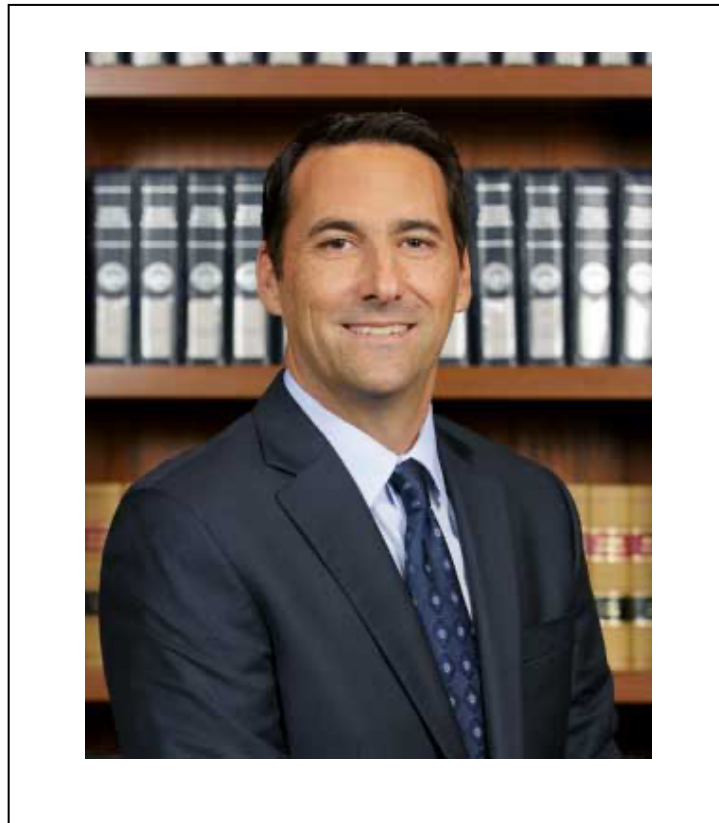


COMMISSION ON JUDICIAL SELECTION APPLICATION

EIGHTH JUDICIAL DISTRICT
DEPARTMENT C

By

GREGORY G. GORDON



Personal Information

1.	Full Name	GREGORY GARRISON GORDON
2.	Have you ever used or been known by any other legal name (including a maiden name)? If so, state name and reason for the name change and years used.	No
3.	How long have you been a continuous resident of Nevada?	53 years
4.	City and county of residence	Henderson, Clark County
5.	Age	53

Employment History

6. Please start with your current employment or most recent employment, self-employment, and periods of unemployment for the last 20 years preceding the filing of this Application.

Current Employer	Gregory Gordon Law, P.C.
Phone	(702) 363-1072
Physical Address & Website	1700 South Pavilion Center Drive, #530, Las Vegas, Nevada 89135 www.gregorygordonlaw.com
Date(s) of Employment	February 2002 – Present
Supervisor's Name and Title	Self
Your Title	Owner
Describe Your Key Duties	Principal Attorney – Solo Family Law Practice. Handling family law matters of all types ranging from adoptions, child custody matters, divorce, annulment, modification of child custody and child support, relocation, property division, alimony disputes, etc.
Reason for Leaving	N/A

Current Employer	ER Injury Attorneys
Phone	(702) 968-7500
Address & Website	1700 South Pavilion Center Drive, #530, Las Vegas, Nevada 89135 www.erinjuryattorneys.com
Date(s) of Employment	March 2020 - Present
Supervisor's Name and Title	Corey Eschweiler, Esq. Founding Partner
Your Title	Litigation Attorney

Describe Your Key Duties	Responsible for managing personal injury cases ranging from motor vehicle accidents to slip and fall injuries at all trial court levels beginning with drafting and filing complaints to conducting arbitrations, trials and short jury trials.
Reason for Leaving	N/A

Previous Employer	Lerner and Rowe Injury Attorneys
Phone	(702) 877-1500
Address & Website	4795 South Durango Boulevard www.lernerandrowe.com
Date(s) of Employment	March 2018-March 2020
Supervisor's Name and Title	Corey Eschweiler, Esq. Partner
Your Title	Litigation Attorney
Describe Your Key Duties	Responsible for managing personal injury cases ranging from motor vehicle accidents to slip and fall injuries at all trial court levels beginning with drafting and filing complaints to conducting arbitrations, trials and short jury trials.
Reason for Leaving	Entire litigation department left Lerner and Rowe and formed new firm, ER Injury Attorneys

Previous Employer	Jolley, Urga, Wirth & Woodbury
Phone	(702) 699-7555
Address & Website	50 South Stephanie Street, Henderson, Nevada 89012 www.juwlaw.com
Date(s) of Employment	June 1994 – February 2002
Supervisor's Name and Title	William R. Urga, Esq. Partner
Your Title	Partner, Litigation Department
Describe Your Key Duties	Litigation attorney handling full range of cases from commercial and civil litigation to family law cases including divorce and domestic relations matters of all types, supervise associates.
Reason for Leaving	Left to open my own firm

Educational Background

7. List names and addresses of high schools, colleges and graduate schools (other than law school) attended; dates of attendance; certificates or degrees awarded; reason for leaving.

Valley High School
Las Vegas, Nevada, High School Diploma, 1984-1987
G.P.A. 3.8; Graduated with Honors

Occidental College
1600 Campus Road, Los Angeles, California
B.A. Economics, 1987-1991
G.P.A. 3.5, Graduated *cum laude*

8. Describe significant high school and college activities including extracurricular activities, positions of leadership, special projects that contributed to the learning experience.

Head Resident, Norris Residential Hall. Responsible for managing largest dormitory on campus. Supervised staff of 6 resident advisors, managed financial budget and social activities and programming for 150+ residents.

Blythe Fund Board Member. Staff member of college sponsored stock portfolio worth \$100,000. Responsible for presenting stocks, making buy and sell decisions, etc.

9. List names and addresses of law schools attended; degree and date awarded; your rank in your graduating class; if more than one law school attended, explain reason for change.

Pepperdine University School of Law
24255 E. Pacific Coast Hwy. Malibu, CA
Juris Doctor, 1994
Magna Cum Laude, Rank 8 of 240

10. Indicate whether you were employed during law school, whether the employment was full-time or part-time, the nature of your employment, the name(s) of your employer(s), and dates of employment.

I worked as a summer law clerk at Jolley, Urga, Wirth & Woodbury in Las Vegas during the summers after both my first and second year of law school.
Summers of 1992 and 1993.

