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Lincoln County - NV

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RECORDING COVER PAGE

APN# 001-091-08

002-182-04

002-152-10



TITLE OF DOCUMENT

Order Granting Petition to Set Aside Estate Without Probate

RECORDING REQUESTED BY:

Kirk D. Kaplan, Esq.

RETURN TO: Name Crest Key, Prof., LLC

Address 6980 O'Bannon Drive, Suite 100

City/State/Zip Las Vegas, NV 89117

MAIL TAX STATEMENT TO:

Name Mariane H. Wilcox

Address 404 MacArthur Way

City/State/Zip Las Vegas, Nevada 89107



Alan D. Johnson
CLERK OF THE COURT

ORDR
Kirk D. Kaplan, Esq.
Nevada Bar No.: 005685
CREST KEY, PROF., L.L.C.
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Attorney for Estate of Robert D. Wilcox

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

In the Matter of the Estate of

Robert D. Wilcox,

Deceased.

Date of Hearing: Friday, May 6, 2016
Time of Hearing: 09:30 A.M.

Case No.: P-16-088204-E
Dept. No.: PC1

ORDER GRANTING PETITION TO SET ASIDE ESTATE WITHOUT PROBATE

The Court having reviewed the Petition by Mariane H. Wilcox, (hereinafter referred to as "Wilcox"), by and through her legal counsel Kirk D. Kaplan, Esq., of CREST KEY, PROF., L.L.C. to set aside the Estate of Robert D. Wilcox without probate, the hearing upon which was initially set by the clerk of the above entitled Court for the above-referenced date and time, the Court having considered the Petition, and examined the evidence, being fully advised in the premises finds the follows:

1. Proper notice of hearing was given to the interested party as required by law.
2. Having not received any objections, the averments in the Petition are assumed true and correct.

JURISDICTION

3. Robert D. Wilcox (the "Deceased") died intestate on October 18, 2010, in Butte, Montana, but on the date of death, Deceased was a resident of Clark County, Nevada. Deceased died seized of property located in Lincoln County, Nevada.

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- DISPOSITIONS**
- Voluntary Dismissal
 - Dismissal (before/during trial)
 - Involuntary Dismissal (statutory)
 - Judgment on Arbitration Award
 - Stipulated Dismissal
 - Stipulated Judgment
 - Summary Judgment
 - Non-Jury (bench) Trial
 - Jury Trial

QUALIFICATIONS OF WILCOX TO SERVE AS REPRESENTATIVE

4. Wilcox is the Deceased's surviving spouse and heir of the Estate, and thus has priority to be appointed as the legal representative of the Estate.

5. The requirement of posting of a bond by Wilcox is dispensed with because the Estate described herein will be set aside as more fully described below, and she will receive the whole estate of the Deceased.

6. Wilcox is a resident of Clark County, is over the age of majority, has never been convicted of a felony, and is qualified in every respect under the provisions of NRS §139.010 to act as the representative of the Estate of the Deceased and is competent and capable as acting as such and consented to act as the representative of the Estate of the Deceased. Wilcox's permanent address is 404 MacArthur Way, Las Vegas, Nevada 89107.

INTERESTED PERSON(S)/ HEIR(S) OF DECEASED

7. The names, ages, relationships and residence addresses of the heirs and next-of-kin of Deceased are:

<u>NAME</u>	<u>AGE/ RELATIONSHIP</u>	<u>ADDRESS</u>
Frank R. Wilcox, Jr. (D.O.D.: 3/15/2002)	Sibling/Predeceased Joint Tenant	
Mariane D. Wilcox	Petitioner/Adult/ Surviving Spouse/ Intestate Heir	404 MacArthur Las Vegas, Nevada 89107
Teri Stolworthy	Adult/Daughter/Intestate Heir	1009 Sagerock Way Las Vegas, Nevada 89031
Lani Wilcox	Adult/Daughter/Intestate Heir	279 E. Belmont Salt Lake City, Utah 84111

8. NRS §134.040(s) provides "If the descendant leaves a surviving spouse and more than one child living, or a child and the lawful issue of one or more deceased children, the estate goes one-third to the surviving spouse and the remainder in equal shares to the children and the lawful issue of any deceased child by right of representation."

