

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

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

Case No. 86096

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Elizabeth A. Brown  
Clerk of Supreme Court

TODD ROBBEN,

Appellant,

vs.

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

Respondents.

**RESPONDENTS' APPENDIX**

# Volume 6

Tara Flanagan, as Personal Representative of the Estate of Thomas J.  
Harris and Trustee of the Thomas J. Harris Trust

By and through her Legal Counsel

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Respondents, the Estate of Thomas J. Harris and the Thomas J. Harris Trust, by and through Tara Flanagan, in her capacity as the Personal Representative of the Estate of Thomas J. Harris and Trustee of the Thomas J. Harris Trust by and through her Legal Counsel hereby submits her Appendix in compliance with Nevada Rule of Appellate Procedure 30.

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1 Case No. 2022-PB-00119

2 Dept. No. 1

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5 IN THE NINTH JUDICIAL DISTRICT COURT, STATE OF NEVADA

6  
7 IN AND FOR THE COUNTY OF WASHOE

8 TODD ROBBEN,

9 Petitioner,

10 vs.

11  
12 THE ESTATE OF THOMAS  
13 JOSEPH HARRIS; THOMAS J.  
14 HARRIS TRUST,

15 Respondents.

16  
17 **MOTION TO DISMISS**

18 The Estate of Thomas J. Harris (the "Estate"), by and through its duly  
19 appointed Successor Executor, Tara M. Flanagan, respectfully moves this Court for  
20 dismissal of Petitioner Todd Robben's Verified Petition to Invalidate the Thomas J.  
21 Harris Will and Trust; Petitioner's Request for Appointment of Counsel Pursuant  
22 to NRS 136.200; Emergency Request for Stay of Final Distribution; Preemptory  
23 Challenge to Judge Nathan Todd Young (the "Petition"). Specifically, the Estate  
24 requests dismissal of the Petition against the Estate pursuant to NRCP 12(b)(1) &  
25 12(b)(5).

26 INTRODUCTION / STATEMENT OF THE ISSUE

27 The Petition cannot be brought against the Estate of Thomas J. Harris  
28 because any allegations or claims related to the validity of the Last Will and  
Testament of Thomas J. Harris are:

- 1) subject to the exclusive jurisdiction of the separate probate proceeding before Department 1 of the Ninth Judicial District Court in Case No. 2021-PB00034, governing the administration of the Estate of Thomas J. Harris (the "Estate Case"),
- 2) long since time-barred by the applicable statutory time frame for post-probate will contests, and
- 3) barred by the doctrine of claim preclusion because they were previously litigated to their conclusion in the Estate Case.

Therefore, Mr. Robben's Petition is properly dismissed as to the Estate, with prejudice.

**STATEMENT OF RELEVANT PROCEDURE CONCERNING**  
**THE ESTATE OF THOMAS JOSEPH HARRIS**

1. Thomas Joseph Harris (the "Decedent") died on December 30, 2019, as a resident of Douglas County, Nevada.

2. The Last Will and Testament of Thomas Joseph Harris was duly lodged with this Court on April 6, 2021.

3. The Decedent's Last Will and Testament (the "Decedent's Will" or the "Will") is a pour over will, identifying the Decedent's Trust as the beneficiary of his Will. The Decedent's Trust is The Declaration of Trust Known as the Thomas J. Harris Trust, dated June 12, 2019 (the "Decedent's Trust" or the "Trust"). See Exhibit 1.

4. The Decedent's Last Will and Testament nominated the following line of Executors: Jeff Robben, Scott Barton, and Tara Flanagan. *Id.*

5. On March 10, 2021, Scott Barton filed his Verified Petition for Letters of Special Administration and for Probate of Will and Issuance of Letters Testamentary before Department 1 of the Ninth Judicial District Court. Mr. Barton was the appropriate individual to seek appointment as the Personal Representative



1 of the Estate because the first nominated executor, Jeff Robben, had passed away  
2 on November 11, 2020. Mr. Barton's initial petition seeking to administer the  
3 Estate pursuant to the Decedent's Will was assigned case number 2021-PB00034  
4 (the "Estate Case").

5 6. On April 6, 2021, the Court in the Estate Case entered its Order  
6 Admitting Will to Probate and Issuing Letters Testamentary appointing Scott  
7 Barton to serve as the Personal Representative of the Estate. *See Exhibit 2.*  
8 Resultingly, Letters Testamentary were issued to Scott Barton on April 22, 2021,  
9 after which Mr. Barton began administering the Estate.

10 7. Several months thereafter, Mr. Barton notified The Honorable Tara  
11 Flanagan he was resigning as both the Personal Representative of the Decedent's  
12 Estate and as Trustee of the Decedent's Trust. Consistent with her nomination as  
13 the next named executor of the Estate by the Decedent's Will, Ms. Flanagan filed  
14 her Petition for Appointment of Successor Executor and for Issuance of Letters  
15 Testamentary on June 25, 2021, in the Estate Case.

16 8. On July 27, 2021, the Court entered its Order Appointing Successor  
17 Executor and Issuing Successor Letters Testamentary, and on August 17, 2021  
18 Letters Testamentary were issued to Tara M. Flanagan. *See Exhibit 3.*

19 9. Pursuant to her appointment as the Successor Executor of the Estate,  
20 Ms. Flanagan (hereinafter the "Successor Executor" or the "Petitioner") continued  
21 the Estate's administration and worked to diligently conclude the administration of  
22 the Estate.

23 10. On, April 14, 2022, the Successor Executor filed her Petition to  
24 Confirm First and Final Accounting, Request for Final Distribution, and Request  
25 for Payment of Professional's Fees and Costs (the "First and Final Petition") in the  
26 Estate Case. A hearing was scheduled on the Successor Executor's First and Final  
27 Petition for May 24, 2022.

28

1           11. On May 23, 2022, Todd Robben appeared for the first time in the Estate  
2 Case through the filing of his Notice of Motion for Continuance and Motion for  
3 Continuance. Mr. Robben's request for a continuance was based on allegations  
4 concerning the validity of the Decedent's Will. *See Exhibit 4.*

5           12. A hearing was conducted in the Estate Case regarding the First and  
6 Final Petition on May 24, 2022. The Court heard the presentation of Mr. Robben,  
7 as well as multiple arguments from Counsel for the Estate, including but not limited  
8 to presentation of the fact Mr. Robben was not an "interested person" in the Estate  
9 as defined by Nevada law, and had no standing upon which to appear, to contest  
10 the validity to the Decedent's Will, or otherwise state any objection in the Estate  
11 Case. At the conclusion of the hearing, the Court granted Mr. Robben a brief  
12 continuance out of an "abundance of caution" to present any basis upon which he  
13 could be identified as an interested person in the Estate Case, continuing the  
14 hearing on the First and Final Petition to June 21, 2022.

15           13. Thereafter, on June 15, 2022 Mr. Robben filed a Request for  
16 Appointment of Counsel in advance of the June 21, 2022 continued hearing. *See*  
17 **Exhibit 5.**

18           14. A continued hearing was conducted on the First and Final Petition in  
19 the Estate Case on June 21, 2022. At the conclusion of the hearing, having heard  
20 arguments from Mr. Robben and Counsel for the Estate, the Court granted the  
21 Successor Executor's First and Final Petition in full and without exception.  
22 Moreover, the Court in the Estate Case ruled Mr. Robben was not an interested  
23 person to the proceeding, had produced no evidence upon which he could be found  
24 to be an interested person in the Estate Case, and as such had no basis to be  
25 appointed Counsel. As a result of the Court's ruling in the Estate case, Mr. Robben  
26 has no standing to appear in the Estate Case, and as such has no standing to contest  
27 the validity of the Last Will and Testament of Thomas J. Harris.

1           20.   The Court codified its ruling through entry of its written Order  
2 Granting the First and Final Petition in the Estate Case on June 22, 2022, wherein  
3 it specifically found as follows:

4                   Finally, upon thorough review by the court, including review of  
5 Mr. Robben's written filings and hearing Mr. Robben's oral  
6 presentation at both the May 24, 2022 hearing as well as the June  
7 21, 2022 continued hearing, the Court determines Mr. Robben is  
8 not an "interested person" in this Estate as defined by NRS  
9 132.185, and as such has no standing to object to the [First and  
10 Final] Petition, be appointed Counsel, or otherwise appear in this  
11 proceeding. Specifically, the Court heard from Mr. Robben, and  
12 after giving him additional time, Mr. Robben was unable to  
13 present any legal basis or admissible evidence to potentially allow  
14 a determination he is an interested person in this Estate.  
15 Therefore, Mr. Todd Robben is not an interested person to this  
16 Estate, and as such has no standing to oppose or object to the  
17 Petition, or otherwise appear in these proceedings. *Id.* at p. 5-6,  
18 ¶ 32.

