

02-

Doc Number: **0811011**

10/16/2012 03:39 PM

OFFICIAL RECORDS

Requested By
Rowe & Hales

DOUGLAS COUNTY RECORDERS
Karen Ellison - Recorder

Page: 1 Of 9

Fee: \$ 22.00

Bk: 1012 Pg: 4274



Deputy: gb

APN: 1320-03-001-014

**RECORDING REQUESTED BY AND
MAIL TO:**

MICHAEL SMILEY ROWE, ESQ.
1638 Esmeralda Avenue
Minden, NV 89423

Pursuant to NRS 239B.030(4), I affirm that
the instrument contained below (or attached
hereto) does not contain the social
security number of any person

**ORDER
TERMINATING GUARDIANSHIP
OF PERSON AND ESTATE**

COPY

RECEIVED
OCT 15 2012
DOUGLAS COUNTY
DISTRICT COURT CLERK

FILED

2012 OCT 15 PM 1:53

TED THUAN
CLERK

K. WILFERT DEPUTY

1 CASE NO. 10-PB-0089
2 DEPT. NO. II
3 The undersigned affirms
4 that this document contains
no Social Security Number

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

8 In the Matter of the
9 Guardianship

**ORDER TERMINATING GUARDIANSHIP
OF PERSON AND ESTATE; APPROVING
FINAL ACCOUNTING; APPROVING
PAYMENT OF FEES AND COSTS; AND
ORDER CLOSING ESTATE AND
HONORABLY DISCHARGING GUARDIAN**

10 of
11 MARILYN DUDLEY,
12 Adult Ward.

13
14 **THIS MATTER** came on before the Court on the 15th day of October,
15 2012, on the Verified Petition for Termination of Guardianship of
16 Person and Estate; for Approval of Final Accounting; for Approval of
17 Payment of Fees and Costs; and for Order Closing Estate and Honorably
18 Discharging Guardian ("Petition") filed by CLAUDETTE SPRINGMEYER,
19 Douglas County Public Guardian ("Petitioner") and Guardian of the
20 person and estate of MARILYN DUDLEY, Deceased ("Decedent" or "Ward"),
21 by and through her counsel MICHAEL SMILEY ROWE, ESQ. of ROWE HALES
22 YTURBIDE, LLP. Present in Court were Amy Crowe, Esq., Deputy Attorney
23 General, representing Medicaid Estate Recovery, and Susan Dudley and
24 Frederick Dudley, in *propria persona*, the Ward's sister and brother.

25 Based upon the verified Petition, and on all pleadings on
26 file herein, and good cause appearing, the Court:
27
28

///

Mailing Address
P.O. Box 2080
Minden, NV 89423
Facsimile (775)782-3685

Rowe Hales Yturbe
Attorneys At Law

Physical Address
1638 Esmeralda Avenue
Minden, NV 89423
(775) 782-8141

Mailing Address
P.O. Box 2080
Minden, NV 89423
Facsimile (775)782-3685

Rowe Hales Yturbe
Attorneys At Law

Physical Address
1638 Esmeralda Avenue
Minden, NV 89423
(775) 782-8141

1 FINDS, CONCLUDES AND ORDERS as follows:

2 1. The guardianship estate should be terminated for the reason
3 that the Ward died on 2 July 2012 at Regent Care Center in Reno,
4 Nevada. A certified copy of the death certificate of the Ward was
5 attached to the Petition as Exhibit "A".

6 Based upon the death of the Ward, and pursuant to the
7 provisions of NRS 159.191, this Guardianship is terminated by the
8 death of the Ward.

9 2. Based upon the Petition, particularly Exhibit "B" to the
10 Petition, which is a copy of the Claims History Information Retrieval
11 Processor prepared by Medicaid as of 14 August 2012, the Ward died as
12 a Medicaid qualified recipient of aid. Pursuant to the Claims History
13 prepared by Medicaid, Medicaid provided \$82,064.58 in benefits to the
14 Ward prior to her death.

15 Pursuant to the request made by the Petitioner, through
16 counsel, and based upon the provisions of Nevada's law relating to the
17 right of Medicaid to assert a lien against the Ward's estate, the
18 Court finds as a matter of fact, concludes as a matter of law, and
19 hereby Orders that Medicaid Estate Recovery shall have a lien on the
20 Ward's interests in the real property located at 1553 Johnson Lane,
21 Minden, Nevada, 89423; Douglas County Assessor's Parcel No. 1320-03-
22 001-014 (the "Property").

23 3. In open Court, Petitioner requested that the Court ratify,
24 confirm and approve of her payment of the Guardian's fees, which will
25 be paid over to the Douglas County General Fund, the Guardian's
26 reimbursable costs, paid directly to the Guardian, and, with the
27
28



1 balance of the proceeds remaining in the Bank of America checking
2 account, that she be authorized to partially pay for the accrued
3 attorney's fees. The Court approves of these payments.