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1 9. In the case at bar, pursuant to NRS §134.040(2), property of the Estate and value will
2 be distributed to the following heirs:

<u>HEIR</u>	<u>PORTION OF ESTATE</u>
Mariane H. Wilcox	1/3
Teri Stolworthy	1/3
Lani Wilcox	1/3
Total:	<u>3/3</u>

7 10. NRS §151.005 provides that the heirs "may agree among themselves to alter the[ir]
8 interests under the laws of intestacy." Teri Stolworthy and Lani Wilcox altered all their
9 interests to Mariane H. Wilcox.

10 **DESCRIPTION OF PROPERTY TO BE SET ASIDE AND ESTIMATED VALUE**

11 11. At the date of death of the Deceased, three (3) parcels of real property located in
12 Lincoln County, Nevada, with four (4) shares of Panaca Irrigation Company, was titled to Frank R.
13 Wilcox, Jr. described in finding 7, and the Deceased, as joint tenants with right of survivorship,
14 more specifically described as follows:

15 a. **Property 1 (Parcel # 001-091-08)**

16 The real property in the County of Lincoln State of Nevada described as:

17 An undivided one half interest in Lots Eighteen (18) and Nineteen (19) in Block
18 Thirty-one (31) in the town of Pioche, Nevada.

19 SUBJECT TO: Reservations, restrictions and conditions if any: rights of way and
20 easements either of record or actually existing on said premises.

21 Together with all and singular the tenements, hereditaments and appurtenances
22 thereunto belonging or in anywise appertaining.

23 Parcel # 001-091-08

24 The taxable valuation of the Lincoln County Assessor's Office for the Year 2016-17 shows
25 that the value of the property is \$3,151.00. The taxable valuation reported by the Lincoln County
26 Assessor's Office is a fair representation of the value of the real property.

27 b. **Property 2 (Parcel # 002-152-10)**

28 The real property in the County of Lincoln State of Nevada described as:

An undivided one half interesting a portion of Lot One (1) in Block Thirty-five
(35) in the town of Panaca, Nevada, described as follows: Beginning at a point 58

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feet North of the Southwest corner of said Lot 1 and running thence North 57-3/4 feet; thence East 132 feet; thence South 57-3/4 feet; thence West 132 feet to the place of beginning. Also 3 shares of water in the Panaca Irrigation Company.

SUBJECT TO: Reservations, restrictions and conditions if any: rights of way and easements either of record or actually existing on said premises.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Parcel # 002-152-10

The taxable valuation of the Lincoln County Assessor's Office for the Year 2016-17 shows that the value of the property is \$7,311.00. The taxable valuation reported by the Lincoln County Assessor's Office is a fair representation of the value of the real property.

c. Property 3 (Parcel # 002-182-04)

The real property in the County of Lincoln State of Nevada described as:

All of the South half of Lot Three (3) in Block Thirty-four (34) in the town of Panaca, Nevada, together with one share of water in the Panaca Irrigation Company.

SUBJECT TO: Reservations, restrictions and conditions if any: rights of way and easements either of record or actually existing on said premises.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Parcel # 002-182-04

The taxable valuation of the Lincoln County Assessor's Office for the Year 2016-17 shows that the value of the property is \$29,200.00. The taxable valuation reported by the Lincoln County Assessor's Office is a fair representation of the value of the real property.

The total combined estimated value of all the property is \$39,662.00, and thus the character and estimated value of the property of the Estate of Deceased is less than \$100,000.00.

AFFIDAVIT TERMINATING JOINT TENANCY

12. The Deceased was the surviving joint tenant of Frank R. Wilcox, Jr. described in finding 7, so he held a 100% interest in the real property listed in finding 11.

1 13. However, the Deceased failed to record Affidavit Terminating Joint Tenancy
2 evidencing the death of Frank R. Wilcox, Jr. with the Lincoln County Recorder's Office, and as
3 such the title to the real property was not vested solely in the Deceased's name at death.

