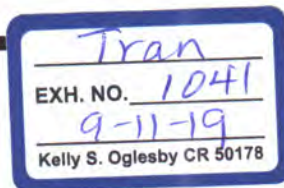


# Michelle M. Tran

## Member



**Michelle Margolies Tran**, a Member in Clark Hill's Estate Planning and Probate Practice Group, focuses her practice in the areas of sophisticated estate planning for individuals, families, and businesses, using trusts and business entities to help her clients achieve their business succession, estate tax reduction, and asset preservation goals. She also assists clients with complex trust and estate administration issues, including probate. Michelle serves on Clark Hill's Diversity and Inclusion Committee, and is the Co-Chair of Clark Hill BOLD - Phoenix, the firm's strategy to promote women within the firm, the legal profession, and the business community.

Michelle is admitted to practice before the Arizona Supreme Court, the United States Tax Court, and the United States District Court in Arizona. She received her law degree from the Arizona State University College of Law in 1994, undergraduate degree from the University of California, San Diego, in 1991, and her Masters of Laws (LL.M.) in taxation from the University of Florida College of Law in 1995.

Michelle is a member of the State Bar of Arizona's Tax and Probate & Trust sections. She is also a member of the JCF Professional Advisory Committee, Valley Estate Planners, Women at the Top, Scottsdale Bar Association, and Central Arizona Estate Planning Counsel. Michelle currently serves on the Planned Giving Committee of Ballet Arizona. Michelle is a 2015-2016 participant in the ADL's Glass Leadership Institute for the Arizona Region. Michelle served on the Board of Directors for United Cerebral Palsy of Central Arizona where she Co-Chaired the Development Committee and served a term on the steering committee for the Arizona chapter of Exit Planning Institute.

### Practices, Industries & Services

Tax & Estate Planning

### Areas of Emphasis

Estate Planning & Probate  
General Tax Planning  
Trust, Estate & Fiduciary Litigation

### Memberships

- State Bar of Arizona Association's Probate & Trust Section
- JCF Professional Advisory Committee
- The Arizona Community Foundation's Professional Education Committee
- Valley Estate Planners
- Exit Planning Institute
- ACF/JCF Tax & Legal Seminar Committee

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mtran@clarkhill.com

### Education

J.D., Sandra Day O'Connor College of Law, Arizona State University, Tempe, Arizona, 1994

LL.M., University of Florida Levin College of Law, Gainesville, Florida, 1995

B.S., University of California-San Diego, La Jolla, California

### State Bar Licenses

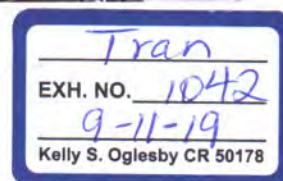
Arizona

### Court Admissions

Supreme Court of Arizona  
U.S. Tax Court  
U.S. Supreme Court  
U.S. District Ct., District of Arizona

## FEATURE: ESTATE PLANNING & TAXATION

By **Sandra D. Glazier** & **Thomas M. Dixon**



# Collaborative Representation by Counsel in Probate Litigation

Opportunities and considerations for parties who wear multiple hats

**E**state litigation appears to be on the rise. With more than \$12 trillion in assets in the process of being transferred from the Greatest Generation to the Baby Boomers, and an additional \$30 trillion in assets anticipated to pass from the Baby Boomers to their heirs,<sup>1</sup> one can anticipate that the number of significant estates coming under challenge or attack might also increase. It's common in trust and estate administration and probate litigation for an individual to be a fiduciary, a beneficiary (and perhaps even a claimant) all at the same time. When a party wears multiple hats, often with conflicting rights, duties and responsibilities, it's important from the outset of an engagement to analyze both the actual and potential conflicts of interest and carefully consider the role that legal counsel should play in properly managing such conflicts. On multiple occasions, we've personally experienced the benefits of collaborative representation when the potential for conflicting interests existed. We both represented the same client, with one representing the client in her fiduciary capacity and the other in her individual capacity. Not only did this approach provide the client with independence of counsel in her respective roles, but also, additional benefits inured to the client as a result of our collaborative efforts in representation.

### The Initial Analysis

You've been contacted by a potential client. She's been

nominated as the personal representative of the decedent's estate and trustee of his inter vivos trust. She's also a beneficiary. Can you represent her in both capacities? Perhaps yes, but because her duties as a fiduciary may conflict with her interests as a beneficiary, often the better course is to represent her in only one capacity. Because the client may not appreciate the importance of having independent counsel for her separate roles, you must be prepared to educate the client about the subtleties of her conflicting roles and the potential risks she faces as a fiduciary should she not properly manage these conflicts of interest.

Determining how best to represent the client requires a careful analysis of other potential interested parties to the administration of the estate and trust. Are there creditors? Are there contesting parties? Is there disharmony in the family? Is there any possibility that there will be a divergence of interests? Are there ambiguities in the document requiring interpretation that could benefit some beneficiaries while adversely affecting others? Even if there's no apparent divergence of interests between your client's fiduciary and beneficiary capacities, there still might be benefits associated with approaching the administration cooperatively with independent counsel, such that your firm represents her in one capacity while another firm represents her in the other. Despite an anticipated increase in the cost of overall representation of the client, when a will or trust challenge is anticipated, working cooperatively with another firm can produce significant benefits to the client that far outweigh any potential for additional costs. In fact, in some instances, quality guidance provided by independent counsel for conflicting roles may actually help avoid a lengthy court battle.

**Potential Benefits of Multiple Counsel**  
The obvious benefit of separate counsel is the availability of truly independent analysis and advice

**Sandra D. Glazier** is an equity shareholder at Lipson Neilson P.C., practicing in its Bloomfield Hills, Mich.



office, and **Thomas M. Dixon** is a member of the Detroit office of Clark Hill, PLC and heads its litigation department nationally





## FEATURE: ESTATE PLANNING & TAXATION

in managing conflicting roles. Particularly in contentious proceedings, fiduciaries are under hyperscrutiny, even while conducting otherwise routine administration matters. When litigation occurs, administration tends to be ongoing. Under such circumstances, fiduciaries are routinely faced with decisions that might impact beneficiaries differently, which can draw accusations of conflict of interest and breach of fiduciary duty. The circumstances in which conflicts arise are countless. For example, your client in her fiduciary capacity has a duty to maintain and preserve assets for ultimate distribution to herself and other beneficiaries. As such, every dollar

If significant litigation is on the horizon, working collaboratively with another firm, such that the client has representation in both capacities, can provide for a division of responsibilities, enhanced strategies and collaboration of effort during all phases of a proceeding.

spent to maintain assets may mean less for your client as a beneficiary and the other remainder beneficiaries. Independent counsel for the client's fiduciary and beneficiary roles can prove invaluable to a fiduciary in safely navigating these sticky circumstances.

Independent counsel can also provide the client with a broader skillset. For example, if your area of expertise is probate administration and tax planning, the client may benefit if you partner up with another attorney who specializes in probate litigation. This could be important even when the client's fiduciary and beneficial interests are aligned, but the prospects of litigation are present.

The ability to litigate versus the ability to navigate the Internal Revenue Code are very different specialties. The Rules of Professional Conduct prohibit attorneys from handling legal matters that they aren't competent to handle, unless they're associated with a lawyer who's competent to handle the matter.<sup>2</sup>

Because the client in her fiduciary capacity will have an undivided obligation of loyalty to the best interests of all of the beneficiaries, her individual interests may conflict with her fiduciary obligations. In such instances, separate representation will be required, or the client may have to go unrepresented in one of those capacities (most likely that as beneficiary). If the firm elects to represent the client in both her individual and fiduciary capacities, challenges may arise as to fees and costs relating to the client's beneficial interest, if care isn't taken to segregate and separately bill such time and expenses. Typically, only those services rendered for her benefit in her fiduciary role may be chargeable as reasonable expenses of administration to the estate or trust. When a beneficiary seeks an award of attorney's fees, many jurisdictions limit payment from the trust only for those services that the beneficiary can prove benefited the trust as a whole.<sup>3</sup>

When beneficiaries are aligned (and there's no anticipated divergence of interests), the firm representing the client in her individual/beneficiary capacity might represent multiple beneficiaries. Should this occur, it's beneficial to analyze the potential for conflicts to later arise, address them in the engagement agreement and disclose to the clients what will happen with regard to representation should such conflicts arise, so that each beneficiary can execute a knowing and voluntary waiver, at least as it relates to the current potential for future conflicts.