11. Describe significant law school activities including offices held, other leadership positions, clinics participated in, and extracurricular activities.

Note and Comment Editor, Pepperdine Law Review, 1993-1994
Member, Editorial Staff, Pepperdine Law Review, 1992-1993
Member, Dean's Honor Roll, 1992-1994

Law Practice

12. State the year you were admitted to the Nevada Bar.

1994

13. Name states (other than Nevada) where you are or were admitted to practice law and your year of admission.

None.

14. Have you ever been suspended, disbarred, or voluntarily resigned from the practice of law in Nevada or any other state? If so, describe the circumstance, dates, and locations.

No

15. Estimate what percentage of your work over the last five years has involved litigation matters, distinguishing between trial and appellate courts. For judges, answer questions 16-20 for the five years directly preceding your appointment or election to the bench.

100% of my work over the last five years has involved litigation matters at the trial level. In the last five years, I have not performed any significant work at the appellate court level.

16. Estimate percentage of time spent on:

Legal Discipline	Percentage of Practice
Domestic/family	65%
Juvenile matters	
Trial court civil	35%
Appellate civil	
Trial court criminal	
Appellate criminal	
Administrative litigation	
Other: Please describe	

17. In the past five years, what percentage of your litigation matters involved cases set for jury trials vs. non-jury trials?

65% of my practice involves domestic relations matters which are set for non-jury trials.

35% of my practice involves personal injury matters which are generally set for jury trials.

18. Give the approximate number of jury cases tried to a conclusion during the past five years with you as lead counsel. Give the approximate number of non-jury cases tried to a decision in the same period.

In the last five years, I have first-chaired approximately 15-25 contested non-jury trials or evidentiary hearings to a decision; and 1 short jury trial. A large percentage of cases are resolved through settlement without either a jury or non-jury trial.

19. List courts and counties in any state where you have practiced in the past five years.

Eighth Judicial District Court, Clark County, Nevada, Civil and Family Divisions
United States Federal District Court of Nevada, Southern District

20. List by case name and date the five cases of most significance to you (not including cases pending in which you have been involved), complete the following tables:

Case 1
Louise Ruiz v. James Rhodes, Rhodes Design and Development, filed 1998
Eight Judicial District Court, Civil Division Judge Michael Douglas, Presiding Judge Opposing counsel: Jeffrey Albreghts, Esq.
This was my very first trial. I was approximately 2-3 years out of law school. Louise Ruiz and her husband owned a concrete company. After Mr. Ruiz passed away, Louise was left with all the equipment. At the urging of her son, Louise formed a partnership with James Rhodes, the developer. Rhodes provided the work (homes being developed in Rhodes Ranch) and she contributed the equipment. However, within a short period of time, Rhodes converted the equipment and shut Louise and her son out of the venture. Rhodes was a formidable adversary on the witness stand, especially given my lack of experience. This was also Judge Douglas' first trial after his appointment to the bench. In the end, Judge Douglas ruled in Louise's favor and awarded \$100,000 for the equipment and opportunity that Rhodes took. Rhodes appealed to the Nevada Supreme Court. I briefed and argued the appeal as well, and the Nevada Supreme Court affirmed the decision. After the appeal, the award ballooned with interest. I will never forget the day the payment checks from Rhodes arrived at the office.
Your role in the case: Attorney for Louse Ruiz

Case 2
Jose Gamboa v. Jazleen Gamboa, filed April 10, 2020
Eight Judicial District Court, Family Division Judge Mary Perry, Presiding Judge Opposing counsel: David L. Sawyer Mann, Esq.
The parties were married 7 years but there were 7 children in dispute ranging in ages from 5 to 16 years of age. At the time of the divorce, Mr. Gamboa was recovering from a debilitating illness and lengthy hospitalization and fighting to regain custody and access to the children. Ms. Gamboa raised various challenges to Jose's paternity of the children despite previously signing VAPs that were not challengeable under NRS 126.053(3). Despite his health struggles, Mr. Gamboa was steadfast in his fight to protect his relationship

with the children, and I was moved by his strength through the process as well as all the support and love that his extended family showed to him during the case. The case proceeded to trial, and Mr. Gamboa's ultimate success was a reminder that our work does matter and can have meaningful impact on the lives of others.
Your role in the case: Mr. Gamboa's attorney

Case 3
Kristal Morello v. Andrew Minuto, filed December 9, 2019
Eight Judicial District Court, Family Division Judge Amy Mastin, Presiding Judge Opposing counsel: Alex Ghibauda, Esq.
A child custody dispute involving a 3-year-old child and a father who was in recovery for drug and alcohol abuse. At the time of trial, Father was nearly 18 months sober, fully compliant with his long-term treatment program, had successfully completed the Court's monitoring program, and was beginning to sponsor others in their journey to recovery. I was so impressed with the hard work and progress that Mr. Minuto had made towards sobriety as he was fully committed to putting his sobriety first to ensure a long, healthy future with his daughter. Despite the opposing party's attempts to vilify Mr. Minuto and cast him as a drug addict, Mr. Minuto was successful in demonstrating to the Court that his recovery was a success and ultimately, he was awarded joint legal and joint physical custody of the parties' daughter. Mr. Minuto's journey was a lesson in redemption and an example that individuals can rise and overcome challenges.
Your role in the case: Mr. Minuto's attorney

Case 4
Summer Abittan v. Alan Abittan, filed March 2, 2007
Eight Judicial District Court, Family Division Judges Denise Gentile and Amy Mastin Opposing counsel: John D. Jones, Esq.
This is a divorce case with several chapters. The most recent chapter involved an education dispute concerning the parties' 14-year-old son. Without consulting mother, father persuaded their son (an honor roll student) he should repeat the 8 th grade before entering high school so he could physically mature and be more competitive for high school basketball. When mother found out and opposed the plan to red shirt the child in 9 th grade for purely non-academic reasons, father convinced the son that mother did not support his desire to play basketball leading to their estrangement. It was so disheartening to see a disagreement over academics deteriorate into a power struggle leading to resentments and alignments. Teenagers today face so many external pressures and challenges, the addition of parental strife and conflict only further exposes them to potential harm - and when a parent uses that disharmony to create an alignment and estrangement from the other parent, the consequences are dire and long lasting.
Your role in the case: Ms. Abittan's attorney

Case 5
Aaron Kremer v. Anna Kremer, filed December 3, 2020
Eight Judicial District Court, Family Division Judge Michelle Mercer Opposing counsel: Nedda Ghandi, Esq.
Long term marriage involving a stay-at-home mother with limited to no marketable job skills and chronic health issues versus a successful husband working as a nurse practitioner. The case presented challenges ensuring that wife was able to leave the marriage with the necessary financial support and assistance to live in a manner similar to that of the marriage, care for herself and the children, and address her health issues. As demonstrated in many of the cases pending before the courts, the financial consequences of divorce are often disparate, far reaching, and require careful analysis and consideration of the unique facts and circumstances of every case.
Your role in the case: Ms. Kremer's attorney.