4 **IT IS HEREBY ORDERED** that the Guardian may, from the \$2,765.68
5 on deposit in the Ward's Bank of America checking account, pay to the
6 Douglas County General Fund, for the Guardian's fees, the amount of
7 \$178.50. The Guardian may reimburse Sierra Guardians, LLC, for the
8 incurred costs paid by the Guardian in the amount of \$185.65.

9 The balance of the proceeds in the Ward's Bank of America
10 checking account, \$2,401.53, shall be paid to Rowe Hales Yturvide,
11 LLP, in partial payment of the Guardian's incurred attorney's fees.
12 Upon this payment, \$1,278.47 in incurred attorney's fees remain to be
13 paid, and as provided below, will be added to the amount owed to
14 Medicaid Estate Recovery and constitute a lien against the Ward's one-
15 third interest in the Property.
16

17 4. As agreed by the Ward's siblings, Ms. Crowe representing
18 Medicaid Estate Recovery, and the Guardian through counsel, it is
19 Ordered that Medicaid Estate Recovery and Rowe Hales Yturvide, LLP,
20 shall have a lien in the amount of \$83,343.05 against the Ward's one-
21 third interest in the Property. The specific legal description of the
22 Property is:

23 "All that real property situate in the County
24 of Douglas, State of Nevada, particularly
25 described as follows:

26 Parcel No. 4, Township 13 N, Range 20 E.,
27 Section 3 M.D.B. & M. as shown on the map
28 thereof recorded in the Office of the County
Recorder of Douglas County at Book 984, Page
608 as Document No. 106410.

Mailing Address
P.O. Box 2080
Minden, NV 89423
Facsimile (775) 782-3685

Rowe Hales Yturvide
Attorneys At Law

Physical Address
1638 Esmeralda Avenue
Minden, NV 89423
(775) 782-8141

Mailing Address
P.O. Box 2080
Minden, NV 89423
Facsimile (775)782-3685

Rowe Hales Yturbide
Attorneys At Law

Physical Address
1638 Esmeralda Avenue
Minden, NV 89423
(775) 782-8141

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Together with the appurtenances and all of the estate and rights of the Deceased Ward in and to the premises, subject to conditions, covenants and all other items of record."

5. Based upon the stipulation of the parties, the amount of the lien to be recorded against the Ward's interests in the Property shall be the sum of the Medicaid benefits amount (\$82,064.58), plus the remaining attorney's fees not paid by the proceeds in the Ward's checking account, or \$1,278.47. The total amount of the lien to be imposed against the Ward's interest in the Property is \$83,343.05.

The Court further Orders that the amount to be paid to Rowe Hales Yturbide, LLP upon sale of the property, or \$1,278.47, shall be paid first, and as a priority over the Medicaid Estate Recovery lien. On payment of the remaining attorney's fees, Medicaid Estate Recovery shall be paid \$82,054.58.

6. The parties agreed, and there is no objection to, transfer of title to the Property to the Ward's surviving siblings, subject to the payment of the lien for unpaid attorney's fees and the Medicaid benefit amount (\$83,343.05).

The lien provided for in this Order is fully enforceable upon sale, transfer and/or refinancing of the subject property, for purposes other than obtaining more favorable interest terms only, and notwithstanding transfer of title to the Ward's siblings as described within this Order.

7. It is further ordered that the Guardian may execute a deed to the Ward's one-third interest to the Property conveying that one-third interest owned by the Ward to the brother and the sister of the



Mailing Address
P.O. Box 2080
Minden, NV 89423
Facsimile (775)782-3685

Rowe Hales Yturbide
Attorneys At Law

Physical Address
1638 Esmeralda Avenue
Minden, NV 89423
(775) 782-8141

1 Ward, Frederick Dudley and Susan Dudley. Title shall be transferred
2 as tenants-in-common. After transfer of the Ward's interest in the
3 Property, and should Frederick Dudley and Susan Dudley seek to
4 partition the property, then the lien provided for hereinabove shall
5 be maintained against the partitioned property as follows: The lien
6 amount shall be equally divided between the two partitioned parcels,
7 with each parcel being encumbered by a lien in the amount of
8 \$41,671.53. Such liens shall remain against the title to two (2)
9 partitioned parcels until such time as the lien is paid.
10

11 8. Based upon the Petition, and the attached exhibits, the
12 Court finds as a matter of fact that the total gross value of the
13 Ward's estate is \$119,399.01. Attached as Exhibit "C" to the Petition
14 was the Guardian's Report, together with the Guardian's Statement of
15 Current Assets/Liabilities as of 13 August 2012; Estate Balance Sheet
16 as of 13 August 2012; the Guardian's Profit and Loss Detail through 13
17 August 2012 and the Guardian's Profit and Loss Statement through 13
18 August 2012. In open Court the Guardian presented updated schedules
19 through 11 October 2012, which schedules were admitted into evidence.
20

21 The schedules delineate the outstanding liabilities of the
22 Ward including the Guardian's attorney's fees, the Guardian's fees,
23 and the Guardian's reimbursable costs. When the amount of Medicaid
24 benefits and remaining attorney's fees of the Guardian, now reduced to
25 a lien against the Ward's property, are taken into account, the total
26 liabilities of the Ward are \$86,108.73. The net value of this estate,
27 after deducting the liabilities, is \$33,290.28.