If significant litigation is on the horizon, working collaboratively with another firm, such that the client has representation in both capacities, can provide for a division of responsibilities, enhanced strategies and collaboration of effort during all phases of a proceeding, including depositions and trial examination of witnesses. With many jurisdictions fast-tracking litigation of disputes, litigation can be a time-consuming endeavor. When discovery is compressed and multiple witnesses need to be examined and/or prepped, a collaborative approach to representation can enhance the overall



## FEATURE: ESTATE PLANNING & TAXATION



quality of the representation of the client.

For example, in one substantial undue influence case, we had more than 70 depositions, many of which ran multiple days. The types of witnesses varied significantly; some were doctors, others were forensic psychiatrists and psychologists, while still others were therapists, record keepers, business associates, attorneys and, of course, a collection of lay witnesses, including family beneficiaries. By having one firm represent the client in her fiduciary capacity, while the other represented her individual/beneficiary interests, primary responsibility for the preparation and taking of depositions could be thoughtfully allocated between the firms. On occasion, primary responsibility for significant witnesses was divided topically. Also, having multiple firms representing aligned interests provided the opportunity for an attorney from each firm to ask questions of the witness at the deposition

(as well as at trial). This also permits one attorney to take the bulk of responsibility for a particular witness while the other engages in tying up loose ends and addressing questions specifically pointed to the client's individual or divergent interests.

When interests are aligned, the responsibility for preparation of pleadings, motions, responses and other papers can also be allocated among counsel, while each has input into the final product. This approach generally results in an end product enhanced by consideration of varying perspectives and, when necessary, conflicting interests. However, when different firms are representing the same party in varying capacities, it's important that the firms (and lawyers involved) be able to work as a "team"; this requires the attorneys to check their egos at the door, not be turf or fee driven and focus on the ultimate needs, directives and potential outcomes available to the client.



# FAIR SPLIT

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## FEATURE: ESTATE PLANNING & TAXATION

### Joint Defense Agreements

Because the firms are representing two different parties (embodied in the same individual), to preserve work product and the attorney-client privilege, consider using joint defense agreements (sometimes called “common interest” agreements) and confidentiality agreements. Use of such agreements can help effectuate and provide a mechanism for coordinating the efforts of counsel with respect to common defense or prosecution issues and to avoid duplicative costs when practicable. But, this isn’t the end of the protections required. When interests are divergent, certain communications between the client and counsel will need to be protected. Not all efforts can be pursued by the team. Therefore, while electronic file sharing can assist in the cooperative efforts in team representation, protections must remain in place with regard to confidences and advice provided to the client with regard to divergent interests. So, while discovery materials, trial books, optical character recognition copies of documents loaded into search engine programs and related material might be shared across firms, and chronologies, deposition summaries and certain other work product materials might be shared under a common file share or other format, some information must be separately maintained and protected to preserve its confidential and privileged nature. Navigating what may be shared and what must be protected requires ongoing vigilance and analysis of the potential for conflicting interests and attention to which firm is responsible for pursuing or defending a divergent (as opposed to aligned) interest.


Commencing with retention and throughout representation, it remains important to evaluate (and re-evaluate) the extent to which information, work product and strategies may be communicated among firms. Ongoing analysis of actual and potential conflicts of interest is required. Care in the drafting and amendment of joint defense or representation and confidentiality agreements remains critical. So too, the observance of a “Chinese Wall”<sup>4</sup> can help protect information that must remain segregated and confidential to preserve the privileges otherwise afforded to such information, particularly when the information relates solely to the interest or defense of a claim of the client in her individual capacity.

The team approach also tends to work best if each

firm specifically designates its own internal lead counsel. This facilitates coordination of efforts both within the firm and among firms. Open communication of assignments and responsibilities among lead counsel is also important when it comes to areas falling within the parameters of the joint defense and confidentiality agreement.

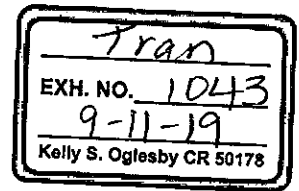
### Other Benefits

The benefits of team representation outlined in this article, including the opportunity for examination of witnesses by both counsel, often result in more thorough and effective discovery efforts and trial presentation. However, this may not be available in every jurisdiction; therefore, a careful analysis of whether the right of examination is afforded to “a side” as opposed to “a party” can be a consideration in determining a tactical strategy for approaching the division of responsibility among members of the team.

Working collaboratively and cooperatively with other attorneys on behalf of clients with conflicting roles not only can lead to a collegial approach to issues, but also can provide an important sounding board for strategies that might be implored in the case. Consideration of different perspectives generally results in better client outcomes—but the access to independent advice of counsel and the associated expression of differing positions and perspectives remain important for the client in effectively managing conflicts. 

### Endnotes

1. Accenture, “The ‘Greater’ Wealth Transfer: Capitalizing on the Intergenerational Shift in Wealth” (2015), [www.Accenture.com/us-en/insight-capitalizing-intergenerational-shift-wealth-capital-markets-summary.aspx](http://www.Accenture.com/us-en/insight-capitalizing-intergenerational-shift-wealth-capital-markets-summary.aspx).
2. See Michigan Rules of Professional Conduct Rule 1.1. See also ABA Model Rules of Professional Conduct Rule 1.1.
3. The “American rule” provides that attorney’s fees aren’t recoverable unless expressly authorized by statute or court rule. MCL 700.7904(1) provides Michigan courts with the authority to award attorney’s fees and costs to a party who enhances, preserves or protects trust property. Therefore, unless the beneficiary’s actions can be shown to enhance, preserve or protect trust property, as opposed to being for the sole purpose of enhancing the beneficiary’s personal interest in the trust, an award of attorney’s fees may not always be a viable remedy. See Bogert, *Trusts & Trustees*, Second Edition, Section 871, at pp. 187-191.
4. [https://en.wikipedia.org/wiki/Chinese\\_wall](https://en.wikipedia.org/wiki/Chinese_wall).



# CLARK HILL

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clarkhill.com

August 2, 2016

Shawna Heuer  
9400 W. Thompson Road  
Coeur d'Alene, ID 83814

Re: Estate of Denny J. Chittick

Dear Shawna:

I am sending you this engagement letter with the firm's billing policies and procedures. After you have reviewed it, please sign and return it to me by email, fax, or regular mail. If you mail it, please keep a copy. If making your own copy is not convenient, please let me know and I will send a copy back to you.

The hourly rates and contact information for the attorneys and legal staff in our group are listed at the end of this letter. I may also receive assistance from one or more other attorneys or legal assistants in our office. Their hourly rates vary depending on their experience and level of expertise. Legal fees as well as out-of-pocket expenses which we incur on your behalf (filing or recording fees, publication charges, any court costs, etc.), will be billed on a monthly basis and will be due upon presentment.

I suggest that we start with an initial advance of \$200.00. Upon our receipt of this amount we will apply it against our first invoice in payment of costs and attorneys' fees incurred. I assure you that we will endeavor to work efficiently to keep costs as low as possible without jeopardizing the quality of our legal services.

This letter is supplemented by our Standard Terms of Engagement for Legal Services, attached, which are incorporated in this letter and apply to this matter and other matters for which you engage us.

If you have an accountant, financial advisor, or family members with whom you would like us to be able to share information about your planning, there is also a place at the end of this letter to list those persons. If you do not wish to have us share information about your planning, then please leave that section blank. You may revoke this consent at any time.

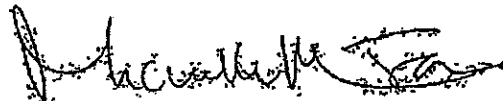
In addition, by signing this engagement letter, you are confirming that the legal services that Clark Hill is providing to you in this or any future matter will not render you insolvent such that you are unable to pay any known or reasonably expected creditors. We are unable to assist you in giving away or structuring your assets in a manner that results in you having insufficient assets available to meet your legal obligations.