21. Do you now serve, or have you previously served as a mediator, an arbitrator, a part-time or full-time judicial officer, or a quasi-judicial officer? To the extent possible, explain each experience.

Yes

I volunteered as a mediator/arbitrator for the Nevada State Bar Fee Dispute Committee from approximately December 2008 until December 2017

22. Describe any pro bono or public interest work as an attorney.

On average, I take 1-3 pro bono cases per year from Nevada Legal Services, formerly Nevada Legal Aid Project

23. List all bar associations and professional societies of which you are or have been a member. Give titles and dates of offices held. List chairs or committees in such groups you believe to be of significance. Exclude information regarding your political affiliation.

Clark County Bar Association
Nevada State Bar
Fee Dispute Committee, 2008-2017
Publications Committee, 1995-1998

24. List all courses, seminars, or institutes you have attended relating to continuing legal education during the past five years. Are you in compliance with the continuing legal education requirements applicable to you as a lawyer or judge?

Yes, in compliance.

Presenting and Objecting to Evidence at Trial
How to Handle all 23 types of Retirement Division Orders
Ethics Year in Review 2021
Summary Judgment – Best Practices
Creative Custody and Visitation Schedules
Effective Holiday Schedules
Family Law Updates: 2021 Legislative Session
Do you Really Understand Attorney-Client Privilege
Deposition Preparation and Strategies
Mental Health Matters
Understanding and Avoiding Burnout in the Legal Profession
Bank to the Future: New NRCP Amendments
Trial Lawyer Boot Camp 4 Week Course
NJIA 43rd Annual Convention
Lawyering: What They Don't Tell you in Law School
Domestic Tort Cases Today; Theories and Practice
Advanced Family Law 2015
Ethics in Jeopardy; Lawyer Gaffes and Mishaps
A Spoonful of Sugar, A Pinch of Salt
Ethics: Current Topics for New and Not So New Lawyers

25. Do you have Professional Liability Insurance or do you work for a governmental agency?

Yes.

Business & Occupational Experience

26. Have you ever been engaged in any occupation, business, or profession other than a judicial officer or the practice of law? If yes, please list, including the dates of your involvement with the occupation, business, or profession.

No.

27. Do you currently serve or have you in the past served as a manager, officer, or director of any business enterprise, including a law practice? If so, please provide details as to:

- a. the nature of the business. Solo attorney law practice
- b. the nature of your duties. I handled all duties and responsibilities of the practice.
- c. the extent of your involvement in the administration or management of the business. I managed all administrative and financial affairs of my law practice.
- d. the terms of your service. Owner
- e. the percentage of your ownership. 100%

28. List experience as an executor, trustee, or in any other fiduciary capacity. Give name, address, position title, nature of your duties, terms of service and, if any, the percentage of your ownership.

None.

Civic Professional & Community Involvement
--

29. Have you ever held an elective or appointive public office in this or any other state?

No

Have you been a candidate for such an office?

No

If so, give details, including the offices involved, whether initially appointed or elected, and the length of service. Exclude political affiliation.

30. State significant activities in which you have taken part, giving dates and offices or leadership positions.

Board Member, Club at Madeira Canyon Homeowners Association, Secretary/Treasurer 2009-2013 and 2016-2019. Approximately.

31. Describe any courses taught at law schools or continuing education programs. Describe any lectures delivered at bar association conferences.

None.

32. List educational, military service, service to your country, charitable, fraternal and church activities you deem significant. Indicate leadership positions.

None.

33. List honors, prizes, awards, or other forms of recognition.

None other than college and law school awards as detailed above.

34. Have you at any time in the last 12 months belonged to, or do you currently belong to, any club or organization that in practice or policy restricts (or restricted during the time of your membership) its membership on the basis of race, religion, creed, national origin or sex? If so, detail the name and nature of the club(s) or organization(s), relevant policies and practices, and whether you intend to continue as a member if you are selected for this vacancy.

No

35. List books, articles, speeches and public statements published, or examples of opinions rendered, with citations and dates.

Co-Author, *Child Custody and Visitation*, NEVADA FAMILY LAW PRACTICE MANUAL, 2003 and 1st Ed. (2009).

Adult Survivors of Childhood Sexual Abuse and the Delayed Discovery Rule, 20 PEPPERDINE L. REV. 1357 (1993)

Representing Children, NEVADA LAWYER, Vol. 3, No. 10, 1995

Property and Contractual Rights of Nonmarried Cohabitants, COMMUNIQUE, Vol. 15, Issue 7, July 1994

Valuation of Business Interests in Divorce; The Significance of the Buy-Sale Agreement, NEVADA FAMILY LAW REPORT, Vol. 15, No. 1, March 2000

36. During the past ten years, have you been registered to vote?

Yes

Have you voted in the general elections held in those years?

Yes

37. List avocational interests and hobbies.

Tennis (United States Tennis Association); Pickleball (United States Pickleball Association)
Travel

Conduct

38. Have you read the Nevada Code of Judicial Conduct and are you able to comply if appointed?

Yes

39. Have you ever been convicted of or formally found to be in violation of federal, state or local law, ordinance or regulation? Provide details of circumstances, charges, and dispositions.

No

40. Have you ever been sanctioned, disciplined, reprimanded, found to have breached an ethics rule or to have acted unprofessionally by any judicial or bar association discipline commission, other professional organization or administrative body or military tribunal? If yes, explain. If

the disciplinary action is confidential, please respond to the corresponding question in the confidential section.

No

41. Have you ever been dropped, suspended, disqualified, expelled, dismissed from, or placed on probation at any college, university, professional school or law school for any reason including scholastic, criminal, or moral? If yes, explain.

No

42. Have you ever been refused admission to or been released from any of the armed services for reasons other than honorable discharge? If yes, explain.

No

43. Has a lien ever been asserted against you or any property of yours that was not discharged within 30 days? If yes, explain.

No

44. Has any Bankruptcy Court in a case where you are or were the debtor, entered an order providing a creditor automatic relief from the bankruptcy stay (providing in rem relief) in any present or future bankruptcy case, related to property in which you have an interest?