19 *See Exhibit 6.*

20           18.   Thereafter, on June 22, 2022, Mr. Robben filed an Emergency Stay  
21 Request – Emergency Verified Motion to Reconsider seeking reconsideration of the  
22 Court's Order granting the Estate's First and Final Petition and concluding Mr.  
23 Robben was not an interested person and had no standing in the Estate Case. Mr.  
24 Robben also filed separate Supplemental Points and Authorities in Support of his  
25 Motion to Reconsider on June 23, 2022, and filed a Motion to Expedite Stay Request  
26 Pending Reconsideration on June 24, 2022 (these papers are collectively referred to  
27 hereafter as Mr. Robben's "Motion to Reconsider").  
28

1 19. On July 1, 2022, the Estate filed its Opposition to Mr. Robben's Motion to  
2 Reconsider, to which Mr. Robben filed a Reply brief on July 5, 2022.

3 20. Separately, Mr. Robben sought to appeal the Court's July 22, 2022  
4 Order in the Estate Case, filing a Notice of Appeal with the Nevada Supreme Court  
5 on June 27, 2022. See **Exhibit 7**.

6 21. Thereafter, on July 8, 2022, the Nevada Supreme Court filed its Order  
7 Dismissing Appeal, dismissing in entirety Mr. Robben's appeal in the Estate Case.  
8 See **Exhibit 8**.

9 22. Additionally, on July 13, 2022, the District Court entered its Order  
10 denying Mr. Robben's Motion for Reconsideration and all filings associated with Mr.  
11 Robben's Motion for Reconsideration. As a result, Mr. Robben's efforts to in any way  
12 oppose or object to any part of the administration of the Decedent's Estate, including  
13 any contest of the Decedent's Will, was forever foreclosed and concluded. See  
14 **Exhibit 9**.

15 23. Now, by and through his initial Petition in this matter, filed in or  
16 around July 20, 2022, Mr. Robben identifies the Estate of Thomas J. Harris as a  
17 Respondent to again contest the validity of the Decedent's Will. As demonstrated by  
18 the outline above, and as further addressed below, those allegations and claims have  
19 already been litigated to their conclusion and are barred: 1) because exclusive  
20 jurisdiction over the Estate and the Decedent's Will rests in the Estate Case, and 2)  
21 because all allegations and claims brought in this matter regarding the Estate and  
22 Decedent's Will are barred by the doctrine of claim preclusion.

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24 ///

25 ///

26 ///

27 ///

28 **STATEMENT OF PROPERLY CONSIDERED FACTS**

1 STATEMENT OF PROPERLY CONSIDERED FACTS

2 LAW & ARGUMENT

3 I. The Petition should be dismissed in its entirety against the  
4 Estate.

5 NRCP 12(b)(1) allows a party to bring a motion to dismiss if the presiding  
6 court lacks subject matter jurisdiction over all or portions of a case. Similarly, NRCP  
7 12(b)(5) states a party may assert the defense of failure to state a claim upon which  
8 the court may grant relief in a motion. To survive a motion to dismiss, a [petitioner]  
9 must do more than recite the formulaic elements of a cause of action. *Allen v. United*  
10 *States*, 964 F. Supp. 2d 1239, 1251 (D. Nev. 2013). Additionally, although a court  
11 may accept factual allegations in a complaint as true, the court need not accept legal  
12 conclusions as true when determining a motion to dismiss for failure to state a claim  
13 upon which the court may grant relief. *Id.* Thus, the court should dismiss a petition  
14 whenever it appears beyond a doubt the plaintiff could prove no set of facts, which,  
15 if true, would entitle the plaintiff to relief. *Buzz Stew, LLC v. City of N. Las Vegas*,  
16 124 Nev. 224, 228, 181 P.3d 670, 672 (2008).

17 Here, the Estate respectfully requests the Court dismiss Mr. Robben's Petition  
18 in its entirety against the Estate because: 1) this Court does not have subject matter  
19 jurisdiction over claims concerning the validity of the Decedent's Last Will and  
20 Testament, 2) any contest of the Decedent's Last Will and Testament is statutorily  
21 time barred, and 3) any contest the Decedent's Last Will and Testament is barred by  
22 the doctrine of claim preclusion.

23 A. THERE CAN BE NO SUBJECT MATTER JURISDICTION OVER CLAIMS  
24 INVOLVING THE VALIDITY OF THE DECEDENT'S WILL BEFORE THIS  
25 COURT

26 In this matter, the Petition names the Decedent's Estate as a Respondent for  
27 the sole purpose of challenging the validity of the Decedent's Will. *See generally* the  
28 Petition. As presented above, the Decedent's Estate – including the Decedent's Last

1 Will and Testament – has already been subject to probate administration before  
2 Department 1 of the Ninth Judicial District Court of the State of Nevada, in case no.  
3 2021-PB00034 (the “Estate Case”). Therein, the Decedent’s Will was admitted to  
4 probate as a valid will, and the Decedent’s Estate was administered to the  
5 completion of the probate process. *See Exhibits 2 & 6.*

6 NRCP 12(b)(1) states a matter is properly dismissed in the absence of subject  
7 matter jurisdiction by the presiding court. Subject matter jurisdiction for a will  
8 contest is governed by Nevada Revised Statute 137.080. Specifically, NRS 137.080  
9 requires a contest of the validity of a will, initiated after the will has been admitted  
10 to probate, to be filed in the probate proceeding with the Court in which the will was  
11 admitted to probate. *See* NRS 137.080. Thus, any contest of the Decedent’s Will  
12 could only occur in the Estate Case where the Decedent’s Will was admitted to  
13 probate. *Id.*; *see also Exhibits 2 & 6.* As such, no action can be had before this  
14 Court as it is not the court in which the Decedent’s Will was admitted to probate,  
15 i.e., it is not the Court which took jurisdiction of and oversaw the probate of the  
16 Decedent’s Estate. *Id.*

17 Therefore, NRS 137.080 mandates the Court presiding over the Estate Case  
18 was the court of exclusive jurisdiction for any and all allegations and claims related  
19 to the validity of the Decedent’s Will. *Id.* Stated otherwise, there is no subject-  
20 matter jurisdiction held by this Court for any claims or allegations contained in the  
21 Petition related to the validity Decedent’s Will, mandating dismissal of the Estate  
22 from this matter pursuant to NRCP 12(b)(1).

23 **B. MR. ROBBEN’S ATTEMPT TO CONTEST THE VALIDITY OF THE**  
24 **DECEDENT’S WILL IS TIME BARRED**

25 NRCP 12(b)(5) states a claim is properly dismissed if it fails to state a claim  
26 upon which relief can be granted. Here, Mr. Robben’s attempt to contest the validity  
27 of the Decedent’s will through this matter is time barred, and on that basis fails to  
28 state a claim upon which relief can be granted.

1 NRS 137.080 goes beyond establishing which court holds jurisdiction over a  
2 post-probate will contest, it also states the time frame in which any such contest  
3 must be brought. Specifically, NRS 137.080 requires any post-probate will contest  
4 to be brought by an interested person to the estate within 3 months after the order  
5 entering a will to probate has been entered. *Id.* Here, the Decedent's Will was  
6 admitted to probate on April 6, 2021. Mr. Robben filed his petition in this matter in  
7 July of 2022, approximately 15 months after the Decedent's Will was admitted to  
8 probate, and certainly after the three-month statute of limitation mandated by NRS  
9 137.080 for post-probate will contests.

10 The Estate Court has already conclusively determined Mr. Robben was not an  
11 "interested person" to the Decedent's Estate, preventing him from having standing  
12 to ever assert any contest of the Decedent's Will. *See Exhibit 6; see also* NRS  
13 137.080. Still, even if he was an "interested person," which he is not, any post-  
14 probate contest of the Decedent's Will was long since time barred three months after  
15 the Decedent's Will was admitted to probate, and *long* before Mr. Robben filed his  
16 Petition in this matter. Thus, as Mr. Robben's attempt to contest the validity of the  
17 Will is time barred, his Petition presents a claim against the Decedent's Estate for  
18 which no relief can be granted, requiring dismissal. *See* NRCP 12(b)(5).

19 C. ALL CLAIMS AND ALLEGATIONS CONCERNING THE VALIDITY OF THE  
20 DECEDENT'S WILL ARE BARRED BY CLAIM PRECLUSION

21 Mr. Robben's Petition in this matter seeks to invalidate the Thomas J. Harris  
22 Trust, as well as the Last Will and Testament of Thomas J. Harris (the "Decedent's  
23 Will"). As outlined in detail above, Mr. Robben previously attempted to contest the  
24 validity of the Decedent's Will in the Estate Case, with those efforts being fully and  
25 finally addressed by the Court overseeing the Estate Case who ruled Mr. Robben  
26 had no standing to contest the validity of the Decedent's Will. *See Exhibit 6, p. 5-*  
27 *6, ¶ 23.* As such, any claims regarding the validity of the Decedent's Will are  
28

1 precluded from being brought in this matter by the doctrine of claim preclusion, and  
2 again fail to state a claim upon which relief can be granted. *See* NRCP 12(b)(5).