One year after our last communication from you in this matter we will consider your file inactive. After that time, we will be available to help you at any time you may request, but we will no longer be responsible for sending you follow up letters or reminders about outstanding issues.

We appreciate your business. If you have any questions or concerns, please do not hesitate to telephone me to discuss them.

Sincerely,

CLARK HILL PLC



Michelle Margolies Tran

Enclosure

Shawna Heuer hereby accepts and agrees to be bound by the foregoing.

Date: Aug. 2<sup>nd</sup> 2016

Shawna Heuer  
Signature

Optional Consent to Disclosure

Until further written notice is given, the attorneys and staff of Clark Hill PLC may discuss my estate, tax, and business planning, as well as other matters involved in my legal representation by Clark Hill, with the following persons who are acting on my behalf.

Eldon V. Chittick  
Helen T. Williams

Carlene G. Chittick

#### 2016 Hourly Rates

Attorney Darra Rayndon	390.00/hour
Attorney Michelle Tran	360.00/hour
Attorney Ely Sluder	345.00/hour
Diane Morgan	200.00/hour
Jeanne Harris	155.00/hour
Leslie Lopez	80.00/hour

#### Contact Information

Darra Rayndon	480.822.6746	drayndon@clarkhill.com
Michelle Tran	480.822.6745	mtran@clarkhill.com
Ely Sluder	480.822.6751	esluder@clarkhill.com
Diane Morgan	480.822.6743	dmorgan@clarkhill.com
Jeanne Harris	480.822.6747	jharris@clarkhill.com
Leslie Lopez	480.822.6748	llopez@clarkhill.com



# ORIGINAL COURT DOCUMENT

PB2016-051754

Will of Denny J. Chittick AUG 04 2016 FILED 10:46 AM

MICHAEL K. JEANES, Clerk

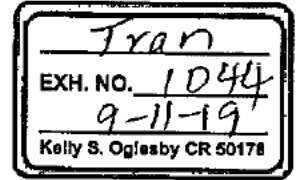
By B. Reth  
B. Reth, Deputy

## Part 1. Personal Information

I, Denny J. Chittick, a resident of the State of Arizona, United States of America, declare that this is my will. My Social Security number is [REDACTED]

## Part 2. Revocation of Previous Wills

I revoke all wills and codicils that I have previously made.



## Part 3. Marital Status

I am married to Ranasha Dawn Chittick.

## Part 4. Children

I have the following children now living: [REDACTED] and [REDACTED]

## Part 5. Disposition of Property

All beneficiaries must survive me for 45 days to receive property under this will. As used in this will, the phrase "survive me" means to be alive or in existence as an organization on the 45th day after my death.

All personal and real property that I leave in this will shall pass subject to any encumbrances or liens placed on the property as security for the repayment of a loan or debt.

If I leave property to be shared by two or more beneficiaries, it shall be shared equally by them unless this will provides otherwise.

If I leave property to be shared by two or more beneficiaries, and any of them does not survive me, I leave his or her share to the others equally unless this will provides otherwise for that share.

"Specific bequest" refers to a gift of specifically identified property that I leave in this will.

"Residuary estate" means all property I own at my death that is subject to this will that does not pass under a specific bequest, including all failed or lapsed bequests.

I leave \$50,000.00 each, which will be deposited in to their 529 plan or equivalent education fund. If there is not such a fund set up, the trustee will set up one. If at the time of my death, the child is out of college or no interest in college, then the money is to be put in to an interest bearing account. At the end of each year, the trustee is to transfer the

## Will of Denny J. Chittick

money in to a Roth IRA. This is to be continued each year until the money is gone. to [REDACTED] and any unborn nephews or neices that are blood related in equal shares.

I leave my remaining assets to [REDACTED] and [REDACTED] in equal shares.

I leave my residuary estate to Shawna C Heuer, Sharla L. Chittick and Quilene M. Steele in equal shares. If Shawna C Heuer does not survive me, I leave his or her share of my residuary estate to Alicia Q. Heuer, Thad B. Heuer and Sean M. Heuer in equal shares. If Sharla L. Chittick does not survive me, I leave his or her share of my residuary estate to Sage B. Chittick. If Quilene M. Steele does not survive me, I leave his or her share of my residuary estate to unborn children.

### Part 6. Individual Child's Trusts

#### *A. Beneficiaries and Trustees*

All property left in this will to [REDACTED] shall be held in a separate trust for [REDACTED] until he reaches age 30. The trustee of the [REDACTED] trust shall be Shawna C Heuer. If Shawna C Heuer is unwilling or unable to serve, the trustee shall be Paul A. Kent.

All property left in this will to [REDACTED] shall be held in a separate trust for [REDACTED] until he reaches age 30. The trustee of the [REDACTED] trust shall be Shawna C Heuer. If Shawna C Heuer is unwilling or unable to serve, the trustee shall be Paul A. Kent.

All property left in this will to unborn children shall be held in a separate trust for unborn children until he or she reaches age 25. The trustee of the unborn children trust shall be Shawna C Heuer. If Shawna C Heuer is unwilling or unable to serve, the trustee shall be Paul A. Kent.

#### *B. Administration of an Individual Child's Trust*

The trustee of an individual child's trust shall manage and distribute the assets in the trust in the following manner.

Until the trust beneficiary reaches the age specified for final distribution of the principal, the trustee may distribute some or all of the principal or net income of the trust as the trustee deems necessary for the child's health, support, maintenance and education. Education includes, but is not limited to, college, graduate, postgraduate and vocational studies and reasonable living expenses.



## **Will of Denny J. Chittick**

In deciding whether or not to make a distribution to a beneficiary, the trustee may take into account the beneficiary's other income, resources and sources of support.

Any trust income that is not distributed by the trustee shall be accumulated and added to the principal.

An individual child's trust shall also be governed by the General Trust Administration Provisions in this will.

### ***C. Termination of an Individual Child's Trust***

An individual child's trust shall terminate as soon as one of the following events occurs:

- the beneficiary reaches the age stated above, in which case the trustee shall distribute the remaining principal and accumulated net income of the trust to the beneficiary
- the beneficiary dies, in which case the principal and accumulated net income of the trust shall pass under the beneficiary's will, or if there is no will, to his or her heirs, or
- the trust principal is exhausted through distributions allowed under these provisions.

### **Part 7. General Trust Administration Provisions**

All trusts established in this will shall be managed subject to the following provisions.

#### ***A. Bond***

No bond shall be required of any trustee.

#### ***B. Court Supervision***

It is my intent that any trust established in this will be administered independently of court supervision to the maximum extent possible under the laws of the state having jurisdiction over the trust.

#### ***C. Transferability of Interests***

The interests of any beneficiary of all trusts established by this will shall not be transferable by voluntary or involuntary assignment or by operation of law and shall be free from the claims of creditors and from attachment, execution, bankruptcy, or other

## **Will of Denny J. Chittick**

legal process to the fullest extent permitted by law.

### ***D. Powers of the Trustee***

In addition to other powers granted a trustee in this will, a trustee shall have the powers to:

- 1) Invest and reinvest trust funds in every kind of property and every kind of investment, provided that the trustee acts with the care, skill, prudence and diligence under the prevailing circumstances that a prudent person acting in a similar capacity and familiar with such matters would use.
- 2) Receive additional property from any source and acquire or hold properties jointly or in undivided interests or in partnership or joint venture with other people or entities.
- 3) Enter, continue or participate in the operation of any business, and incorporate, liquidate, reorganize or otherwise change the form or terminate the operation of the business and contribute capital or lend money to the business.
- 4) Exercise all the rights, powers and privileges of an owner of any securities held in the trust.
- 5) Borrow funds, guarantee or indemnify in the name of the trust and secure any obligation, mortgage, pledge or other security interest, and renew, extend or modify any such obligations.
- 6) Lease trust property for terms within or beyond the term of the trust.
- 7) Prosecute, defend, contest or otherwise litigate legal actions or other proceedings for the protection or benefit of the trust; pay, compromise, release, adjust or submit to arbitration any debt, claim or controversy; and insure the trust against any risk and the trustee against liability with respect to other people.
- 8) Pay himself or herself reasonable compensation out of trust assets for ordinary and extraordinary services, and for all services in connection with the complete or partial termination of this trust.
- 9) Employ and discharge professionals to aid or assist in managing the trust and compensate them from the trust assets.
- 10) Make distributions to the beneficiaries directly or to other people or



## Will of Denny J. Chittick

organizations on behalf of the beneficiaries.