No

45. Are you aware of anything that may require you to recuse or disqualify yourself from hearing a case if you are appointed to serve as a member of the judiciary? If so, please describe the circumstances where you may be required to recuse or disqualify yourself.

None.

Other

46. If you have previously submitted a questionnaire or Application to this or any other judicial nominating commission, please provide the name of the commission, the approximate date(s) of submission, and the result.

Nevada Commission on Judicial Selection, Family Court, Department E, February 2009
The Commission forwarded my name to then Governor Jim Gibbons as one of three finalists for the vacant Department E seat. The Governor selected Charles Hoskin from my panel.

47. In no more than three pages (double spaced) attached to this Application, provide a statement describing what you believe sets you apart from your peers, and explains what education, experience, personality or character traits you possess, or have acquired, that you feel qualify you as a supreme court justice. In so doing, address appellate, civil (including family law matters), and criminal processes (including criminal sentencing).

48. Detail any further information relative to your judicial candidacy that you desire to call to the attention of the members of the Commission on Judicial Selection.

See Statement.

49. Attach a sample of no more than ten pages of your original writing in the form of a decision, “points and authorities,” or appellate brief generated within the past five years, which demonstrates your ability to write in a logical, cohesive, concise, organized, and persuasive fashion.

See attached.

I am a native Nevadan born and raised in Las Vegas. I graduated from Valley High School. At age 17, I left home to attend Occidental College in Los Angeles. After graduating *cum laude* in 1991 with a degree in economics, I attended Pepperdine University School of Law. I graduated law school *magna cum laude* ranked 8th in a class of 240 and as a member of the law review editorial board. During my 1L and 2L summers, I clerked at Jolley, Urga, Wirth & Woodbury, then one of the largest, most prestigious law firms in Las Vegas. The firm offered me an associate position after law school, and I was admitted to the Nevada State Bar in 1994.

For the first 8 years of my career, I handled civil and commercial litigation cases, garnering experience in all areas of the law from contracts, bankruptcy, property, family law, etc. I worked with pre-eminent attorneys such as William R. Urga, R. Gardner Jolley, and Roger Wirth, learning and training to be a trial lawyer. The experience and base of knowledge I received during this time, working on a breadth of different cases covering the gamut of the law has served me extremely well over the course of my career.

Early in my career I developed a keen interest in family law matters, specifically divorce and child custody disputes. At a young age, I rose to the level of partner at the firm, earning the mutual respect and recognition from attorneys I very much admired. To this day, I am deeply appreciative and thankful for the mentoring and guidance I received as a young attorney, which has very much shaped the attorney I am today.

In 2002, after the birth of our second child, I left the large firm culture to start my own practice. For the past 21 years, I have owned my own solo law practice, primarily focused on family law matters. I do not advertise or market but rely entirely on referrals from other attorneys and former clients. I have worked extremely hard over the years,

dedicating myself to my clients and delivering top notch legal representation in a manner that has been accessible, affordable, and client friendly. 29 years of practice and zero bar complains, grievances, fee disputes, etc. It was not my ambition to build a large law practice. I wanted a lifestyle where I could be present for my family and my 3 children, which often meant leaving the office at 3:00 p.m. to pick up kids from school and drive them to soccer, meet with a teacher or coach, etc. My proudest accomplishment has been sustaining a successful law practice without having to sacrifice quality of life, time with my family, etc.

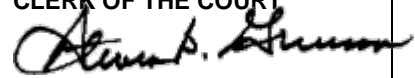
In 2018, I accepted a position with Lerner and Rowe in their litigation department. The opportunity allowed me to maintain my family law practice and clientele, while expanding into and learning a new practice area: personal injury. While some may have a negative perception of such firms, the litigation department that I joined was comprised of three well-pedigreed lawyers, two coming from Snell & Wilmer and the other Lionel, Sawyer and Collins trained. The work product coming from our team is top notch. The group has since formed an independent litigation group that accepts referrals from many attorneys in town. Currently, my practice is split 65% family law and 35% personal injury.

Over the past 29 years, I have acquired extensive knowledge and experience handling family law matters. I have appeared in front of countless family court judges, learning the styles and traits of each. I have handled hundreds of trials, evidentiary hearings, even a couple of jury trials involving civil matters. I have worked on family law appeals and argued cases before the Nevada Supreme Court. I have authored numerous articles on family law subjects, including articles on business valuations, community property, and child custody. In 2009, the state bar selected me to co-author the “Child Custody and Visitation” section of Nevada’s Family Law Practice Manual.

In 2003, I applied for the vacancy in Department E of the Family Court. Proudly, I was among the final three candidates forwarded on to the Governor, but not chosen. Since that time, I buried my aspirations to be a judge as I never found appealing the thought of campaigning or having to promote myself. I am a believer that the appointment process is the superior method for ensuring a qualified judiciary. However, with my children now graduating high school and pursuing their own paths, I find myself invigorated by the prospect of taking on this new challenge.

My interest in family law for the past 29 years is rooted in a desire to help people. Nothing gives me greater joy than helping a client make that journey from a place in their life where perhaps they are feeling stuck, hopeless, or quieted to a better place. For each, the journey is different with unique obstacles and challenges along the way.

I strongly believe I have the knowledge, temperament, and both legal and life experience needed to make a good family court judge. (a) 29 years of experience communicating with clients and judges; (b) a successful marriage of 23 years; and (c) raising 3 great children – I have learned a few things about empathy, how to listen, how to communicate, and decision making. All of which I believe will suit me well on the family court bench.



1 **OPPS**
2 Gregory G. Gordon, Esq.
3 GRÉGORY GORDON LAW, P.C.
4 Nevada Bar No. 5334
5 4795 South Durango Drive
6 Las Vegas, Nevada 89147
7 Phone: (702) 877-1500
8 Fax: (702) 307-5762

9 Attorneys [REDACTED]

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Case No. [REDACTED]
17 Dept. No. R

18 Date of Hearing: 1/21/20
19 Time of Hearing: 1:30 p.m.

20 **DEFENDANT’S BRIEF IN OPPOSITION TO ENTRY**
21 **OF THE PROPOSED POST DEATH QUALIFIED**
22 **DOMESTIC RELATIONS ORDER**

23 **I.**

24 **POINTS AND AUTHORITIES**

25 **A. Introduction.**

26 Donald’s estate has an interest in ensuring that Donald’s surviving spouse,
27 Corrie Clements, the named beneficiary of his pension benefits and mother of his
28 minor child, receives her full benefits -- and not some picked over share of what
Donald worked his life to accumulate. See Copy of Donald’s Beneficiary
Designation, attached as Exhibit “A.” Any benefits this Court awards to Donald’s
former spouse, Shannon Harvey, directly reduce the benefits that Corrie as Donald’s
surviving spouse will receive, and therefore, the estate has an interest in ensuring that

1 Donald's pension is distributed properly. The parties have already stipulated, and the
2 court ordered, that the estate may substitute in place of Donald, and therefore, the
3 estate has standing in this action.