4 14. To convey the real property, Wilcox requested the authority to take all necessary
5 actions and sign all necessary documents on behalf of the Deceased and Frank R. Wilcox, Jr., which
6 includes authority to sign and record an Affidavit Terminating Joint Tenancy Property and the
7 deeds.

8 **OTHER REQUIREMENTS OF NRS §146.070**

9 15. More than thirty (30) days have passed since the date of death of the Deceased.

10 16. All other debts of the Deceased have been paid in full, and Wilcox has agreed to pay
11 all liabilities of the Deceased, if any, as may be subsequently discovered from the Deceased's Estate
12 until the value of the Estate is exhausted.

13 **WHEREFORE**, the value of the estate is estimated to be \$39,662.00 and Teri Stolworthy
14 and Lani Wilcox have validly altered their interests to Mariane H. Wilcox, and as such the Petition
15 ought to be granted for good cause appearing, therefore:

16 **IT IS THEREFORE ORDERED, ADJUDGED AND DECREED**, that the total value of
17 the Estate of Robert D. Wilcox does not exceed the sum of \$100,000.00, and therefore the Estate of
18 Robert D. Wilcox is set aside without probate to Mariane H. Wilcox the following described
19 property:

20 **a. Property 1 (Parcel # 001-091-08)**

21 The real property in the County of Lincoln State of Nevada described as:

22 An undivided one half interest in Lots Eighteen (18) and Nineteen (19) in Block
23 Thirty-one (31) in the town of Pioche, Nevada.

24 **SUBJECT TO:** Reservations, restrictions and conditions if any: rights of way and
25 easements either of record or actually existing on said premises.

26 Together with all and singular the tenements, hereditaments and appurtenances
27 thereunto belonging or in anywise appertaining.

28 Parcel # 001-091-08

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b. Property 2 (Parcel # 002-152-10)

The real property in the County of Lincoln State of Nevada described as:

An undivided one half interesting a portion of Lot One (1) in Block Thirty-five (35) in the town of Panaca, Nevada, described as follows: Beginning at a point 58 feet North of the Southwest corner of said Lot 1 and running thence North 57-3/4 feet; thence East 132 feet; thence South 57-3/4 feet; thence West 132 feet to the place of beginning. Also 3 shares of water in the Panaca Irrigation Company.

SUBJECT TO: Reservations, restrictions and conditions if any: rights of way and easements either of record or actually existing on said premises.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Parcel # 002-152-10

c. Property 3 (Parcel # 002-182-04)

The real property in the County of Lincoln State of Nevada described as:

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SUBJECT TO: Reservations, restrictions and conditions if any: rights of way and easements either of record or actually existing on said premises.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in anywise appertaining.

Parcel # 002-182-04

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Mariane H. Wilcox is authorized as legal representative of the Estate.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the requirement of posting of a bond by Mariane H. Wilcox as legal representative of the Estate of Deceased is dispensed with.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Mariane H. Wilcox is to pay and provide for all existing or subsequently discovered liabilities, if any, of the Deceased from the Deceased's Estate until the value of the Estate is exhausted

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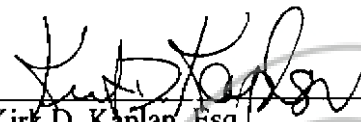
1 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that Mariane H. Wilcox
2 shall possess requisite authority to take all necessary actions to sign all necessary documents to
3 transfer the above-described properties and to perform such other actions to carry out the Orders
4 herein, which includes the authority to sign and record an Affidavit Terminating Joint Tenancy
5 Property and deeds.

6 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED**, that if additional property
7 is discovered and the value of the same causes the estate to exceed \$100,000.00, Mariane H. Wilcox
8 shall petition the Court for the appropriate level of probate.

9 Dated this 6th day of May, 2016.


District Court Judge SW

11 Dated this 25th day of April, 2016.

12
13 
14 Kirk D. Kaplan, Esq.
15 Nevada Bar No.: 005685
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OF THE ORIGINAL ON FILE


CLERK OF THE COURT

MAY 06 2016