3 In Nevada, claim preclusion applies when (1) the same parties or their privies  
4 are involved in both cases, (2) a valid final judgment has been entered, and (3) “the  
5 subsequent action is based on the same claims or any part of them that were or could  
6 have been brought in the first case. *See Alcantara ex rel. Alcantara v. Wal-Mart*  
7 *Stores, Inc.*, 130 Nev. 252, 257, 321 P.3d 912, 915 (2014); *quoting Five Star Capital*  
8 *Corp. v. Ruby*, 124 Nev. 1048, 1054, 194 P.3d 709, 713. Applying this three-part  
9 analysis established by the Nevada Supreme Court, it becomes readily apparent  
10 claim preclusion bars Mr. Robben from asserting any claims against the Estate  
11 regarding the validity of the Decedent’s Will.in this matter.

12 First, the same parties at issue in this matter are identical to those who  
13 participated in the Estate Case, that being the Decedent’s Estate and the Petitioner,  
14 Mr. Robben. Specifically, the Estate Case oversaw the administration of the  
15 Decedent’s Estate, in which Mr. Robben appeared for the purpose of attempting to  
16 contest the Decedent’s Will. *See Exhibits 4 through 9.* Mr. Robben has now  
17 initiated this separate case naming the Decedent’s Estate as a respondent for the  
18 purpose of again attempting to contest the validity of the Decedent’s Will. Thus, Mr.  
19 Robben’s Petition in this matter involves the same parties who previously appeared  
20 and participated in the Estate Case. *Id.*

21 Second, a valid final judgement was entered in the Estate Case regarding Mr.  
22 Robben’s attempt to contest the Decedent’s Will. In the Estate Case, the Court  
23 issued its Order Granting the First and final Petition on June 22, 2022. *See Exhibit*  
24 **6.** NRCP 41(b) states “any dismissal not under this rule – except one for lack of  
25 jurisdiction, improper venue, or failure to join a party under Rule 19 – operates as  
26 an *adjudication on the merits.*” (emphasis added). The Court’s June 22, 2022 Order  
27 was entered after multiple hearings where the Court considered Mr. Robben’s  
28 attempt to contest the validity of the Decedent’s Will, and is a final order regarding



1 Mr. Robben's ability to contest the Decedent's Will or otherwise object to the  
2 administration of the Decedent's Estate. Specifically, the Court's June 22, 2022  
3 Order in the Estate Case dismissing Mr. Robben from the Estate Case was not a  
4 dismissal for lack of jurisdiction, improper venue, or failure to join a party under  
5 rule 19 and as such is an "adjudication on the merits" under NRCP 41(b). *See*  
6 **Exhibit 6**, p. 5-6, ¶ 32. Moreover, the Court's June 22, 2022 Order in the Estate  
7 Case was upheld after Mr. Robben's subsequent Motion for Reconsideration was  
8 denied, and Mr. Robben's appeal of the Court's June 22, 2022 Order was dismissed  
9 by the Nevada Supreme Court. *See* NRCP 41(b); *see also* **Exhibits 8 & 9**.  
10 Furthermore, the United States Supreme Court has interpreted the phrase  
11 "adjudication on the merits" to preclude the refiling of the same claim in the same  
12 court. *Five Star Capital Corp. v. Rudy*, 124 Nev. 1048, 1058, 194 P.3d 709, 715 (2008)  
13 *citing to Semtek Int'l Inc. v. Lockheed Martin Corp.*, 531 U.S. 497, 506, 121 S.Ct 1020  
14 (2001). As both the Estate Case and this matter were filed in the Ninth Judicial  
15 District Court of the State of Nevada, it is "clearly proper to give preclusive effect"  
16 to the Orders issued in the Estate Case. *Id.* Consequently, the final orders issued  
17 in the Estate Case by Department I of this District Court and by the Nevada  
18 Supreme Court enacted a preclusive effect on all issues regarding the validity of the  
19 Decedent's Will. *Id.*; *see also Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc.*,  
20 130 Nev. at 257; *see also* NRCP 41(b).

21 Third and final, Mr. Robben's allegations in this matter related to the validity  
22 of the Decedent's Will are the same claims he previously brought in the Estate Case.  
23 Specifically, Mr. Robben filed multiple documents and appeared at two hearings in  
24 the Estate Case for the sole purpose of contesting the validity of the Decedent's Will.  
25 *See generally* **Exhibits 4 through 6**. Now Mr. Robben brings forth his Petition in  
26 this matter again attempting to contest the validity of the Decedent's Will. Thus,  
27 Mr. Robben has brought forth the "same claims" regarding the validity of the  
28 Decedent's Will through his initial Petition in this matter he previously – and

1 unsuccessfully – brought forth in the Estate Case. *See Exhibits 6, 8, & 9.* “Claim  
2 preclusion applies to prevent a second suit based on all grounds of recovery that were  
3 or could have been brought in the first suit. *Five Star Capital Corp. v. Rudy*, 124  
4 Nev. 1048, 1058, 194 P.3d 709, 715 (2008). Therefore, Mr. Robben’s attempt to  
5 reassert allegations and claims regarding the validity of the Decedent’s Will in this  
6 matter are barred as they were previously alleged and litigated to their conclusion  
7 in the Estate Case.

8 Even assuming, *arguendo*, Mr. Robben had not brought forth such claims and  
9 allegations in the Estate Case, which he did, the claims and allegations he sets forth  
10 in his Petition regarding the Decedent’s Will would still be barred, as the third prong  
11 of claim preclusion acts to bar any claims – or part of any claims – that were *or could*  
12 *have been* brought in the Estate Case. *See Five Star Capital Corp. v. Rudy*, 124 Nev.  
13 at 1058. As established above, the Estate Case held exclusive jurisdiction over any  
14 and all claims involving the validity of the Decedent’s Will. *See* NRS 137.080. Thus,  
15 any and all claims involving the Decedent’s Will not only were brought, but *could*  
16 *[only]* *have been brought* in the Estate Case, and are precluded from ever being  
17 brought again in this or any other matter. *Id.*

18 Claim preclusion protects parties from repetitively having to relitigate the  
19 same claims, and in doing so preserves and protects judicial economy from litigants  
20 who attempt to forum shop in hope of a new and different result. Stated plainly,  
21 claim preclusion works to prevent precisely what Mr. Robben is attempting to do by  
22 naming the Estate as a respondent to this matter – unlawfully seeking to subvert  
23 and ignore the prior rulings made by this District Court in the Estate Case.  
24 Consistent with the analysis above, Mr. Robben’s attempt to again contest the  
25 validity of the Decedent’s Will fails to state any claim against the Decedent’s Estate  
26 for which any relief can be granted because all such claims and allegations are  
27 barred by the doctrine of claim preclusion, requiring the dismissal of the Estate from  
28 this matter. *See* NRCP 12(b)(5).

CONCLUSION & REQUESTED RELIEF

Mr. Robben's Petition is properly dismissed with prejudice against the Estate of Thomas Joseph Harris. Specifically, 1) there is not subject matter jurisdiction over the Estate in this matter, 2) Mr. Robben's attempted contest of the Decedent's Will is time-barred, and 2) Mr. Robben's allegations concerning the Decedent's Will are barred by the doctrine of claim preclusion. Therefore, Mr. Robben's Petition fails to state any claim against the Estate which can be granted, and Mr. Robben's Petition is properly dismissed.

The Estate of Thomas Joseph Harris respectfully requests an order from this Court dismissing Mr. Robben's Petition against the Estate in its entirety, with prejudice.

AFFIRMATION

The undersigned affirms this document does not contain the social security number or legally private information of any person.

DATED this 6th day of October 2022.

By: 

F. McClure Wallace, Esq.  
Nevada Bar No.: 10264  
Wallace & Millsap  
510 W Plumb Ln., Ste. A  
Reno, Nevada 89509  
(775) 683-9599  
mcclure@wallacemillsap.com  
*Attorneys for Tara M. Flanagan  
in her capacity as the  
Personal Representative of the  
Estate of Thomas Harris*

**CERTIFICATE OF SERVICE**

The undersigned certifies the Motion for Summary Judgment was served upon Petitioner Todd Robben via United States Mail at the address of P.O. Box 4251 Sonora, California 95370. The foregoing Motion was placed in the mail for service on the date shown below.