4 **B. The Court Cannot Modify The Parties' Property Division**

5 There is no disputing that under Nevada law, a district court lacks jurisdiction
6 to modify a divorce decree regarding property rights six months after the decree is
7 entered. *Kramer v. Kramer*, 96 Nev. 759, 762, 616 P.2d 395, 397-98 (1980).

8 Here, Shannon is requesting that the Court approve a QDRO that substantially
9 modifies the property rights of the parties.

10 Nowhere in the Decree of Divorce is there an express award to Shannon of any
11 interest in Donald's pension. The Decree does not specify any percentage, or grant
12 her any direct interest in the plan. Likewise, the Decree of Divorce makes no
13 reference to any division pursuant to the "time rule" or adoption of the "wait and see"
14 approach as outlined in the seminal Nevada cases of *Gemma v. Gemma*, 105 Nev.
15 458, 778 P.2d 429 (1989) or *Fondi v. Fondi*, 106 Nev. 856, 802 P.2d 1264(1990).

16 Shannon's argument that the Court should now adopt and enter a post-death
17 QDRO that awards her a 50% interest in Donald's pension cannot be reconciled with
18 the prohibition against post-judgment modification of property rights set forth in
19 *Kramer*. Shannon's proposed QDRO constitutes a complete re-write of the parties'
20 Decree of Divorce, and grants to Shannon rights in Donald's pension plan that are not
21 set out in the decree.

22 **C. The Court Cannot Speculate As to What the Parties Intended.**

23 At the last hearing, Shannon sought to end run the fatal deficiencies in the
24 decree of divorce by arguing for an "equal division" of the pension by "default." In
25 other words, Shannon wants the Court to just assume that an equal division is what
26 the parties "must have" intended, despite the lack of any such provision in the decree

27 However, this position Shannon now takes is contradicted by the complaint that
28 she filed in the case; and the manner in which the parties divided other assets.

1 Shannon filed her divorce complaint on September 13, 2007. Both Shannon
2 and her attorney signed the complaint.

3 In the complaint, Shannon identified there was community property of the
4 parties that needed to be divided, including the marital home, Donald's pension,
5 \$10,000 in a joint bank account, and other assets. Shannon asked that she be awarded
6 the house and bank account in exchange for Donald retaining his pension.

7 The parties' settlement mirrors closely Shannon's complaint. Shannon
8 received primary physical custody of the children, as she requested.¹ Shannon
9 received the \$10,000 bank account; and Shannon received possession of and all
10 equity in the marital home. Pursuant to the decree, Shannon was supposed to list the
11 home for sale, but that never happened. Public records confirm that Shannon
12 remained in possession of the home for nearly 2 years after divorce.

13 As such, it would be erroneous for the Court to just presume that an equal
14 division of Donald's pension is what the parties intended, especially as Shannon's
15 complaint as well as the global division of assets refutes that point.

16 **D. Shannon's Request For Entry of A Post Death QDRO is Time**
17 **Barred By NRS 11.190(1)(a).**

18 The Nevada Supreme Court has held that an action to enforce a decree of
19 divorce must be commenced within six years pursuant to NRS 11.190(1)(a).
20 *Davidson v. Davidson*, 382 P.3d 880, 881, 884 (Nev. 2016). While courts have
21 continuing jurisdiction to enforce their decrees, the *Davidson* court made clear that
22 "continuing jurisdiction does not nullify the statute of limitations and grant a court
23 perpetual authority." *See id.*

24 In *Davidson*, the Nevada Supreme Court considered the timeliness of a wife's
25 action to enforce a provision in a divorce decree requiring her ex-husband to pay her
26 one-half of the equity in the marital home. The court concluded that, "other than child

27 ¹ In his initial pleading, Donald sought joint legal and joint physical custody,
28 placing the issue of physical custody in dispute between the parties. See Donald's
Complaint filed in Case D-07-381304-D, later consolidated with the present case.

1 support orders,” Nevada law did not exclude family division orders from the state's
2 six-year limitation for actions on judgments. *Id.* at 883. The court reasoned that had
3 the legislature “intended to vest the courts with continuing jurisdiction over property
4 rights in divorce cases, it would have done so expressly.” *Id.* at 884. The court
5 emphasized the need for finality and certainty and noted that the wife could have
6 renewed her judgment and “avoid[ed] the harsh results that could accompany the
7 expiration of a statute of limitations.” *Id.*

8 With respect to the pension plan at issue, the Decree of Divorce in this case
9 provides only as follows:

10 4. Pension. That there are two existing pensions known as
11 Plan A and Plan B. That the parties will retain the services of Marvin
12 Snyder within thirty (30) days of the Entry of the Decree of Divorce
13 to prepare a Qualified Domestic Relations Order (QDRO). Husband
14 and Wife will equally split the retainer fee for Marvin Snyder’s
services 50/50.

15 *See* Decree of Divorce, filed July 30, 2008, at Pg. 13, Lines 10-15 (emphasis added).

16 Shannon never retained the services of Marvin Snyder within the 30 days as set
17 forth in the Decree. A time frame was prescribed in the decree, along with a process
18 for preparation of a QDRO, yet neither party followed through or performed. Fast
19 forward, now 10 years later, Donald has passed away, and Shannon is now seeking to
20 enforce the provisions of the divorce decree and collect a share of Donald’s pension.

21 Shannon’s request is time-barred, as more than 10 years have passed since the
22 parties were ordered to work with Marvin Snyder to prepare a QDRO. The Nevada
23 Supreme Court has addressed this very issue, holding that family courts do not
24 possess “perpetual authority” to enforce their decrees – and do not have the authority
25 to nullify the six-year statute of limitations set forth at NRS 11.190(1)(a).

26 As pointed out in *Davidson*, any “harsh results” that accompany the expiration
27 of a statute of limitation could have been avoided entirely by Shannon had she
28 diligently pursued entry of a QDRO following divorce –rather than waiting 10 years

1 until after Donald passed away. *See Davidson*, 382 P.3d 883 (holding that “the
2 Legislature did not intend for parties to endlessly “sit” on potential claims); and *Doan*
3 *v. Wilkerson*, 130 Nev. Adv. Op. 48, 327 P.3d 498, 501 (2014) (“The policy in favor
4 of finality and certainty . . . applies equally, and some might say especially, to a
5 divorce proceeding.”).