28 Pursuant to NRS 159.177, the Court finds as a matter of

Mailing Address
P.O. Box 2080
Minden, NV 89423
Facsimile (775)782-3685

Rowe Hales Yturbide
Attorneys At Law

Physical Address
1638 Esmeralda Avenue
Minden, NV 89423
(775) 782-8141

1 fact, and concludes as a matter of law, that the accounting provided
2 by the Petitioner as Exhibits "B" and "C" to the Petition, together
3 with the updated schedules presented in Court, satisfy the requirement
4 of filing a final accounting in this guardianship. The Court hereby
5 ratifies, confirms and approves of the Guardian's final accounting.

6 9. The Decedent died intestate, and her interests in the real
7 and personal property would be considered to be her separate property.
8 Pursuant to NRS 134.060, if there is no issue, surviving spouse or
9 father or mother, then the estate would distribute in equal shares to
10 the brother and sister of the Decedent by right of representation.
11 The Deceased Ward is not survived by issue, surviving spouse or father
12 or mother.

13
14 The Guardian has not liquidated the Ward's interests in the
15 real property. However, and because of the provisions of the just
16 cited statute, the net equity in the Ward's estate would be
17 distributed to the brother and sister of the Ward. The Guardian has
18 proposed to the surviving siblings of the Ward that they pay the
19 amount of the total liabilities (\$83,343.05) by paying the Nevada
20 Medicaid benefit amount and the remaining attorney's fees directly to
21 Rowe Hales Yturbide, LLP, on sale, transfer or refinancing of the
22 Property.

23
24 The Court ratifies, confirms and approves of this method of
25 resolving the outstanding liabilities incurred by the Ward, primarily
26 to Medicaid, and authorizes the Guardian to issue a deed for the
27 Ward's interest in the real property to her siblings after recordation
28 of a lien executed by Frederick Dudley and Susan Dudley securing the



1 amount owed (\$83,343.05).

2 The Court hereby ratifies, confirms and approves of the
3 Petitioner's distribution of the Ward's estate to her surviving
4 siblings pursuant to Chapter 134 NRS. This distribution shall occur
5 only on recordation of the lien on the Ward's interests in the
6 Property in the amount of \$83,343.05, and, upon such lien recordation,
7 the Guardian is authorized to deed the Deceased Ward's one-third
8 interest in the Property commonly known as 1553 Johnson Lane, Minden,
9 Nevada, to the siblings of the Ward, in equal shares, as tenants in
10 common.

11
12 10. The Court hereby authorizes the Guardian to pay her
13 expenses of administration, including Guardian's fees (\$178.50), and
14 her reimbursable costs (\$185.65), and \$2,401.53 of her incurred
15 attorney's fees, from the Ward's Bank of America checking account.

16 11. The Court further orders that the affairs of the
17 guardianship estate, and the estate of the Deceased Ward, shall be
18 wound up, and the guardian shall be honorably discharged from any
19 further service as guardian and/or Personal Representative of the
20 Deceased Ward upon the Ward's siblings execution of a lien in the
21 amount of the Medicaid Estate Recovery benefits paid and the remaining
22 administrative costs approved by this Order, and the execution of a
23 deed to the Ward's one-third interest in the Property executed by the
24 Guardian.

25
26 Upon the performance of the final acts necessary to wind up
27 the affairs of this guardianship, the Guardian shall submit to the

28 / / /

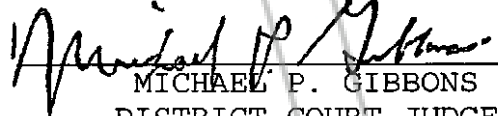
Mailing Address
P O Box 2080
Minden, NV 89423
Facsimile (775)782-3685

Rowe Hales Yturbe
Attorneys At Law

Physical Address
1638 Esmeralda Avenue
Minden, NV 89423
(775) 782-8141

1 Court a request that the Court close the guardianship together with a
2 proposed Order closing the guardianship.

3 Dated this 15 day of October, 2012.

4 
5 MICHAEL P. GIBBONS
6 DISTRICT COURT JUDGE

7 **ROWE HALES YTURBIDE, LLP**

8 

9 MICHAEL SMILEY ROWE
10 Nevada Bar Number 1374
11 P.O. Box 2080
12 Minden, Nevada 89423
13 (775) 782-8141
14 Attorney for Petitioner

Mailing Address
P.O. Box 2080
Minden, NV 89423
Facsimile (775)782-3685

Rowe Hales Yturbide
Attorneys At Law

Physical Address
1638 Esmeralda Avenue
Minden, NV 89423
(775) 782-8141

15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original in file and of record in my office.

DATE 10.15.12

TED THRAN Clerk of the 6th Judicial District Court of the State of Nevada, and for the County of Douglas,