**DATED** this 6th day of October, 2022.

By: 

Employee of Wallace & Millsap

LIST OF EXHIBITS

- 1
- 2 Exhibit 1 – The Thomas J. Harris Trust
- 3 Exhibit 2 – Order Admitting Will to Probate and Issuing Letters Testamentary
- 4 Exhibit 3 – Order Appointing Successor Executor
- 5 Exhibit 4 – Notice of Motion for Continuance and Motion for Continuance
- 6
- 7 Exhibit 5 - Request for Appointment of Counsel
- 8 Exhibit 6 – Order Granting Petition to Confirm First and Final Accounting,  
Request for Final Distribution, and Request for Payment of  
Professional's Fees and Costs
- 9
- 10 Exhibit 7 – Notice of Appeal
- 11 Exhibit 8 – Nevada Supreme Court Order Dismissing Appeal
- 12
- 13 Exhibit 9 - Order Denying Motion for Reconsideration
- 14
- 15
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# Exhibit 1

# Exhibit 1

**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 forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Barbara A. Spagna  
Signature of Notary

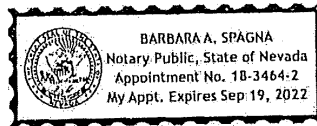


EXHIBIT "A"  
TO  
DECLARATION OF TRUST

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 1992211233.

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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Declaration of Trust: The Thomas J. Harris Trust dated June 12, 2019

## 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;

b. Seventeen and One-Half Percent (17.5%) to my stepson, JEFF DEWEY ROBBEN, if he is then living. If JEFF DEWEY ROBBEN 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;

SCHEDULE A – PAGE 1

Declaration of Trust: The Thomas J. Harris Trust dated June 12, 2019

c. Eleven Percent (11%) to my former daughter-in-law, JOANNE RENEE MICHAEL, if she is then living. If JOANNE RENEE MICHAEL predeceases distribution 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;

d. Eleven Percent (11%) to my step-grandson, JACOB MICHAEL ROBBEN ("JACOB"), if he is then living. Such gift shall be transferred outright and free of trust to a custodial account for JACOB, to be held, administered and distributed pursuant to Nevada's Uniform Act on Transfers to Minors (NRS Section 167.030) for JACOB's benefit until he attains twenty-one (21) years of age ("Jacob's Gift"). The initial custodian for any such transfer shall be the same person as the successor Trustee of this Trust generally; and such successor Trustee shall have the power to designate a successor custodian if he or she is unwilling or unable to serve in that capacity (except as otherwise provided below concerning Jacob's father, TODD C. ROBBEN). It is the Trustor's desire, without imposing any legal obligation in this regard: (1) Jacob's Gift shall be used for JACOB's education expenses as defined in Paragraph A-7 of this Trust; (2) the custodian shall distribute to or for the benefit of JACOB an amount not-to-exceed two and one-half percent (2.5%) of Jacob's Gift upon JACOB's acceptance to an accredited 4-year undergraduate program; and (3) the custodian shall distribute the balance of Jacob's Gift to or for the benefit of JACOB upon his graduating with a 4-year degree (e.g., Bachelor's degree or equivalent). It is Trustor's further desire, with all legal force and effect, that TODD C. ROBBEN shall never serve as a custodian of this gift; and that no share of this gift shall ever pass, by inter vivos gift or by reason of JACOB's incapacity or demise, to or for the benefit of TODD C. ROBBEN. If JACOB predeceases distribution 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.

e. Eleven Percent (11%) to my sister-in-law, JEANETTE LEMA, currently residing at 4880 Rivendale Road, Placerville, CA 95667, if she is then living. If JOANNE RENEE MICHAEL predeceases distribution 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;

f. Eight and One-Half Percent (8.5%) to LINDA RUBULIAK, currently residing in Canada, if she is then living. It is the Trustor's desire, without imposing any legal obligation in this regard, that such gift shall be shared with Trustor's Canadian kin known to LINDA RUBULIAK in amounts in her sole and absolute discretion. If LINDA RUBULIAK predeceases distribution 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;

g. Five Percent (5%) to BECKY MONSOUR, currently residing at 1052 Pebble Beach Ct., Minden, NV 89423 (Tel. 775-267-3133), if she is then living. If BECKY MONSOUR predeceases distribution 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;

#### SCHEDULE A – PAGE 2

h. Two and One-Half Percent (2.5%) to GEORGE PERRY and MIDGE PERRY, or all to the survivor of them, currently residing at 11341 E Navarro Ave., Mesa, AZ 85209 (Tel. 480-272-8748. If both GEORGE PERRY and MIDGE PERRY predecease distribution 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;

i. Two and One-Half Percent (2.5%) to MARCELINE (aka "MARCI") FULBRIGHT (Tel. 775-350-8447), if she is then living. If MARCELINE FULBRIGHT predeceases distribution 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;

j. One and One-Half Percent (1.5%) to BARBARA LIVINGSTON, currently residing at 8144 Orchid Tree Way, Antelope, CA 95843 (Pbliv@aol.com), if she is then living. It is the Trustor's desire, without imposing any legal obligation in this regard, that such gift shall be shared with BARBARA LIVINGSTON'S children in amounts in her sole and absolute discretion. If BARBARA LIVINGSTON predeceases distribution 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;

k. One Percent (1%) to DENNIS SYLVIA, currently residing at 4007 Cortina Drive, Austin, TX 78749 (Tel. 512-289-8780), if he is then living. If DENNIS SYLVIA predeceases distribution 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;

l. One Percent (1%) to MARY THOMAS, currently residing at 3400 S. Centinela Avenue, Apt. 4, Los Angeles, CA 90066 (Tel. 310-397-4662), if she is then living. If MARY THOMAS predeceases distribution 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;

m. One Percent (1%) to ELAINE PELLETIER, currently residing at 1053 Pebble Beach Ct., Minden, NV 89423 (Tel. 775-392-0049), if she is then living. If ELAINE PELLETIER predeceases distribution 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;

n. One Percent (1%) to NINA ROUTON (Tel. 714-296-3336), if she is then living. If NINA ROUTON predeceases distribution 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;

o. One Percent (1%) to PHILIP FENSKE (pfenske@yahoo.com; Tel. 530-307-0123; or 530-541-5262), if he is then living. If PHILIP FENSKE predeceases distribution 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;

p. One-Half of One Percent (0.5%) to BARBARA GLASCOCK and BILL GLASCOCK, or all to the survivor of them, currently residing at 1053 Pebble Beach Ct., Minden, NV 89423 (Tel. 775-267-5041). If both BARBARA GLASCOCK and BILL GLASCOCK

SCHEDULE A – PAGE 3

Declaration of Trust; The Thomas J. Harris Trust dated June 12, 2019

predecease distribution 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;

q. One-Half of One Percent (0.5%) to AL PERONA and DAT PERONA, or all to the survivor of them, currently residing at 3441 Long Drive, Minden, NV 89423 (Tel. 775-267-2703). If both AL PERONA and DAT PERONA predecease distribution 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;

r. One-Half of One Percent (0.5%) to LYNN KEELY and LUKE KEELY, or all to the survivor of them, currently residing at 1056 Pebble Beach Ct., Minden, NV 89423 (Tel. 775-392-3202). If both LYNN KEELEY and LUKE KEELY predecease distribution 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;

s. One-Half of One Percent (0.5%) to GERALDINE COELHO, if she is then living. If GERALDINE COELHO predeceases distribution 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;

t. One-Half of One Percent (0.5%) to MARYANN SYLVIA, currently residing at 1558 Middle Lane, Hayward, CA 94554 (Tel. 510-783-2432), if she is then living. If MARYANN SYLVIA predeceases distribution 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;

u. One-Half of One Percent (0.5%) to JUDY GIALLONGO and MARIO GIALLONGO, or all to the survivor of them, currently residing at 921 Springfield Drive, Gardnerville, NV 89460 (Tel 775-265-0530). If both JUDY GIALLONGO and MARIO GIALLONGO predecease distribution 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;

v. One-Half of One Percent (0.5%) to ROBERTA REID, currently residing at 14911 Puerto Drive, Rancho Murieta, CA 95683 (grammiebreid@hotmail.com), if she is then living. If ROBERTA REID predeceases distribution 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;

w. One-Half of One Percent (0.5%) to JULIE ROSS, currently residing at 3933 Virginia Road, #207, Long Beach, CA 90807 (jross@csulb.edu), if she is then living. If JULIE ROSS predeceases distribution 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;

x. One-Half of One Percent (0.5%) to TARA FLANAGAN, currently residing at 2394 Mariner Square Drive #114, Alameda, CA 94501 (taraflan@aol.com), if she is then living. If TARA FLANAGAN predeceases distribution 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;