6 Just as Mrs. Davidson was precluded by the Nevada Supreme Court from
7 returning to Court 6 years later to collect her one-half (1/2) share of the equity in the
8 marital residence, Shannon should not be permitted to sleep on her rights for over a
9 decade, only to now request entry of a QDRO that was supposed to be initiated within
10 30 days of the divorce.

11 In a similar case involving a spouse’s attempt to obtain a QDRO nearly 12
12 years after a divorce, the Kansas Court of Appeals refused to sign the order, citing the
13 statute of limitations. *See Larimore v. Larimore*, 362 P.3d 843 (Kan. Ct. App. 2015).
14 In *Larimore*, the parties divorced in 2002 after 21 years of marriage. The divorce
15 decree ordered the division of the parties’ retirement accounts, with each party to
16 receive 40% of the other’s retirement account. However, neither party submitted a
17 QDRO.

18 Almost 12 years after the divorce, Janice filed a motion to compel entry of a
19 QDRO. Janice took the very same position that Shannon asserts in this case. She
20 argued that “the divorce decree transferred ownership of a portion of David’s
21 retirement accounts to her and ‘once property is divided in a decree, it stands forever
22 divided, and that division does not erode by virtue of dormancy’.” David opposed the
23 motion, arguing that the division of the parties’ retirement accounts was now time
24 barred as no execution or enforcement action on the judgment was taken within 7
25 years and a renewal affidavit was never filed.

26 The district court agreed with David, finding that because the parties failed to
27 execute on the judgment by filing a QDRO, or obtaining a renewal affidavit, before
28

1 expiration of the statute of limitations, Janice was precluded from enforcement. On
2 appeal, the Kansas Court of Appeals affirmed the ruling, stating:

3
4 While retirement plans generally provide that a beneficiary may not
5 collect benefits until a qualifying event occurs, Janice could have
6 enforced her interest in David's retirement accounts at any time after
7 the filing of the divorce decree because ERISA does not specify a
8 timeframe for the filing of a QDRO. See 29 C.F.R. § 2530.206(c)(1).
9 Indeed, had Janice timely filed a QDRO after the divorce, she would
10 have obtained an interest in David's retirement plans equivalent to that
11 of David's interest.

12 *Id. at 852 (emphasis added).*

13 Directly refuting the arguments made by Shannon in this case -- the
14 *Larimore* Court went on to state:

15 [T]he legal process for enforcing such a judgment—the filing of a
16 QDRO—is not stayed or prohibited until the benefits become payable.
17 On the contrary, the filing of a QDRO is mandatory if the alternative
18 beneficiary is to enforce his or her judgment. Although Janice may not
19 have been able to *receive money* from David's retirement accounts
20 during the ensuing 12 years, the necessary *legal process*—a QDRO—
21 for enforcing Janice's interest in the retirement accounts was fully
22 available to her. In conclusion, we hold the district court did not err
23 when it found the judgment dividing David's retirement accounts had
24 become absolutely extinguished and unenforceable due to Janice's
25 failure to file a QDRO or a renewal affidavit within 7 years of the
26 filing of the divorce decree.

27 *Id. at 853.*

28 Applying the same analysis to the present case, Shannon's request -- now 10
years later -- to enforce the Decree of Divorce and have the Court issue a post death
Qualified Domestic Relations Order should be denied as time barred pursuant to NRS
11.190(1)(a).

1 **E. Shannon Conflates the Right to Entry of A QDRO With The Right**
2 **to Payment of Benefits Pursuant to A QDRO.**

3 ERISA prohibits pension plan participants from assigning or alienating their
4 benefits in plans subject to the act. QDROs are exempt from ERISA’s preemption
5 provisions and are required to distribute funds to an alternate payee following
6 divorce. When a judgment of divorce awards an interest in a retirement plan under
7 ERISA to an alternate payee spouse, entry of a proposed QDRO is a necessary
8 prerequisite to effectuate the distribution of benefits pursuant to that interest. Absent
9 a valid QDRO, an alternate payee can take nothing from the plan.

10 Here, Shannon contends that the statute of limitation should not start to run
11 until each retirement benefit payment becomes due and payable. Shannon analogizes
12 to an action to enforce the payment of alimony. Citing the case of *Bongiovi v.*
13 *Bongiovi*, 94 Nev. 321, 579 P.12d 1246 (1978), for the proposition that “[t]he six-year
14 period prescribed by [NRS11.190] commenced to run against each installment as it
15 became due,” regardless of when the decree was entered.

16 However, entry of a QDRO is distinguishable from an obligation to pay
17 alimony. There is no disputing that in the case of monthly alimony, a recipient has no
18 right of enforcement until the installment payment has come due and gone unpaid.
19 For example, the recipient spouse cannot complain in January about a payment not
20 due until June.

21 An alternate payee’s right to entry of a QDRO is different. As pointed out in
22 Larimore, a QDRO can be entered at any time after or even contemporaneous with
23 the filing of the divorce. The alternate payee need not wait for the plan to reach pay
24 status. In fact, waiting to do so is strongly discouraged and gives rise to a plethora of
25 problems and dangers. See Legal Note Vol. 16, When QDROs Should Be Drafted
26 (May 11, 2010), posted at <http://willicklawgroup.com/newsletters/page/3/>, attached as
27 Exhibit “B” (advocating for immediate entry of the QDRO at time of divorce and
28 describing the failure to do so as playing “Russian Roulette”).

1 A plaintiff can suffer such wrongs as refusal by the other party to cooperation
2 in the pursuit of a QDRO or a plan administrator's denial of a QDRO immediately
3 upon entry of the judgment of divorce. There is no disputing that the non-participant
4 spouse is entitled to entry of a QDRO at any time after the entry of the judgment of
5 divorce to secure his or her interest in the annuity plan, and he or she is not required
6 to wait for a specified event before seeking enforcement of that terms of the divorce
7 judgment. *See Joughlin v. Joughlin, 906 N.W.2d 829 (Mich. Ct. App. 2017) (Jansen,*
8 *J., dissenting).*

9 In this regard, Shannon conflates the right to entry of a QDRO pursuant to the
10 judgment of divorce with the right to payment of benefits granted by an approved
11 QDRO. Shannon's right to entry of a QDRO accrued immediately after the divorce,
12 and therefore, that is when the statutory period of limitations set forth in NRS 11.190
13 began to accrue. This is especially true in this case as the parties agreed they would
14 proceed with preparation of the QDRO within 30 days following divorce.

