5 Robben.tv@gmail.com
6 (209)540-7713

RECEIVED FILED

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Douglas County BOBBIE R. WILLIAMS
District Court Clerk CLERK

BY  DEPUTY

Electronically Filed
Jun 29 2022 04:09 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

7 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

9
10 IN RE: THE ESTATE OF THOMAS
11 JOSEPH HARRIS,

12
13 Deceased

CASE NO.: 2021 PB00034


NOTICE OF APPEAL

DEPARTMENT: 1

JUDGE: Nathan Tod Young

14
15
16
17 Petitioner, Todd C. Robben appeals the decision, order and judgment pursuant
18 to NRS §§ 155.190 from Judge Nathan Tod Young on June 21, 2022¹ denying
19 Petitioner counsel and granting the final accounting and final distribution in the above
20 titled case.

21 Respectfully,

22 

23
24 /s/ Todd Robben

25 06/27/2022

26
27 ¹ The order appears to be dated June 22, 2022.

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CERTIFICATE OF MAILING

I, Stephen James Robben, declare under penalty of perjury under the law of the State of Nevada that the following is true and correct copy of the filed document. That on June 27, 2022, service of the document was made pursuant to NRCP 5(b) by depositing a email to: F. McClure Wallace, counsel for Respondent, mcclure@wallacemillsap.com

DATED this 27 day of June, 2022

Submitted By: /s/ Stephen James Robben

Exhibit 5

Exhibit 5

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE ESTATE OF
THOMAS JOSEPH HARRIS,
DECEASED.

No. 84948

TODD ROBBEN,

Appellant,

vs.

TARA FLANAGAN, IN HER CAPACITY
AS THE COURT APPOINTED
PERSONAL REPRESENTATIVE,
Respondent.

FILED

JUL 08 2022

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY S. Young
DEPUTY CLERK

ORDER DISMISSING APPEAL

This is a pro se appeal from a district court order entered in a probate matter. Ninth Judicial District Court, Douglas County; Nathan Tod Young, Judge.

Review of the notice of appeal and documents before this court reveals a jurisdictional defect. NRAP 3A(a) allows only an aggrieved party to appeal. Generally, a party is a person who has been named as a party to the lawsuit and who has been served with process or appeared. *Valley Bank of Nev. v. Ginsburg*, 110 Nev. 440, 447, 874 P.2d 729, 734 (1994). It does not appear that appellant was named as a party in the proceedings below. And while any "interested person" may participate in probate actions, an "interested person" is defined as someone "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. The fiduciary or court shall determine who is an interested person according to the particular purposes of, and matter involved in, a proceeding." NRS 132.185; *see also* NRS 132.390.

Here, the district court determined that appellant was not an interested person in the underlying matter under NRS 132.185 and thus lacked standing to object to the probate petition or otherwise appear in the proceedings. Under these circumstances, it appears appellant lacks standing to appeal under NRAP 3A(a). Accordingly, this court lacks jurisdiction and

ORDERS this appeal DISMISSED.

Silver, J.
Silver

Cadish, J.
Cadish

Pickering, J.
Pickering

cc: Hon. Nathan Tod Young, District Judge
Todd Robben
Wallace & Millsap LLC
Douglas County Clerk