### ***E. Severability***

The invalidity of any trust provision of this will shall not affect the validity of the remaining trust provisions.

### **Part 8. Personal Guardian**

If at my death, a guardian is needed to care for [REDACTED] or [REDACTED], I name Shawna C Heuer as personal guardian. If this person is unable or unwilling to serve as personal guardian, I name Michael Williams to serve instead.

Reasons for my choice for guardian for all my minor children: Ranasha and I choose Shawna, my younger sister, to be [REDACTED] and [REDACTED] legal guardian after discussing this between Ranasha and me, and talking to Shawna and Brad. Michael & Helen Williams as the couple to be the legal guardian if my sister is unable to fill our request. We felt that at the time of this will, there wasn't another sibling (on either side) that was in a place in there lives that they could take on two children.

No personal guardian shall be required to post bond.

### **Part 9. Property Guardian**

If at my death, a guardian is needed to care for any property belonging to [REDACTED] [REDACTED] or [REDACTED], I name Shawna C Heuer as property guardian. If this person is unwilling or unable to serve as property guardian, I name Paul A. Kent to serve instead.

No property guardian shall be required to post bond.

### **Part 10. Executor**

I name Shawna C Heuer to serve as my executor. If Shawna C Heuer is unwilling or unable to serve as executor, I name Paul A. Kent to serve instead.

No executor shall be required to post bond.

### **Part 11. Executor's Powers**

I direct my executor to take all actions legally permissible to have the probate of my will done as simply and as free of court supervision as possible under the laws of the state having jurisdiction over this will, including filing a petition in the appropriate court for the independent administration of my estate.

I grant to my executor the following powers to be exercised as he or she deems to be in

## **Will of Denny J. Chittick**

the best interests of my estate:

- 1) To retain property without liability for loss or depreciation.
- 2) To dispose of property by public or private sale, or exchange, or otherwise, and receive and administer the proceeds as a part of my estate.
- 3) To vote stock, to exercise any option or privilege to convert bonds, notes, stocks or other securities belonging to my estate into other bonds, notes, stocks or other securities, and to exercise all other rights and privileges of a person owning similar property.
- 4) To lease any real property in my estate.
- 5) To abandon, adjust, arbitrate, compromise, sue on or defend and otherwise deal with and settle claims in favor of or against my estate.
- 6) To continue or participate in any business which is a part of my estate, and to incorporate, dissolve or otherwise change the form of organization of the business.

The powers, authority and discretion I grant to my executor are intended to be in addition to the powers, authority and discretion vested in him or her by operation of law by virtue of his or her office, and may be exercised as often as is deemed necessary or advisable, without application to or approval by any court.

### **Part 12. Payment of Debts**

Except for liens and encumbrances placed on property as security for the repayment of a loan or debt, I want all debts and expenses owed by my estate to be paid in the manner provided for by the laws of Arizona.

### **Part 13. Payment of Taxes**

I want all estate and inheritance taxes assessed against property in my estate or against my beneficiaries to be paid out of all the property in my taxable estate, on a pro-rata basis.

### **Part 14. No Contest Provision**

If any beneficiary under this will contests this will or any of its provisions, any share or interest in my estate given to the contesting beneficiary under this will is revoked and shall be disposed of as if that contesting beneficiary had not survived me.

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## Will of Denny J. Chittick

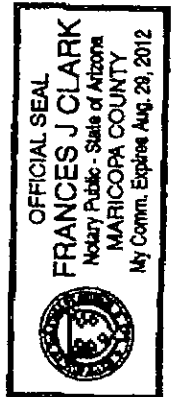
### Part 15. Severability

If any provision of this will is held invalid, that shall not affect other provisions that can be given effect without the invalid provision.

### Signature

I, Denny J. Chittick, the testator, sign my name to this instrument, this 5 day of May 2009, at Chandler, AZ. I declare that I sign and execute this instrument as my last will, that I sign it willingly, and that I execute it as my free and voluntary act. I declare that I am of the age of majority or otherwise legally empowered to make a will, and under no constraint or undue influence.

Signature: [Signature]



### Witnesses

We, the witnesses, sign our names to this instrument, and declare that the testator willingly signed and executed this instrument as the testator's last will.

In the presence of the testator, and in the presence of each other, we sign this will as witnesses to the testator's signing.

To the best of our knowledge, the testator is of the age of majority or otherwise legally empowered to make a will, is mentally competent and under no constraint or undue influence.

We declare under penalty of perjury that the foregoing is true and correct, this

5TH day of MAY, 2009, at TEMPE, AZ 85284

Witness #1: [Signature]

Residing at: 5869 W. Heine Rd. Chandler, AZ 85214

Witness #2: [Signature]

Residing at: 5869 W. Heine Rd. Chandler, AZ 85214

STATE OF ARIZONA

COUNTY OF MARICOPA

The foregoing instrument was acknowledged before me this 5TH day of MAY 2009  
By CARLENE J. CHITTICK  
Notary Public [Signature]  
My Commission Expires Aug 29, 2012

THOMSON REUTERS

**WESTLAW Arizona Court Rules**

EXH. NO.

Tran  
1045  
9-11-19

Kelly S. Oglesby CR 50178

[Home Table of Contents](#)**Rule 10. Duties Owed by Counsel, Fiduciaries, Unrepresented Parties, and Investigators**Arizona Revised Statutes Annotated  
Arizona Rules of Probate ProcedureArizona Revised Statutes Annotated  
Arizona Rules of Probate Procedure  
II. General Procedures

17B A.R.S. Rules Probate Proc., Rule 10

**Rule 10. Duties Owed by Counsel, Fiduciaries, Unrepresented Parties, and Investigators**Currentness**A. Duties of Counsel.**

1. *Responsibility to Court.* Upon changing office address or telephone number, each attorney shall advise the clerk of court or the court administrator in each of the counties in which that attorney has probate cases pending of the attorney's current office address and telephone number.

2. *Limited Scope Representation.* Subject to the limitations in ER 1.2(c), Rules of Professional Conduct, an attorney may make a limited appearance by filing a notice stating that the attorney and the party have a written agreement that the attorney will provide limited scope representation to the party and specifying the matter or issues with regard to which the attorney will represent the party. Service on an attorney who has made a limited appearance for a party shall be valid, to the extent permitted by statute and Rule 4(f), Arizona Rules of Civil Procedure, in all matters in the case, but shall not extend the attorney's responsibility to represent the client beyond the specific matter for which the attorney has agreed to represent the client. Nothing in this rule shall limit an attorney's ability to provide limited services to a client without appearing of record in any judicial proceedings.

**B. Duties of Unrepresented Parties.**

1. An unrepresented party shall inform the court of his or her current address and telephone number. The person has a continuing duty to advise the court of any change in address or telephone number.

2. A person who is not an active member of the State Bar of Arizona or has not been admitted *pro hac vice* pursuant to the Rules of the Arizona Supreme Court may not represent family members or other lay persons during court proceedings.

3. A person who is not an active member of the State Bar of Arizona, an attorney admitted *pro hac vice* pursuant to the Rules of the Arizona Supreme Court, or certified as a legal document preparer by the Arizona Supreme Court may not prepare documents for another person to file with the court.

**C. Duties of Court-Appointed Fiduciaries.**

1. A court-appointed fiduciary shall

- a. review all documents filed with the court that are prepared on the fiduciary's behalf;
- b. if the fiduciary is a licensed fiduciary who is not also an active member of the State Bar of Arizona, place the fiduciary's license number on all documents signed by the fiduciary and filed with the court;
- c. file an updated probate information form that contains the information required by Rule 6 of these rules within ten days after any changes in such information, except that if the ward's physical address changes, the ward's guardian shall file the updated probate information form within three days of learning of the change in address; and
- d. in the case of an updated probate information form that reflects a change of a subject person's address or telephone number or a change of the fiduciary's address or telephone number, mail or deliver a copy of the updated probate information form to the



subject person's court-appointed attorney, the subject person's guardian ad litem, and all parties to the probate case in which the updated probate information form has been filed.