15 Shannon's position that Courts wait until a pension enters pay status before
16 applying the statute of limitations is fraught with problems. First, it would require
17 courts to employ a different statute of limitations in each case involving an action to
18 enforce an award of retirement benefits found in a judgment of divorce. This is
19 because the date upon which a defendant may reach "pay status" for purposes of a
20 QDRO varies widely from plan to plan. Likewise, the limits on when and in what
21 form an alternate payee may receive benefits pursuant to a retirement plan are as
22 varied as the plans themselves, e.g. annuities, lump-sum payments.

23 Even more problematic is that the passage of time may substantially affect the
24 parties' situations and the availability of funds under a retirement plan. A plan holder
25 may pass away, leaving no beneficiary or a beneficiary other than the prospective
26 alternate payee, or the plan holder's retirement plan may be terminated, withdrawn
27 early, etc. An alternate payee has little to no rights before entry of a QDRO.
28

1 From a policy standpoint, why would the Court adopt an application of the
2 statute of limitations that encourages litigants to sit on their rights and do nothing
3 until after a triggering event, e.g. retirement or death – at which point, in the majority
4 of situations, it is too late to even enter a QDRO.

5 **F. Entry of the Divorce Judgment Gave Rise to the Indebtedness in this**
6 **Case – Specifically, the Requirement that A QDRO Be Entered.**

7 NRS 11.200 states as follows:

8 The time in NRS 11.190 shall be deemed to date from the last
9 transaction or the last item charged or last credit given; and whenever
10 any payment on principal or interest has been or shall be made upon
11 an existing contract, whether it be a bill of exchange, promissory note
12 or other evidence of indebtedness if such payment be made after the
13 same shall have become due, the limitation shall commence from the
14 time the last payment was made.

15 The Nevada Supreme Court interpreted this provision in *Davidson v. Davidson*,
16 to mean “the statute of limitations began running when there was ‘evidence of
17 indebtedness’ for half of the equity in the marital property to Danette.” Referring
18 back to the 1892 decision of *Borden v. Clow*, 21 Nev. 275, 278, 30 P. 821, 822
19 (1892), the Court stated: “It is a rule in regard to the statute of limitations, applicable
20 in all cases, that the statute begins to run when the debt is due, and an action can be
21 instituted on it.”

22 Here, the evidence of indebtedness occurred immediately upon entry of the
23 divorce judgment, as Donald was obligated at that time to cooperate with the entry of
24 a QDRO. His failure to cooperate would have given rise immediately to an action for
25 enforcement by Shannon, thus triggering the statute of limitations.

26 **F. Marvin Snyder Was Available and Could Have Been Retained as**
27 **Agreed by the Parties.**

28 Without citing any evidence to support her claim, Shannon tries to excuse the
fact that she took no action for 10 years by claiming that it was impossible to hire

1 Marvin Snyder because “he had retired and was no longer drafting QDROs.” That is
2 false.

3 Marvin Snyder was accepting work and had not retired for nearly 3 ½ years
4 following the parties’ divorce. See Declaration of Gregory G. Gordon, Esq., attached
5 as Exhibit “C.” As described therein, the undersigned counsel had retained Mr.
6 Snyder on behalf of other clients on more than one occasion for several years after
7 2008, including one assignment as late as February of 2012. Mr. Snyder was
8 accepting clients throughout 2008, 2009, 2010, 2011, and 2012.

9 Had either party contacted Mr. Snyder within 30 days (or even within a couple
10 of years) after the divorce, Mr. Snyder would have been able and available to take the
11 case. There was no impossibility or any other obstacle to Shannon retaining Marvin
12 Snyder, had she promptly sought to do so.

13 This is also important as had Shannon complied with the terms of the Decree of
14 Divorce and discovered back in 2008 that the provisions of the Decree were
15 inadequate, the Court could have potentially redressed any concerns while the parties
16 were alive and the claims not stale.

17 It should be noted that the estate has never taken the position that the QDRO
18 itself needed to be prepared within 30 days. The Decree simply requires that the
19 parties would consult with Snyder within 30 days. That never occurred. In any event,
20 as pointed out by the Kansas Court of Appeals in Larimore, Shannon could have
21 sought a QDRO at any time after the filing of the divorce decree because ERISA does
22 not specify a timeframe for the filing of a QDRO. Instead, 10 years passed, and
23 Shannon never took any action until it was too late.

24 . . .
25 . . .
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1 **G. There Would Be No Need to Renew Judgments Every 6 Years If**
2 **Parties Entered QDROs Promptly. Allowing Spouses to Ask for**
3 **QDROs Decades After the Fact; After Parties Have Died; And**
4 **Circumstances Changed Violates the Policies Behind Statute of**
5 **Limitations.**

6 There can be no dispute that Nevada law favors the diligent pursuit of claims
7 and enforcement of judgments and discourages parties from endlessly sitting on
8 potential claims, especially in family law matters. *See Davidson*, 382 P.3d 883
9 (holding that “the Legislature did not intend for parties to endlessly “sit” on potential
10 claims”).

11 Shannon argues that it would be “absurd to require a non-employee spouse to
12 ‘renew’ a divorce judgment every six years – perhaps for decades – until an employee
13 spouse actually retired and benefits became payable. . . .”

14 However, if Shannon had diligently pursued entry of a QDRO there would be
15 no reason to renew the divorce judgment. Upon timely entry of a QDRO, her rights
16 to the pension benefits would have been secured, without any need for further
17 enforcement.²

18 **H. There is No Express Reservation of Jurisdiction in the Decree of**
19 **Divorce That Would Nullify the 6 Year Statute of Limitations.**

20 The Decree of Divorce in this case does not set forth any express reservation of
21 jurisdiction by the Court that would extend or nullify the 6 year statute of limitations
22 set forth in NRS 11.190(1)(a). On the contrary, the Decree of Divorce directs the
23 parties to retain the services of Marvin Snyder within 30 days following entry of the
24 Decree of Divorce. In other words, the Decree of Divorce directs the parties to be
25 diligent and timely in enforcing its terms. Shannon failed to exercise diligence in
26 pursuing her claim; and her request to now enforce the Decree of Divorce more than a
decade later, after Donald’s passing, must be denied.