SCHEDULE A – PAGE 4

y. One-Half of One Percent (0.5%) to LAURIE DUNN and THOMAS DUNN, or all to the survivor of them, currently residing at 33 Daryl Drive, Orinda, CA 94563 (Tel. 925-254-2383). If both LAURIE DUNN and THOMAS DUNN predecease distribution 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;

z. One-Half of One Percent (0.5%) to TAMARA FLANAGAN, currently residing at 3737 North Country Club Road, #211, N. Tucson, AZ 85716 (Buffalogirl58@gmail.com), if she is then living. If TAMARA FLANAGAN predeceases distribution 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;

aa. One-Half of One Percent (0.5%) to MARK DEHAESUS, currently residing at 1829 Scott Road, Concord, CA 94519 (ukrainianfighter@yahoo.com), if he is then living. It is the Trustor's desire, without imposing any legal obligation in this regard, that such gift shall be shared with Trustor's MARK DEHAESUS's children in amounts in his sole and absolute discretion. If MARK DEHAESUS predeceases distribution 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;

bb. One-Half of One Percent (0.5%) to JOHN ROBBEN, whose current mailing address is P.O. Box 2386, Stateline, NV 89449 (johnnyaction@hotmail.com), if he is then living. If JOHN ROBBEN predeceases distribution 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; and

cc. One-Half of One Percent (0.5%) to ROSEMARY ROBBEN, currently residing at 1660 Quartz Drive, Auburn CA 95602 (Rosemaryrobben@yahoo.com), if she is then living. If ROSEMARY ROBBEN predeceases distribution 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

#### SCHEDULE A – PAGE 5

Declaration of Trust: The Thomas J. Harris Trust dated June 12, 2019



Paragraph A-4 above. If any effect of a personal nature is not saleable 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.

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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

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;

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(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,

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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.

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(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

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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;

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(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

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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  
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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

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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.

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(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

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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 an 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.

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Declaration of Trust: The Thomas J. Harris Trust dated June 12, 2019

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

Declaration of Trust: The Thomas J. Harris Trust dated June 12, 2019

# Exhibit 2

# Exhibit 2

1 Case No.: 2021-PB00034

2 Dept. No.: 1

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APR 02 2021

Douglas County  
District Court Clerk

FILED

2021 APR -6 PM 4:23

BOBBIE R. WILLIAMS  
CLERK

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

6 IN AND FOR THE COUNTY OF DOUGLAS

8 IN RE:

9 THE ESTATE OF THOMAS JOSEPH  
10 HARRIS,

11 Deceased.

ORDER ADMITTING WILL TO  
PROBATE AND ISSUING LETTERS  
TESTAMENTARY

14 The Petitioner, Scott Barton, having proved to the satisfaction of the Court that the time  
15 for hearing the verified Petition for Probate of Will and Issuance of Letters Testamentary (the  
16 "Petition") was, by the Clerk, set for April 6, 2021, and that notice of said hearing has been duly  
17 given as required by law, and the Court having reviewed the evidence finds that the facts alleged  
18 in said Petition are true and correct, and that said Petition for the Probate of Will and Issuance of  
19 Letters Testamentary should be granted.

20 The Court finds as follows:

21 1. Thomas Joseph Harris died on December 30, 2019, in the County of Washoe,  
22 State of Nevada, and at the time of his death was a resident of the County of Douglas, State of  
23 Nevada.

24 2. Said Decedent left personal property located within the state of Nevada at a value  
25 in excess of Three Hundred Thousand Dollars (\$300,000).

26 3. Decedent left a Last Will and Testament dated June 12, 2019 and such Will has  
27 been filed with the Clerk of this Court, as provided by law.

28 4. Decedent's Will dated June 12, 2019, was duly executed in all particulars as  
required by law, and at the time of the execution of this Will, the Decedent was of sound mind,

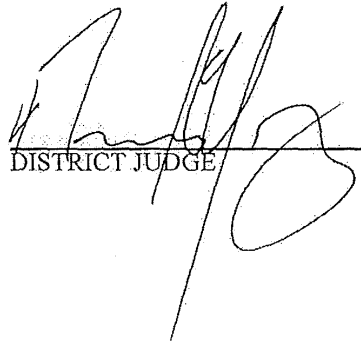
1 over the age of eighteen (18) and was not acting under undue influence or duress.

2 5. Decedent's Will appoints Scott Barton as Executor thereof, and Scott Barton has  
3 consented to act as Executor. The Will provides that no bond shall be required of Scott Barton.  
4 Scott Barton is qualified for and entitled to Letters Testamentary pursuant to the laws of the State  
5 of Nevada.

6 6. IT IS HEREBY ORDERED, the Will of the Decedent dated June 12, 2019, is  
7 admitted to probate as the Last Will and Testament of said Decedent.

8 7. IT IS FURTHER ORDERED that Scott Barton be appointed Executor of said  
9 estate, to serve without bond, and that Letters Testamentary shall issue to him upon his taking the  
10 oath required by law.

11 DATED: April 6, 2021

12   
13 DISTRICT JUDGE

14 Submitted by:

15 Abigail G. Stephenson (NV Bar 13593)  
16 BLANCHARD, KRASNER & FRENCH  
17 5470 Kietzke Lane, Suite 200  
18 Reno, Nevada 89511  
19 (775) 384-0022  
20 Attorneys for Petitioner  
21  
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# Exhibit 3

# Exhibit 3

1 CASE NO.: 2021 PB00034

2 DEPT NO.: I

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JUN 25 2021

Douglas County  
District Court Clerk

2021 JUL 27 PM 2:21

BOBBIE R. WILLIAMS  
CLERK

BY ~~A. PONCE~~ DEPUTY

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

9 IN RE:

10 THE ESTATE OF THOMAS JOSEPH  
11 HARRIS,

12 Deceased  
13 \_\_\_\_\_/

14 PROPOSED  
15 ORDER APPOINTING SUCCESSOR EXECUTOR  
16 AND ISSUING SUCCESSOR LETTERS TESTAMENTARY

17 Tara M. Flanagan, by and through her counsel of record, F. McClure Wallace  
18 and Patrick R. Millsap of Wallace & Millsap, petitioned this Court for appointment  
19 of Tara M. Flanagan as Successor Executor of the Estate of Thomas Joseph Harris  
20 ("Decedent").

21 The Court finds as follows:

22 The Decedent's Last Will and Testament was admitted to probate and  
23 Letters Testamentary were issue to Scott Barton on April 6, 2021.

24 Scott Barton, was appointed and qualified, but has resigned prior to  
25 completing the administration of the Estate.

26 There is a need to appoint a Successor Executor to complete the  
27 administration of the Estate.  
28

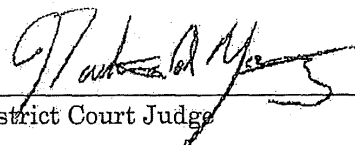
1 Tara M. Flanagan was nominated by the Decedent in his Will to serve as  
2 Successor Executor and has consented to serve.

3 Notice was served on all interested beneficiaries, and no objections to the  
4 appointment of Tara M. Flanagan as Successor Executor have been filed with this  
5 Court.  
6

7 **THEREFORE, IT IS ORDERED** that TARA M. FLANAGAN, has leave to  
8 qualify as Successor Executor by taking the required oath, and upon so doing,  
9 Successor Letters Testamentary shall issue.

10 **IT IS FURTHERED ORDERED** that the Letters Testamentary previous  
11 issued to Scott Barton are hereby rescinded.  
12

13 **SO ORDERED** this 27 day of July 2021.

14  
15   
16 District Court Judge

17 *Submitted by:*

18  
19 **WALLACE & MILLSAP**

20  
21 **F. MCCLURE WALLACE, ESQ.**

22 State Bar No. 10264

23 **PATRICK R. MILLSAP, ESQ.**

24 State Bar No. 12043

25 **WALLACE & MILLSAP LLC**

26 510 West Plumb Lane, Suite A

27 Reno, Nevada 89509

28 (775) 683-9599 Telephone

(775) 683-9597 Fax

*Attorneys for Petitioner*



# Exhibit 4

# Exhibit 4

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

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

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

12  
13 Deceased

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**CASE NO.: 2021 pb00034**

**DEPARTMENT: 1**

**NOTICE OF MOTION FOR  
CONTINUANCE AND MOTION FOR  
CONTINUANCE**

16  
17 This notice and motion for continuance is made by Todd C. Robben, the  
18 stepson of Thomas J. Harris. Todd C. Robben only recently learned of the death of  
19 Thomas J. Harris and Jeff D. Robben. This motion will be filed and made orally at the  
20 petition hearing on May 24<sup>th</sup> at 1:00pm in Department 1. This motion is made on the  
21 following points and authority.