2. *Duties Regarding Death of Ward or Protected Person.* The court-appointed fiduciary shall do the following upon the death of the fiduciary's ward or protected person:

a. A guardian or conservator appointed pursuant to A.R.S. Title 14 shall notify the court in writing of the ward or protected person's death within ten days of learning that the ward or protected person has died.

b. Except as provided by in A.R.S. § 14-5419(F) or otherwise ordered by the court, a conservator shall file a final accounting of the protected person's estate within 90 days of the date of the protected person's death. The accounting shall reflect all activity between the ending date of the most recently approved accounting and the date of death of the protected person. The court may extend the date for filing the accounting or relieve the conservator from filing an annual or final accounting.

3. *Termination of Appointment.* Before a court-appointed fiduciary may resign from a case or have the fiduciary's responsibilities judicially terminated, the fiduciary shall comply with all statutory requirements for withdrawal, including the filing of final reports and accountings.

4. Duties regarding minor's death, adoption, marriage or emancipation. the court-appointed guardian of a minor ward who dies, is adopted, marries or attains majority shall notify the court in writing within ten days of such event. If the minor does not have a conservator at the time the guardianship terminates, the guardian shall provide the court and former minor ward with a written list of any known assets or monies beyond personal effects believed to be owned by the former minor ward.

#### **D. Duties Relating to Counsel for Fiduciaries**

1. To minimize legal expenses, a fiduciary's attorney shall encourage the fiduciary to take those actions the fiduciary is authorized to perform and can perform competently on the fiduciary's own to fulfill the fiduciary's duties rather than having the attorney take such actions on the fiduciary's behalf.

2. In addition to the requirements set forth in Arizona Rule of Civil Procedure Rule 5.3, an attorney who has appeared in a probate case as counsel of record for a guardian, conservator, personal representative, or trustee shall include with any motion to withdraw a status report that advises the court and parties of any issues pending in the probate case and informs the court and parties whether, to the best of the attorney's knowledge, all required guardian reports, inventories, accountings, and other similar required reports have been filed.

#### **E. Duties of Counsel for Subject Person of Guardianship/Conservatorship Proceeding; Duties of Guardian Ad Litem**

1. *Initial Training.* Any attorney who serves as a court-appointed attorney or guardian ad litem for a proposed adult ward or adult protected person shall first complete a training course prescribed by the supreme court, which shall issue a certificate of completion. The attorney shall file a copy of the certificate of completion with the court making the appointment. Any attorney who, at the time this rule becomes effective, is serving as a court-appointed attorney or guardian ad litem for an adult ward or protected person shall complete a training course prescribed by the supreme court as soon as practicable and thereafter shall file a certificate of completion with the court making the appointment.

2. *Subsequent Training.* Any attorney who continues to serve as a court-appointed attorney or guardian ad litem for an adult ward or protected person shall complete an additional training course prescribed by the supreme court every five years and file a certificate of completion as set forth in subsection 1.

3. In a guardianship or conservatorship proceeding, the participation of an attorney representing the subject person shall terminate upon the subject person's death. In extraordinary situations, the court, for good cause shown, may authorize the limited participation of the subject person's attorney after the subject person's death. In such cases, the court shall set forth, in its order authorizing the attorney's continued participation, the basis for the continued participation and the scope of the attorney's participation.

#### **F. Duties of Investigators.**

1. Before being appointed as an investigator pursuant to A.R.S. §§ 14-5303(c), 14-5407(b), or 36-540(g), a person shall first complete a training course prescribed by the supreme court, which shall issue a certificate of completion. The investigator shall file a copy of the certificate of completion with the court making the appointment.

2. Any person who continues to serve as a court-appointed investigator shall complete an additional training course prescribed by the supreme court every five years and file a certificate of completion as set forth in subsection A.

#### **G. Remedies for Vexatious Conduct; Definitions**

1. If the court finds that a person engaged in vexatious conduct in connection with a probate case, the court may do either or both of



the following:

- a. Order that the person shall obtain the court's permission to file future pleadings and other papers in the probate case or in other cases. If the court enters such an order, no party is required to respond to the person's future filings until ordered to do so by the court.
  - b. Order that a fiduciary, fiduciary's attorney, court-appointed attorney, guardian ad litem, trustee or personal representative shall not be required to respond to future requests for information made by the person related to the probate case unless required by subsequent court order.
2. The remedies permitted pursuant to this section are in addition to any other civil remedy or any other provision of law.
3. For the purposes of this section:
- a. "Court-appointed attorney" means an attorney appointed pursuant to Section 14-5303, Subsection C, Section 14-5310, Subsection C, Section 14-5401.01, Subsection C or Section 14-5407, Subsection B.
  - b. "Fiduciary" means an agent under a durable power of attorney, an agent under a health care power of attorney, a guardian, a conservator, a personal representative, a trustee, a guardian ad litem, or a special conservator appointed under Section 14-5409.
  - c. "Vexatious conduct" means habitual, repetitive conduct undertaken solely or primarily to harass or maliciously injure another party or that party's representative, cause unreasonable delay in proceedings, cause undue harm to the ward or protected person, or cause unnecessary expense. It does not include conduct undertaken in good faith.

### Credits

Added Sept. 16, 2008, effective Jan. 1, 2009. Amended Sept. 2, 2010, effective Jan. 1, 2011; Dec. 13, 2011 (corrected *nunc pro tunc* Dec. 22, 2011), effective Feb. 1, 2012, and Sept. 1, 2012; Sept. 2, 2016, effective Jan. 1, 2017.

### Editors' Notes

#### COMMENT

Rule 10 is designed to help the court oversee and supervise probate cases. Courts are required by other rules to exercise administrative supervision over cases. See, e.g., Ariz. R. Sup. Ct. 92 (describing duties of presiding and associate presiding judges). As part of that supervision, courts should periodically review cases and may, after notice, dismiss or administratively close cases that have not been efficiently prosecuted.

Only an attorney who is a member in good standing with the State Bar of Arizona may represent a party, fiduciary, or other party in a probate proceeding. A family member who is appointed as the fiduciary may represent him or herself in court, but may not speak for or on behalf of other family members. Cf. *Byers-Watts v. Parker*, 199 Ariz. 466, 467, 18 P.3d 1265, 1266 (App. 2001) (holding that the non-lawyer mother appointed as guardian *ad litem* for her minor son, could not represent her son in a civil lawsuit without the services of an attorney).

Rule 10(B)(3) is intended to apply to the drafting of documents such as applications, petitions, motions, objections to petitions, responses to motions, notices of hearing, status reports, and similar documents. It is not intended to preclude a physician, psychologist, or nurse from preparing a report to the court nor is it intended to preclude an accountant or bookkeeper from preparing an accounting to be submitted to the court, nor is the rule intended to prohibit such a document from being used as an exhibit.

Probate proceedings require reporting, accounting, and other statutorily mandated action. These requirements are important because they allow the court and interested persons to see whether the probate matter is being effectively administered and help ensure oversight of probate cases. Attorneys and fiduciaries are in the best position to advise the court regarding compliance with statutory and rule-based requirements and to set forth in their motions to withdraw how those requirements have been or will be met. In addition to considering the basis for an attorney's withdrawal, courts are encouraged to consider whether statutory or court-imposed requirements must be met before or after the withdrawal of counsel.

Section (C)(2) of this rule is based on former Rules 127 and 128, Rules of the Supreme Court. The section is included in these rules for the convenience of those who serve as fiduciaries in probate proceedings. In accordance with A.R.S. § 14-5419(F), a conservator may be allowed to file a closing statement in lieu of a final accounting, unless otherwise ordered by the court, as now reflected in Rule (10)(C)(2)(b).