27 ² In *Davidson*, the Nevada Supreme Court criticized Ms. Davidson for not
28 renewing her divorce judgment and utilizing the protections of NRS 17.214. The
Court did not view “as absurd” the notion that parties would utilize the statute to
protect themselves under certain situations.

1 **I. Shannon Was Never Awarded Survivor Benefits; And The Court is**
2 **Without Authority to Modify the Property Rights of the Parties.**

3 Even if the Court was somehow willing to disregard the statute of limitations
4 bar, and proceed with entry of a QDRO more than 10 years after the divorce, and after
5 the Defendant’s passing, the QDRO proposed by Shannon is inconsistent with the
6 terms of the Decree of Divorce.

7 It is well established in Nevada that a district court lacks jurisdiction to modify
8 a divorce decree regarding property rights six months after the decree is entered.
9 *Kramer v. Kramer*, 96 Nev. 759, 762, 616 P.2d 395, 397-98 (1980).

10 Here, Shannon is requesting that the Court approve a QDRO that substantially
11 modifies the property rights of the parties as it relates to benefits payable after death.
12 Specifically, Paragraph 13 of the QDRO proposed by Shannon states as follows:

13 *If the Participant dies prior to the commencement of the Alternate*
14 *payee’s benefits, the Alternate Payee shall be treated as the*
15 *Participant’s surviving spouse to the extent required to entitle the*
16 *Alternate Payee to the portion of the Participant’s benefits assigned*
17 *under this Order.*

18 However, there is no provision in the divorce decree that permits or authorizes
19 the Court to “treat” Shannon as Donald’s “surviving spouse” for any purpose.

20 The Nevada Supreme Court addressed this very issue of survivor benefits in
21 *Henson v. Henson*, 334 P.3d 933 (Nev. 2014). In *Henson*, the Nevada Supreme Court
22 held that “unless specifically set forth in the divorce decree, an allocation of
23 community property interest in the employee spouse’s pension plan does not also
24 entitle the nonemployee spouse to survivor benefits.” (Emphasis added).

25 The Court went on to state, “Because the divorce decree did not explicitly
26 provide Kristin with a survivor beneficiary interest, she is not entitled to one, and
27 thus, the original QDRO improperly designated Kristin as Howard’s survivor
28 beneficiary.” *Id.* See also *Dorn v. International Bhd. Of Elec. Workers*, 211 F.3d 938,
941 n.5 and 947 (5th Cir. 2000) (holding that while a QDRO entitled a former spouse

1 to a portion of her ex-husband’s monthly pension annuity during his lifetime, she was
2 not entitled to a survivor’s annuity under ERISA because “the domestic order
3 nowhere designates her as the surviving or ‘qualified’ spouse for purposes of any
4 survivor benefit); *Samaroo v. Samaroo*, 193 F.3d 185, 187 n.2 (3rd Cir. 1999)
5 (holding that terms of divorce decree were insufficient to entitle a participant’s ex-
6 wife to a preretirement surviving spouse annuity because the decree “was silent on the
7 issue of survivor’s rights”).

8 Similarly, in this case, the divorce decree does not give Shannon any survivor
9 beneficiary interest in Donald’s pension, and therefore, she is not entitled to one.
10 Furthermore, this Court has no authority to re-write the parties’ divorce decree.

11 **J. The Estate Fully Comprehends the Difference Between Survivor**
12 **Benefits and Death Benefits – Shannon’s QDRO Reserves the**
13 **Option for Survivor Benefits.**

14 Shannon contends that the estate misconstrues the difference between survivor
15 benefits and death benefits. That is false. The estate understands the distinction.

16 Shannon would have this Court believe that any share of benefits she is
17 awarded, if any, would be paid by the Plan as a death benefit pursuant to the “separate
18 interest” methodology used by Shannon when preparing her QDRO. However, the
19 Plan has never acknowledged or agreed that it will endorse a separate interest
20 approach.

21 If the Plan refuses to honor a separate interest approach, then Shannon would
22 receive nothing from the Plan, unless and only if she were treated or regarded as
23 Donald’s surviving spouse. Hence, the reason why Shannon has included in the
24 QDRO paragraph 13, essentially a “backdoor” which leaves open the possibility for
25 Shannon to be paid via “survivor benefits” in lieu of “death benefits.”

26 The estate has not misconstrued anything. On the contrary, Shannon has
27 included a provision in her QDRO, Paragraph 13, which directly violates *Henson v.*
28 *Henson*.

1 Paragraph 13 is a deliberate attempt by Shannon to defeat and/or interfere with
2 Corrie's ERISA guaranteed right to a QPSA, e.g. surviving spouse benefits
3 guaranteed to her under the principles and laws of ERISA. This language directing
4 the Plan to artificially treat Shannon as Donald's "surviving spouse" is inconsistent
5 with the division of property set forth in the divorce decree; and as such represents an
6 improper post-decree modification of the property rights of the parties. For this
7 reason, Shannon's request for entry of the proposed QDRO must also be denied.

8 **K. Donald's Estate Has Already Been Substituted In The Case By**
9 **Stipulation and Order; And Has A Vested Interest in Ensuring that**
10 **Donald's Pension Benefits Are Properly Distributed and That His**
11 **Surviving Spouse and Child Receive Their Rightful Benefits.**

12 A QDRO is an order that impacts the rights and responsibilities of both the
13 participant and alternate payee. Here, Donald has designated his surviving spouse,
14 Corrie, as his QPSA / plan beneficiary. The benefits that will be received by Corrie
15 are directly impacted and affected by any benefits that Shannon potentially receives
16 as an alternate payee –though no QDRO was ever approved. As such, Donald's estate
17 has a valid interest in ensuring that the plan is treated properly under the law and that
18 Shannon's time-barred attempt to obtain a QDRO that far exceeds the scope of the
19 divorce decree is stopped.

20 **L. Attorney's Fees and Costs**

21 Contrary to what Shannon has alleged, she is the party attempting to modify
22 and change the decree of divorce by seeking a post-death QDRO that requests a 50%
23 pension division and survivor benefits contrary to the terms of the decree. As such,
24 Shannon must indemnify Donald's estate for the entirety of its fees and costs incurred
25 in defending against an improper QDRO.

26 The Estate respectfully requests the right post-hearing to submit a Brunzell
27 Declaration of counsel and supporting memorandum of fees and costs to support its
28 recovery of attorney's fees and costs, as requested herein.

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III.

CONCLUSION

Based upon the foregoing, the Court should deny Plaintiff's motion for entry of a post death Qualified Domestic Relations Order and award Donald's estate its reasonable attorney's fees and costs incurred herein.

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