22  
23 **MEMORANDUM OF POINTS AND AUTHORITY**

24  
25 Todd C. Robben was not notified of the death of Thomas J. Harris or Jeff D.  
26 Robben or any wills or trusts until the beginning on May 2022. Pursuant to local rule  
27 DCR 9 and NRS 155.160, Todd C. Robben objects to any final distribution and

1 requests a continuance to obtain counsel and file legal arguments and affidavits  
2 showing Jeff D. Robben had undue influence over Thomas J. Harris to which let to the  
3 disinheritance of Todd C. Robben in the last will and testament of Thomas J. Harris  
4 and Thomas J. Harris trust.

5 There appears to be no affidavit and reason as to why Todd C. Robben was  
6 disinherited. Nevada also mandate mandatory mediation pursuant to NRS 164.930.

7 In addition to undue influence, there appears to be fraud, embezzlement,  
8 misappropriation and theft of assets and they manner of how the trust was managed.  
9 See NRS 155.007 and NRCP Rule 60.

10  
11 **RELIEF REQUEST**  
12

13 Todd C. Robben objects to the final distribution and requests a continuance of  
14 up to six months to obtain legal counsel and evidence.  
15

16  
17 Respectfully signed under penalty of perjury,  
18

19 /s/ Todd Robben

20 05/23/2022  
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# Exhibit 5

# Exhibit 5

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

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

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**CASE NO.: 2021 PB00034**

**DEPARTMENT: 1**

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

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Petitioner, Todd Robben, respectfully requests the Court to appoint counsel pursuant to NRS § 136.200 since the Petitioner is an interested person pursuant to NRS § 132.185 and a non resident of Douglas County, Nevada.

The Petitioner is indigent and this Court has granted indigent status to file this motion without any filing fee. This petition is based on the following points and authority.

**MEMORANDUM OF POINTS & AUTHORITY**

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

1 Petitioner is an interested person who resides outside the county. The Petitioner, a  
2 "non-resident" of Douglas County, Nevada, Petitioner resides in Tuolumne County,  
3 California. "being non-residents — Judge Waters appointed appellant Flangas as their  
4 counsel pursuant to NRS 136.200." *Matter of Estate of Herrmann*, 677 P. 2d 594 -  
5 Nev. Supreme Court 1984

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

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

14 Petitioner, Todd Robben, the step-son of Thomas J. Harris and son of Olga  
15 Harris is an "interested person" pursuant to NRS 132.185 "Interested person"  
16 defined. "Interested person" means a person whose right or interest under an estate  
17 or trust may be materially affected by a decision of a fiduciary or a decision of the  
18 court. The fiduciary or court shall determine who is an interested person according to  
19 the particular purposes of, and matter involved in, a proceeding.

20 The Petitioner is indigent, the Court has granted Petitioner indigent status. At  
21 the hearing on May 24<sup>th</sup>, 2022 in this instant case, the Court granted the Petitioner's  
22 request for a continuance, "in an abundance of caution", and gave the Petitioner to  
23 June 21<sup>st</sup>, 2022 to obtain counsel.

24 The Petitioner being indigent and the short notice on top of holiday schedules  
25 for lawyers and COVID-19 and a long list of various "conflicts" of interests the  
26 Petitioner has been unable to secure legal counsel and counsel willing to work Pro  
27 Bono or on contingency.

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

6 This Petitioner requests the Court to grant the request and appoint a reputable  
7 and conflict free attorney "in an abundance of caution"... The Petitioner has a *prima*  
8 *facie* case of undue influence based on the undisputed facts that Jeff D. Robben, the  
9 brother of the Petitioner, was 1: The caretaker of Thomas J. Harris; 2: The Financial  
10 advisor for Thomas J. Harris; 3: Helped create the current Thomas J. Harris trust; 4.  
11 Had "undue influence" and "presumed undue influence" of Thomas J. Harris; 5: Jeff  
12 D. Robben influenced Thomas J. Harris to disinherit based on the animus and  
13 vexation of Jeff D. Robben.

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." Betherum, 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 Defendants' 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 asserts 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  
23

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 sus-  
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-charges-jackson-carson>  
17

18 and  
19 [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/)  
20 [murder/comment-page-2/](https://www.mtdemocrat.com/news/da-protester-charged-with-trying-to-solicit-murder/comment-page-2/)  
21

22 and here  
23 [https://www.mtdemocrat.com/news/charges-dropped-da-protester-out-of-](https://www.mtdemocrat.com/news/charges-dropped-da-protester-out-of-prison/)  
24 [prison/](https://www.mtdemocrat.com/news/charges-dropped-da-protester-out-of-prison/)  
25

26 All charges against South Tahoe resident Ty Robben have now been  
27 dropped in jailhouse HIT MAN to kill corrupt Carson City Judge Tatro and  
28

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  
unbiased.

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

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

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

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

- 25  
26 A. Extrajudicial Activities in General  
27 B. Quasi-judicial and Avocational Activities  
28 C. Governmental, Civic, or Charitable Activities

1       **D. Financial Activities**

2       **E. Fiduciary Activities**

3       F. Service as Arbitrator or Mediator

4       **G. Practice of Law**

5       **H. Compensation and Reimbursement**

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

12      “Silence can only be equated with fraud where there is a legal or moral  
13      duty to speak or where an inquiry left unanswered would be intentionally  
14      misleading.” *United States v. Prudden*, 424 F.2d 1021 p. 1032.(5th Cir. 1970),  
15      cert. denied, 400 U.S. 831, 91 S.Ct. 62, 27 L.Ed.2d 62 (1970).  
16

17      In an effort to carry out any litigation in this case, a court appointed lawyer  
18      is requested to act as an intermediary and legal counsel. The Petitioner cannot  
19      be subjected to false claims of harassment or threats to harm anyone. An honest  
20      lawyer will be able to work with the opposing counsel to obtain an amicable  
21      solution and justice for any criminal wrongdoings.  
22

23      In an abundance of caution, and in the interests and furtherance of justice,  
24      the Petitioner has a “statutory right” to counsel in this matter and the Court has  
25      an opportunity to remedy the situation simply by appointing counsel to which any  
26  
27  
28

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

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 tolls and  
11 resources to accomplish justice and a fair remedy  
12

13  
14 Respectfully signed under penalty of perjury,  
15

16  
17 /s/ Todd Robben

18 June 15, 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 (month) June (day) 15th, 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 15th day of June, 2022

Submitted By: /s/ Stephen James Robben



# Exhibit 6

# Exhibit 6

Wallace & Millsap  
510 W Plumb Ln., Reno, Nevada / (775) 683-9599

1 CASE NO.: 2021 PB00034

2 DEPT NO.: I

RECEIVED

JUN 22 2022

Douglas County  
District Court Clerk

FILED

2021 JUN 22 AM 11:04

ROOSEVELT WILLIAMS  
CLERK

M. CARNEY JURY

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4  
5 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
6  
7 IN AND FOR THE COUNTY OF DOUGLAS

8 IN RE:

9 THE ESTATE OF THOMAS JOSEPH  
10 HARRIS,

Deceased

11  
12 ORDER GRANTING PETITION TO CONFIRM FIRST AND FINAL  
13 ACCOUNTING, REQUEST FOR FINAL DISTRIBUTION, AND REQUEST  
14 FOR PAYMENT OF PROFESSIONAL'S FEES AND COSTS

15 Tara M. Flanagan, in her capacity as the Court appointed Personal  
16 Representative (aka "Successor Executor") of the Estate of Thomas Joseph Harris  
17 (the "Estate"), by and through her counsel of record, F. McClure Wallace and Patrick  
18 R. Millsap of Wallace & Millsap, has presented her Petition to Confirm First and  
19 Final Accounting, Request for Final Distribution and Request for Payment of  
20 Professional Fees and Costs (the "Petition").

21 The Court conducted a properly noticed hearing on the Petition on May 24,  
22 2022. The Court received no objections to the Petition. However, also on or about  
23 May 24, 2022, Mr. Todd Robben filed a *Notice of Motion for Continuance and Motion*  
24 *for Continuance* requesting up to a six-month continuance of the matter. Based on  
25 the presentations of Mr. Robben and Counsel for the Estate at the hearing, the Court  
26 granted Mr. Robben a short extension to demonstrate a basis upon which he could  
27 assert any standing in this matter, continuing the hearing on the Petition to June 21,  
28 2022. Thereafter, Mr. Robben filed a *Request for Appointment of Counsel* on June 15,

1 2022. The Court then conducted a continued hearing for approval of the Petition on  
2 June 21, 2022. Again, the Court received no objections to the Petition beyond the  
3 filings and presentation of Mr. Robben. Counsel for the Estate argued in favor of  
4 granting the Petition and presented legal arguments in opposition to Mr. Robben's  
5 filings and oral presentation, namely that Mr. Robben is not an interested person in  
6 this matter as defined by NRS 132.185, and as such lacks standing to object to the  
7 Petition or be appointed counsel by the Court pursuant to NRS 136.200.