Rule 10(E) applies not only to attorneys appointed by the court pursuant to A.R.S. §§ 14-5303(C) and -5407(B), but also to counsel of the subject person's own choosing, as well as counsel nominated pursuant to Rule 19(B). The purpose of a court-appointed attorney in guardianship and conservatorship proceedings is to represent the interests of the subject person



and to protect the subject person's civil liberties. Upon the death of the subject person, the subject person no longer has an interest in his or her estate. Therefore, the subject person's attorney's role in the case is no longer necessary. Moreover, a client's death ordinarily terminates the lawyer's representation of the client. See The American College of Trust and Estate Counsel Foundation, *Commentaries on the Model Rules of Professional Conduct* MRPC 1.16 (4<sup>th</sup> ed. 2006). Accordingly, the subject person's death terminates the representation of that person's attorney. Nothing in the rule, however, is intended to preclude the subject person's attorney from participating in the case as a creditor of the subject person's estate.

17B A. R. S. Rules Probate Proc., Rule 10, AZ ST PROB Rule 10  
Current with amendments received through 08/15/19

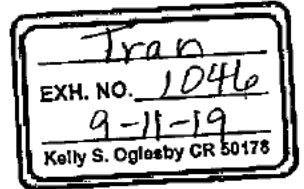
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Scottsdale, Arizona 85254  
Telephone 480/684-1100  
Attorneys for Petitioner  
mtran@clarkhill.com

MICHAEL K. JEANES  
Clerk of the Superior Court  
By Rory Reth, Deputy  
Date 08/04/2016 Time 10:50:53  
Description Amount  
CASE# PB2016-051754  
INFORMALS/AFFIDAVITS 268.00  
TOTAL AMOUNT 268.00  
Receipt# 25401115



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the  
Estate of

DENNY J. CHITTICK,

Deceased.

No. PB2016-051754

APPLICATION FOR  
INFORMAL PROBATE  
AND APPOINTMENT OF  
PERSONAL REPRESENTATIVE

1. This application is made by SHAWNA C. HEUER, who is entitled to file this Application under A.R.S. §14-3301 because she is nominated as the Personal Representative the Will of DENNY J. CHITTICK (the "Decedent").

2. The Decedent died on or about July 28, 2016, at the age of 48 or thereabouts. At the time of Decedent's death, the Decedent was domiciled in Maricopa County, State of Arizona.

3. The Decedent left surviving the following persons who are the surviving spouse, children, heirs, or devisees of the Decedent:

<u>Name</u>	<u>Age</u>	<u>Relationship</u>	<u>Address</u>
[REDACTED]	minor	son	[REDACTED]
[REDACTED]	minor	son	[REDACTED]
[REDACTED]	adult	nephew	[REDACTED]

[REDACTED]	minor	nephew	[REDACTED]
[REDACTED]	minor	nephew	[REDACTED]
[REDACTED]	minor	niece	[REDACTED]
[REDACTED] Trust Shawna C. Heuer, Trustee	n/a	trust	[REDACTED]
[REDACTED] Trust Shawna C. Heuer, Trustee	n/a	trust	9400 W. Thompson Rd. Coeur D'Alene, ID 83814

4. Venue for this proceeding is in Maricopa County, because the Decedent was a domiciliary of the County at the time of death.

5. No personal representative for the Decedent's estate has been appointed in Arizona or elsewhere.

6. Applicant has not received a demand for notice and is not aware of any demand for notice by any interested person of any proceedings concerning the Decedent in this State or elsewhere.

7. The original or an authenticated copy of the Decedent's Will is filed herewith.

8. Applicant believes that the Will dated May 5, 2009, was validly executed and is the Decedent's last Will, and after the exercise of reasonable diligence, Applicant is unaware of any instrument revoking the Will.


9. The time for informal probate has not expired because less than two years have passed since the Decedent's death.

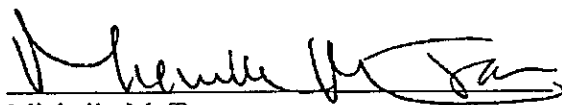
10. Applicant has priority for appointment as Personal Representative under the Will pursuant to the provisions of A.R.S. §14-3203 because was nominated as Personal Representative by the Decedent's Will.

11. Bond is not required of the Personal Representative under the provisions of the Decedent's Will.

Applicant requests that the Decedent's last Will be admitted to informal probate and that SHAWNA C. HEUER be appointed as the Personal Representative to administer the Decedent's estate without bond.

DATED Aug 2<sup>nd</sup>, 2016.

  
SHAWNA C. HEUER  
Applicant  
9400 W. Thomson Rd.  
Coeur D'Alene, Idaho 83814

  
Michelle M. Tran  
Attorney at Law  
14850 N. Scottsdale Road, Suite 500  
Scottsdale, Arizona 85254  
Attorney for Applicant



STATE OF ARIZONA       )  
                                      )  
County of Maricopa       )       ss.

SHAWNA C. HEUER, being duly sworn, states as follows:

That she is the Applicant in the foregoing Application for Informal Probate; that the statements in the Application are accurate and complete to the best of Applicant's knowledge and belief; and that as to those statements based on information and belief, Applicant believes them to be true.

  
SHAWNA C. HEUER

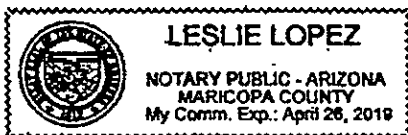
SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me this 2 day of

August, 2016, by SHAWNA C. HEUER.

My Commission expires:

April 26, 2019

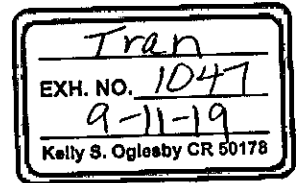
  
Notary Public



MICHAEL K. JEANES, CLERK  
BY *B. Reth*  
B. RETH FILED

16 AUG -4 AM 10:47

Clark Hill PLC  
Darra Lynn Rayndon, Bar No. 006146  
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Telephone 480/684-1100  
Attorneys for Petitioner  
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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the  
Estate of

DENNY J. CHITTICK,

Deceased.

No. PB2016-051754

STATEMENT OF INFORMAL  
PROBATE OF WILL AND  
APPOINTMENT OF PERSONAL  
REPRESENTATIVE

An Application for Informal Probate of Will and Appointment of Personal Representative has been submitted by SHAWNA C. HEUER, requesting admission to probate of the Will of the Decedent dated May 5, 2009, and the appointment of SHAWNA C. HEUER as the Personal Representative to administer the Decedent's estate.


The Court has found that there has been compliance with A.R.S. §§14-3303 or 14-3308, as applicable, and is satisfied that said Will is entitled to probate and that SHAWNA C. HEUER is entitled to appointment as Personal Representative under all applicable provisions of A.R.S. Title 14, Chapter 3, Article 3.

THEREFORE, the Will of DENNY J. CHITTICK, dated May 5, 2009, is admitted to informal probate.

FURTHER, SHAWNA C. HEUER is appointed as Personal Representative of the Decedent's Estate and Letters shall be issued upon said Personal Representative accepting the appointment and shall be issued without bond.

FURTHER, the fiduciary, upon change of address, shall immediately notify the Court in these proceedings of such change. The fiduciary is to be responsible for all costs resulting from failure to notify the Court of such address change.

DATED Aug 3, 2016.

  
Probate Registrar

WARNING:  
THIS APPOINTMENT IS NOT  
EFFECTIVE UNTIL LETTERS  
HAVE ISSUED.

Maridel Solieau

Tran  
EXH. NO. 1048  
9-11-79  
Kelly S. Oglesby CR 50178



\_\_\_\_\_ Request for Registrar Certificate – Registrar Certificate is approved for signing

The Registrar finds that the accompanying documents meet statutory requirements to proceed as instructed. The appointment of Personal Representative will be effective once any required bond is posted, proof of completion of Personal Representative training, and the Letters of Appointment are issued.