8 Having considered the Personal Representative's Petition, Mr. Todd Robben's  
9 filings, and having heard the presentation of the Personal Representative by and  
10 through her Counsel, as well as the presentation of Mr. Todd Robben, appearing in  
11 *pro per*, the Court finds as follows:

12 FINDINGS AND ORDER

13 1. Thomas Joseph Harris (the "Decedent") died on December 30, 2019, as  
14 a resident of Douglas County, Nevada.

15 2. The Decedent's death was caused by a motor vehicle accident in Washoe  
16 County, Nevada on or about December 19, 2019. The Decedent was not at fault for  
17 the motor vehicle accident.

18 3. The Last Will and Testament of Thomas Joseph Harris was duly lodged  
19 with this Court on April 6, 2021.

20 4. The Decedent's Last Will and Testament is a pour over will, identifying  
21 the Decedent's Trust as the beneficiary of his Will. The Decedent's Trust is The  
22 Declaration of Trust Known as the Thomas J. Harris Trust, Dated June 12, 2019 (the  
23 "Decedent's Trust" or the "Trust").

24 5. The Decedent's Last Will and Testament identified the following line of  
25 Executors: Jeff Robben, Scott Barton, and Tara Flanagan.

26 6. On March 10, 2021, Scott Barton filed his *Verified Petition for Letters of*  
27 *Special Administration (NRS 140.010) and for Probate of Will and Issuance of Letters*  
28 *Testamentary (NRS 136.090)*. Mr. Barton was the appropriate individual to seek

1 appointment as the Personal Representative of the Estate because the first  
2 nominated executor, Mr. Robben, had passed away on November 11, 2020.

3 7. On April 6, 2021, this Court entered its *Order Admitting Will to Probate*  
4 *and Issuing Letters Testamentary* appointing Scott Barton to serve as the Personal  
5 Representative of the Estate. Consistent with the Court's Order, Letters  
6 Testamentary were issued to Scott Barton on April 22, 2021.

7 8. Upon information and belief, pursuant to his appointment as the  
8 Estate's Personal Representative, Scott Barton began his efforts to administer the  
9 Decedent's Estate. Namely for purposes of this Petition, Mr. Barton continued Mr.  
10 Robben's previously initiated efforts to prosecute the wrongful death claims related  
11 to the Decedent's death, including retaining Ms. Julie Throop, Esq. to represent the  
12 Estate regarding the wrongful death of the Decedent.

13 9. By and through its retained litigation Counsel, the Estate was able to  
14 reach a pre-litigation resolution of all claims regarding the wrongful death of the  
15 Decedent, as discussed in greater detail below.

16 10. Thereafter, and before completing the negotiated settlement or gaining  
17 Court approval of the settlement on behalf of the Estate, Scott Barton notified Tara  
18 Flanagan he was resigning as the Personal Representative of the Estate.

19 11. Consistent with her nomination as the next named executor of the  
20 Estate by the Decedent's Will, Ms. Flanagan filed her *Petition for Appointment of*  
21 *Successor Executor and for Issuance of Letters Testamentary* on June 25, 2021.

22 12. On July 27, 2021, the Court entered its *Order Appointing Successor*  
23 *Executor and Issuing Successor Letters Testamentary*, and on August 17, 2021, the  
24 Court issued Letters Testamentary to Tara M. Flanagan.

25 13. Pursuant to her appointment as the Personal Representative of the  
26 Estate, on August 30, 2021, Ms. Flanagan filed her Petition to Approve Settlement  
27 (the "Petition"), seeking this Court's confirmation of the settlement negotiated by Mr.  
28 Barton and Ms. Throop on behalf of the Estate regarding the Decedent's death, as

1 well as authorizing Ms. Flanagan, in her capacity as the Estate's Personal  
2 Representative, to complete all remaining steps necessary to effectuate the  
3 settlement for the benefit of the Estate.

4 14. Thereafter, the Court held a hearing on September 9, 2021 on the  
5 Personal Representative's Petition. The hearing was attended by Thomas A. Harris,  
6 Counsel for Mr. Thomas A. Harris, the Personal Representative, Counsel for the  
7 Personal Representative, and the Estate's wrongful death Counsel, Julie Throop, Esq.  
8 At the hearing the Judge heard from all Counsel regarding the issue of Ms. Throop's  
9 attorney fees as raised by Mr. Thomas A. Harris by and through his Counsel. At the  
10 conclusion of the hearing, Mr. Harris withdrew any objection he had previously  
11 presented to Ms. Throop's fees incurred as wrongful death Counsel for the Estate. As  
12 a result, there is no objection before the Court to the Petition to Approve the  
13 Settlement filed by the Personal Representative, nor any objection to the settlement  
14 placed before the Court for confirmation.

15 15. On September 9, 2021 the Court entered its *Order Granting Petition to*  
16 *Approve Settlement.*

17 16. Pursuant to the Court's *Order Granting Petition to Approve Settlement*  
18 Tara M. Flanagan, in her capacity as the Estate's Personal Representative, finalized  
19 the settlement for the benefit of the Estate and deposited all settlement proceeds in  
20 the Estate's bank account. The Court finds Ms. Flanagan's efforts in this regard to  
21 have been dutifully and properly fulfilled.

22 17. On April 15, 2022, the Personal Representative filed the subject *Petition*  
23 *to Confirm First and Final Accounting, Request for Final Distribution, and Request*  
24 *for Payment of Professional's Fees and Costs.*

25 18. Shortly thereafter, the Estate's Inventory and Record of Value was  
26 appropriately filed.

27 19. As reported in the Personal Representative's Petition, Notice to  
28 Creditors was properly filed on April 22, 2021, and published in the Record Courier

1 on April 29, May 6, and May 13, 2021. Proof of Publication of the Notice to Creditors  
2 was filed with the Court on May 20, 2021. No creditor's claims were filed against the  
3 Estate.

4 20. All tax returns appropriately required of the Decedent have been filed.  
5 A final estate tax return will be filed. There is no known liability due on this return.

6 21. The Administrator has received no other communication or inquiry from  
7 any other taxing authority or any other claimant.

8 22. The acts of the Tara Flanagan, in her capacity as the Successor  
9 Executor, are ordinary, necessary, and reasonable without exception.

10 23. After all administrative expenses, legal expenses, and claims have been  
11 paid, all remaining assets, including any after discovered assets, will be distributed  
12 to the Estate's sole beneficiary, the Thomas J. Harris Trust, dated June 12, 2019.

13 24. The time necessary for the Successor Executor to complete the tasks  
14 required of her has been ordinary, necessary, and reasonable.

15 25. The gross value of the Estate for computing the Petitioner's Commission  
16 is \$620,000.00.

17 26. Pursuant to NRS 150.020, the Petitioner is entitled to \$13,550.00 in  
18 ordinary compensation.

19 27. Counsel has rendered valuable services to the Petitioner.

20 28. The rates charged by Wallace & Millsap LLC are ordinary, necessary,  
21 and reasonable.

22 29. The services performed by Wallace & Millsap LLC are appropriate,  
23 necessary, and reasonable without exception.

24 30. Wallace & Millsap LLC has requested the sum \$20,638.00 in attorney's  
25 fees.

26 31. Wallace & Millsap LLC has requested the sum of \$994.78 for costs  
27 advanced.

28 32. Finally, upon thorough review by this court, including review of Mr.

1 Robben's written filings and hearing Mr. Robben's oral presentation at both the May  
2 24, 2022 hearing as well as the June 21, 2022 continued hearing, the Court  
3 determines Mr. Robben is not an "interested person" in this Estate as defined by NRS  
4 132.185, and as such has no standing to object to the Petition, be appointed Counsel,  
5 or otherwise appear in this proceeding. Specifically, the Court heard from Mr.  
6 Robben, and after giving him additional time, Mr. Robben was unable to present any  
7 legal basis or admissible evidence to potentially allow a determination he is an  
8 interested person in this Estate. Therefore, Mr. Todd Robben is not an interest  
9 person to this Estate, and as such has no standing to oppose or object to the Petition,  
10 or to otherwise appear in these proceedings.  
11

12 **WHEREFORE**, as a result of the foregoing, considering the *Petition to*  
13 *Confirm First and Final Accounting, Request for Final Distribution, and Request for*  
14 *Payment of Professional's Fees and Costs* filed by the Personal Representative,  
15 considering Mr. Todd Robben's *Notice of Motion for Continuance and Motion for*  
16 *Continuance*, and hearing the presentation of Counsel and Mr. Robben, the Court  
17 having good cause **ORDERS** as follows:

- 18 A. The First and Final Accounting of the Estate is approved without  
19 exception.  
20 B. The acts of the Personal Representative with respect to the  
21 administration of the Estate are confirmed without exception  
22 C. It was proper to generally administer this Estate.  
23 D. There were no known prior distributions.  
24 E. The Personal Representative's requested ordinary fees and costs are  
25 necessary and reasonable in all respects.  
26 F. The Personal Representative is authorized and directed to pay herself  
27 \$13,550.00 in ordinary fees.  
28

- 1 G. All actions and services rendered by Counsel for the Personal  
2 Representative were reasonable and appropriate.
- 3 H. Counsel for the Personal Representative's requested fees and costs were  
4 necessary and reasonable in all respects.
- 5 I. The Personal Representative is authorized and directed to pay the law  
6 firm of Wallace & Millsap LLC, the sum of \$20,638.00 as compensation  
7 for legal services rendered, and to be rendered by said attorney and  
8 paralegal for the benefit of the Estate.
- 9 J. The Personal Representative is authorized and directed to pay the law  
10 firm of Wallace & Millsap LLC, the sum of \$994.78 for costs advanced  
11 and to be advanced in this Estate, for a total payment of fees and costs  
12 in the amount of \$21,632.78.
- 13 K. The Personal Representative is authorized and directed to holdback  
14 \$5,000.00 for completion of all the Estate's tax needs, including paying  
15 the final accounting fees of the Estate.
- 16 L. After all administrative expenses and professional fees are paid, the  
17 Personal Representative is authorized and directed to distribute the  
18 Estate's remaining assets, including any after discovered assets to The  
19 Declaration of Trust Known as the Thomas J. Harris Trust, Dated June  
20 12, 2019, by and through Tara Flanagan as Successor Trustee.
- 21  
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*Wallace & Millsap*  
510 W Plumb Ln., Reno, Nevada / (775) 683-9599

1 M. The Personal Representative shall complete any and all remaining task  
2 necessary to complete the administration of this Estate, at which time  
3 the Executor shall request her discharge from this Court,

4 N. Mr. Todd Robben is not an interested person in this matter, has no  
5 standing in the proceedings, and as such his Request for Appointment  
6 of Counsel is denied.

7  
8  
9 IT IS SO ORDERED this 22 day of June 2022.

10  
11   
12 District Court Judge

13 Submitted by:

14  
15 WALLACE & MILLSAP

16 /s / F. McClure Wallace

17 F. MCCLURE WALLACE, ESQ.

18 State Bar No. 10264

19 PATRICK R. MILLSAP, ESQ.

20 State Bar No. 12043

21 WALLACE & MILLSAP LLC

22 510 West Plumb Lane, Suite A

23 Reno, Nevada 89509

(775) 683-9599 Telephone

(775) 683-9597 Fax

24 Attorneys for Petitioner  
25  
26  
27  
28

# Exhibit 7

# Exhibit 7

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

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

8  
9  
10 IN RE: THE ESTATE OF THOMAS  
11 JOSEPH HARRIS,

12  
13 Deceased

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CASE NO.: 2021 PB00034

NOTICE OF APPEAL

DEPARTMENT: 1

JUDGE: Nathan Tod Young

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Petitioner, Todd C. Robben appeals the decision, order and judgment pursuant to NRS §§ 155.190 from Judge Nathan Tod Young on June 21, 2022<sup>1</sup> denying Petitioner counsel and granting the final accounting and final distribution in the above titled case.

Respectfully,



/s/ Todd Robben

06/27/2022

\_\_\_\_\_  
<sup>1</sup> 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 8

# Exhibit 8

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

# Exhibit 9

# Exhibit 9



RECEIVED

JUL 13 2022

Douglas County  
District Court Clerk

FILED

2022 JUL 13 AM 10:59

BOBBIE R. WILLIAMS  
CLERK

G. WALKER  
BY \_\_\_\_\_ DEPUTY

1 Case No. 2021-PB-00034

2 Dept. No. I

3  
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5  
6 IN THE NINTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

7 IN AND FOR THE COUNTY OF DOUGLAS

8  
9 In Re:

10 The Estate of

11 THOMAS JOSEPH HARRIS,

12 Deceased.  
13 \_\_\_\_\_/

ORDER

14 THIS MATTER comes before the court upon the following filings: "Emergency  
15 Stay Request[;] Emergency Verified Motion to Reconsider; Request for Calcification;  
16 Notice of Non Hearsay Proof of The Thomas Joseph and Olga Harris Living Trust" filed  
17 on June 22, 2022; Supplemental Points and Authorities filed on June 23, 2022; "Motion to  
18 Expedite Stay Request Pending Reconsideration[;] Request for Submission" filed on June  
19 24, 2022; an opposition filed on July 1, 2022; and "Petitioner's Reply in Support of  
20 Emergency Stay Request & Emergency Verified Motion to Reconsider; Request for  
21 Clarification; Notice of Non Hearsay Proof of The Thomas Joseph and Olga Harris Living  
22 Trust" filed on July 5, 2022.

23  
24  
25 Having examined all relevant pleadings and papers on file herein, the court now  
26 enters the following order, good cause appearing:

27 THAT the requests set forth above are DENIED.

28 An "Order Granting Petition to Confirm First and Final Accounting, Request for

HON. NATHAN T. YOUNG  
9TH JUDICIAL DISTRICT JUDGE  
DOUGLAS COUNTY  
P.O. BOX 218  
MINDEN, NV 89423

RA - 457

1 Final Distribution, and Request for Payment of Professional's Fees and Costs" was entered  
2 in writing on June 22, 2022. A Notice of Appeal was filed on June 27, 2022, by Todd  
3 Robben, with a Case Appeal Statement filed on June 28, 2022. An Order Dismissing  
4 Appeal issued on July 8, 2022, by the Supreme Court of the State of Nevada.  
5

6 Separate from the appeal, Todd Robben requests this court reconsider the ruling set  
7 forth within the Order dated June 22, 2022. "A district court may reconsider a previously  
8 decided issue if substantially different evidence is subsequently introduced or the decision  
9 is clearly erroneous." *Masonry and Tile Contractors Ass'n of S. Nev. v. Jolley, Urga &*  
10 *Wirth, Ltd.*, 113 Nev. 737, 741, 941 P.2d 486, 489 (1997). Reviewing the filings entered  
11 after the written order issued on June 22, 2022, the court does not find substantially  
12 different evidence subsequently introduced or that the court's decision is clearly erroneous.  
13 Therefore, the motion to reconsider is denied.  
14

15 Tod Robben also requests this court's order dated June 22<sup>nd</sup> be stayed. The  
16 Supreme Court of the State of Nevada considers the following factors in deciding whether  
17 to issue a stay:  
18

- 19 (1) whether the object of the appeal will be defeated if the stay is denied;
- 20 (2) whether appellant will suffer irreparable or serious injury if the stay is denied;
- 21 (3) whether respondent will suffer irreparable or serious injury if the stay is granted; and
- 22 (4) whether appellant is likely to prevail on the merits in the appeal.

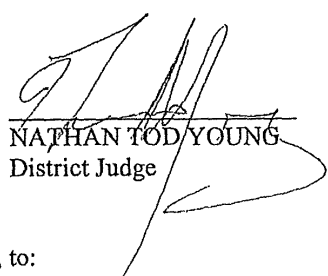
23 *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 251, 89 P.3d 36, 38 (2004) (citing *NRAP*  
24 *8(c)*); *see also Fritz Hansen A/S, Petitioner v. Eighth Jud. Dist. Ct.*, 116 Nev. 650, 657,  
25 6 P.3d 982, 986 (2000). "We have not indicated that any one factor carries more weight  
26 than the others, although *Fritz Hansen A/S v District Court* recognizes that if one or two  
27 factors are especially strong, they may counterbalance other weak factors." *Mikohn*  
28

1 *Gaming Corp.*, 120 Nev. at 251, 89 P.3d at 38.

2       Considering the appeal has now been dismissed, it does not appear likely that  
3 appellant is to prevail on the merits given that the object of the appeal has already been  
4 defeated. The court finds this to be an especially strong factor. Balancing the relevant  
5 considerations, the court finds insufficient reason to grant the requested stay.  
6

7       IT IS SO ORDERED.

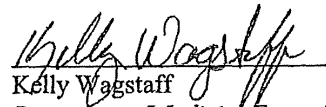
8       Dated this 13 day of July, 2022.

  
NATHAN TODD YOUNG  
District Judge

11       Copies served by mail this 13 day of July, 2022, to:

13       Wallace & Millsap  
14       510 W. Plumb Lane, Suite A  
14       Reno, NV 89509

15       Todd Robben  
16       P.O. Box 4251  
16       Sonora, CA 95370

  
Kelly Wagstaff  
Department I Judicial Executive Assistant