Date: Aug 3, 2016

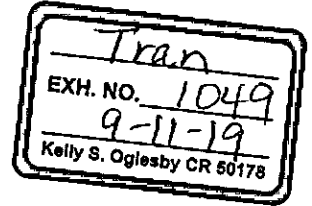
By: Maridel Soileau  
Probate Registrar

Maridel Soileau

MICHAEL K. JEANES, CLERK  
BY B. RETH  
B. RETH FILED

16 AUG -4 AM 10:47

Clark Hill PLC  
Darra Lynn Rayndon, Bar No. 006146  
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Scottsdale, Arizona 85254  
Telephone 480/684-1100  
Attorneys for Petitioner  
mtran@clarkhill.com



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the  
Estate of

DENNY J. CHITTICK,

Deceased.

No. PB2016-051754

LETTERS OF APPOINTMENT OF  
PERSONAL REPRESENTATIVE AND  
ACCEPTANCE OF  
APPOINTMENT AS  
PERSONAL REPRESENTATIVE

LETTERS OF PERSONAL REPRESENTATIVE

SHAWNA C. HEUER is hereby appointed Personal Representative of the Estate of  
DENNY J. CHITTICK, to serve without bond. Said Personal Representative shall not exercise  
the following powers without prior order of the Court: None.

DATED AUG 04 2016, 2016.



MICHAEL K. JEANES  
Clerk of the Superior Court

By: B. RETH  
Deputy Clerk

B. RETH

ACCEPTANCE OF APPOINTMENT

STATE OF ARIZONA       )  
  ) ss.  
County of Maricopa       )

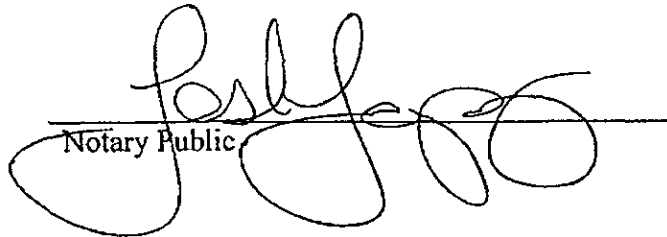
I accept the duties of Personal Representative of the Estate of the above-named person who has died and do solemnly swear or affirm that I will perform the duties as Personal Representative according to law.

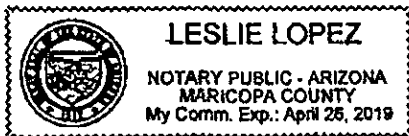
  
SHAWNA C. HEUER

Subscribed and sworn to or affirmed before me this 2 day of August,  
2016, by SHAWNA C. HEUER.

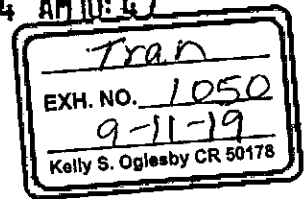
My Commission expires:

April 26, 2019

  
Notary Public



16 AUG -4 AM 10:47



Clark Hill PLC  
 Darra Lynn Rayndon, Bar No. 006146  
 Michelle M. Tran, Bar No. 015893  
 14850 N. Scottsdale Road Suite 500  
 Scottsdale, Arizona 85254  
 Telephone 480/684-1100  
 Attorneys for Petitioner  
 mtran@clarkhill.com

## IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

## IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the  
 Estate of

DENNY J. CHITTICK,

Deceased.

No. PB2016-051754

ORDER TO PERSONAL  
 REPRESENTATIVE AND  
 ACKNOWLEDGEMENT AND  
 INFORMATION TO HEIRS

The best interest of this estate is of great concern to this Court. As Personal Representative, you are subject to the power of the Court. Therefore, to help avoid problems and to assist you in your duties, this Order is entered. You are required to be guided by this Order and to obey it.

This Court will not review or supervise your actions as Personal Representative unless an interested party files a written request to the Court. In Arizona, if you are a beneficiary of an estate, you are expected to protect your own interests in the estate. The Personal Representative is required to provide sufficient information to the beneficiary to permit the beneficiary to protect his or her interests. The Court may hold a Personal Representative personally liable and responsible for any damage or loss to the estate resulting from a violation of the Personal Representative's duties. The following is an outline of some of your duties as Personal Representative:

**DUTIES OF THE PERSONAL REPRESENTATIVE:** The duties of the Personal Representative are found in Chapter 3, Title 14 of the Arizona Revised Statutes (from now on called "A.R.S."). You are responsible for knowing and doing your duties according to these statutes. Some of the duties are as follows:

- 1. GATHER, CONTROL AND MANAGE ESTATE ASSETS.** As Personal Representative you have the duty to gather and control all assets which belonged to the Decedent (the person who has died) at the time of his or her death. After the valid debts and expenses are paid, you have the duty to distribute any remaining assets according to the Decedent's Will or, if there is no Will, to the intestate heirs of the Decedent. As



Personal Representative, you have the authority to manage the estate assets, but you must manage the estate assets for the benefit of those interested in the estate.

2. **FIDUCIARY DUTIES.** As Personal Representative you are a fiduciary. This means you have a legal duty of fairness and impartiality to the beneficiaries and the creditors of the estate. You must be cautious and prudent in dealing with estate assets. As Personal Representative, the estate assets do not belong to you and must never be used for your benefit or mixed with your assets or anyone else's assets. Arizona law prohibits a Personal Representative from participating in transactions that are a conflict of interest between you, as Personal Representative, and you as an individual. Other than receiving reasonable compensation for your services as Personal Representative, you may not profit from dealing with estate assets.
3. **PROVIDE NOTICE OF APPOINTMENT.** Within thirty (30) days after your Letters of Appointment as Personal Representative are issued, you must mail notice of your appointment to the Arizona Department of Revenue and heirs and devisees whose addresses are reasonably available to you. If your appointment is made in a formal proceeding, you need not give notice to those persons previously noticed of a formal appointment proceeding. See A.R.S. § 14-3705.
4. **PROVIDE NOTICE OF ADMISSION OF WILL TO PROBATE.** Within thirty (30) days of the Admission of the Will to informal probate, you must give written notice to all heirs and devisees of the Admission of the Will to probate, together with a copy of the Will. You must notify the heirs that they have four (4) months to contest the probate. See A.R.S. §14-3306.
5. **MAIL COPIES OF THIS ORDER TO PERSONAL REPRESENTATIVE.** WITHIN THIRTY (30) DAYS OF YOUR LETTERS OF PERSONAL REPRESENTATIVE ARE ISSUED, YOU MUST MAIL A COPY OF THIS ORDER TO PERSONAL REPRESENTATIVE AND ACKNOWLEDGMENT AND INFORMATION TO HEIRS, TO ALL THE HEIRS AND DEVISEES OF THE ESTATE, AND TO ANY OTHER PERSONS WHO HAVE FILED A DEMAND FOR NOTICE. See A.R.S. §14-3705.
6. **FILE PROOF OF COMPLIANCE.** Within forty-five (45) days after your Letters of Appointment as Personal Representative are issued, you must file with the Court a notarized statement swearing that a copy of this Order was mailed to each devisee, to each heir in intestate (no Will) estates and to any other persons who have filed a demand for notice.
7. **PUBLISH NOTICE.** Unless a predecessor personal representative already has fulfilled this duty or you were appointed more than two (2) years after the Decedent's date of death, you must publish a notice once a week for three (3) consecutive weeks in a Maricopa County newspaper of general circulation that announces your appointment as Personal Representative and tells creditors of the estate that, unless they present their claims against the estate within the prescribed time limit, the claims will not be paid. In

addition, you must mail a similar notice to all persons you know are creditors. See A.R.S. §14-3801.

8. **PROTECT ASSETS.** You must immediately find, identify, and take possession of the estate assets and make proper arrangements to protect them. See A.R.S. § 14-3709. All property must be retitled to show ownership in the name of the estate — such as "Estate of (Decedent's name), your name, as Personal Representative." Do not put the estate assets into your name, anyone else's name, joint accounts, trust accounts ("in trust for"), or payable on death ("POD") accounts. Do not list yourself or any other person as joint owner or beneficiary on any bank accounts or other assets belonging to the estate. Do not mix any estate assets with your own assets or anyone else's assets.

If your authority as Personal Representative has been limited by the Court, you must promptly protect the estate assets as ordered, and file a Proof of Restricted Assets with the Court. You may not sell, encumber, distribute, withdraw or otherwise transfer restricted assets without first obtaining permission from the Court.

9. **DETERMINE STATUTORY ALLOWANCES.** It is your responsibility to determine whether any individuals are entitled to statutory allowances under A.R.S. §§14-2402, 14-2403, and 14-2404. Statutory allowances include a homestead allowance, exempt property allowance, and a family allowance.
10. **INVENTORY ASSETS.** Unless a predecessor personal representative already has fulfilled this duty, within ninety (90) days after your Letters of Appointment as Personal Representative are issued, you must prepare an Inventory or list of the Decedent's probate assets and their values as of the date of death. See A.R.S. §14-3706. The Inventory must be either (1) filed with the Court and mailed to all interested persons who request it, or (2) not filed with the Court, but mailed or delivered to: (a) each of the if the decedent died intestate or to each of the devisees if the decedent's Will was admitted to probate; and (b) to any other interested person who requests a copy of the Inventory.
11. **STANDARD OF CARE.** In administering estate assets, you must observe the standards of care applicable to a trustee, including the prudent investor act. See A.R.S. §§14-10801 et. seq., and 14-10901 et seq.
12. **KEEP DETAILED RECORDS.** You must keep detailed records of all receipts and expenses of the estate. You are required to provide an accounting of your administration of the estate to all persons affected by the administration. See A.R.S. §14-3933.
13. **PAY VALID DEBTS AND EXPENSES.** You must determine which claims and expenses of the estate are valid and should be paid. You must provide to any creditor whose claims are not allowed prompt written notification that they will not be paid or will not be paid in full. See A.R.S. §14-3806. To the extent there are enough assets in the estate, you are responsible for the payment of any estate debts and/or expenses you know about or can find out about. If there are not enough estate assets to pay all debts and expenses, you must determine which debts and expenses should be paid according to the

law. See A.R.S. §14-3805. You may be personally liable if you pay a debt or expense that should not be paid.

14. **PAY TAXES.** It is your responsibility to determine that all taxes are paid and that all tax returns for the Decedent and the estate are prepared and filed.
15. **DISTRIBUTE REMAINING ASSETS.** After payment of all debts and expenses of the estate, you must distribute estate assets as directed in the Will or, if there is not a Will, to the intestate heirs. If there are not enough assets in the estate to make the gifts as set forth in the Will, it is your responsibility to determine how the distributions should be made as required by law. See A.R.S. §§14-3902 and 14-3907. You may be personally liable if you make an improper distribution of estate assets.
16. **CHANGE OF ADDRESS.** Until the probate is closed and you are discharged as Personal Representative, you must notify the Court in writing if you change your home or mailing address.
17. **PAYMENT AS PERSONAL REPRESENTATIVE.** As Personal Representative, you are entitled to reasonable compensation. See A.R.S. §14-3719 and Maricopa County Local Rule 5.7. Arizona statutes do not designate percentage fees for your work or say how much a Personal Representative should be paid. You must keep receipts to prove out-of-pocket expenses. In determining whether a fee is reasonable, the following factors will be considered:
  - a. The time required (as supported by detailed time records), the novelty and difficulty of the issues involved, and the skill required to do the service properly;
  - b. The likelihood that your acceptance as Personal Representative will preclude other employment;
  - c. The fee normally charged in the area for similar services;
  - d. The nature and value of estate assets, the income earned by the estate, and the responsibilities and potential liability assumed by you as Personal Representative;
  - e. The results obtained for the estate;
  - f. The time limitations imposed by the circumstances;
  - g. The experience, reputation, diligence and ability of the person performing the services;
  - h. The reasonableness of the time spent and service performed under the circumstances; and,
  - i. Any other relevant factors.
18. **COURT INVOLVEMENT.** Usually, to reduce estate expenses, estates are administered and estate claims and expenses are paid, including the fees to the attorney and Personal Representative, with little Court involvement. The Court does not supervise informal probates or the conduct of a Personal Representative. However, if any interested party believes that the estate has not been properly handled or that the fees charged by the attorney or Personal Representative are not reasonable under the circumstances, that party may request that the Court review the accounting for the Personal Representative's administration of the estate. Any additional Court involvement may result in additional

delay and expenses. If appropriate, the Court may assess the additional expense against the estate or the nonprevailing party.

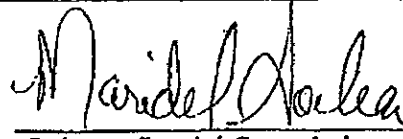
19. **CLOSE THE ESTATE.** After you have administered the estate and the assets of the estate have been distributed, the estate must be closed, either formally or informally. In an informal closing, a copy of the Closing Statement is filed with the Court and must be sent to all persons receiving a distribution from the estate. See A.R.S. §14-3933. For a formal closing, see A.R.S. §§14-3931 and 14-3932. Usually, the estate should be completely administered and closed within two (2) years of the initial appointment of the Personal Representative.

**WARNING.** This is only a general outline of some of your duties as Personal Representative. This Order does not describe all of your duties and is not a substitute for obtaining professional legal advice. This is a general outline of your duties only. If you have any questions as Personal Representative, before taking any action you should contact an attorney who handles probate estates to find out what to do.

Failure to obey a Court Order and the statutory provisions relating to this estate may result in your removal as Personal Representative and other penalties. In some circumstances, you may be held in contempt of court, punished by confinement in jail, fine, or both. In addition, if you violate any of your fiduciary duties, you could be held personally liable for any losses for which you are responsible.

The Superior Court of Arizona in Maricopa County, Self-Service Center has forms, instructions and procedures to help you with the Probate of an Informal Estate, and has a list of lawyers who can give you legal advice, and can help you on a task-by-task basis for a fee. The Self-Service Center charges \$5.00 per packet per process step. The Self-Service Center is located at 101 West Jefferson, 1st Floor, East Court Building, Phoenix, Arizona, 620 W. Jackson Street, Phoenix, Arizona, or 222 East Javelina, 1st Floor, Mesa, Arizona, or 14264 W. Tiena Buena Lane, Surprise, Arizona. Information is also available on the Internet at <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter/forms/>

DATED: Aug 3, 2016

  
\_\_\_\_\_  
Judge or Special Commissioner

Maridel Solleau

### ACKNOWLEDGMENT

The undersigned acknowledges receiving a copy of this Order and agrees to be bound by its provisions, whether or not he or she read it before signing, as long as he or she is Personal Representative.

DATED: August 2, 2016

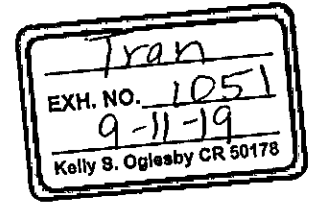
Shawna C. Heuer

SHAWNA C. HEUER  
Personal Representative

Clark Hill PLC  
Darra Lynn Rayndon, Bar No. 006146  
Michelle M. Tran, Bar No. 015893  
14850 N. Scottsdale Road Suite 500  
Scottsdale, Arizona 85254  
Telephone 480/684-1100  
Attorneys for Petitioner  
mtran@clarkhill.com

MICHAEL K. JEANES, CLERK  
BY *B. Reth*  
B. RETH FILED

16 AUG -4 AM 10:47



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the  
Estate of

DENNY J. CHITTICK,

Deceased.

No. PB2016-051754

NOTICE TO HEIRS AND DEVISEES  
OF INFORMAL PROBATE AND  
APPOINTMENT OF PERSONAL  
REPRESENTATIVE

NOTICE IS HEREBY GIVEN that SHAWNA C. HEUER has filed with the above-named court an Application for Informal Probate of Will and Appointment of Personal Representative, for the Estate of DENNY J. CHITTICK, who died on or about July 28, 2016. The Application requests that the Decedent's Will, executed on May 5, 2009, be admitted to informal probate and that SHAWNA C. HEUER be appointed Personal Representative of the estate of the Decedent. A copy of the Will is attached hereto.

On AUG 04 2016, 2016, the Registrar admitted the Will to informal probate and appointed SHAWNA C. HEUER as Personal Representative of the estate to serve without bond.

An heir or devisee of the Decedent wishing to contest the probate has four (4) months from the receipt of this notice to commence a formal testacy proceeding.



Papers relating to the estate are on file with the Court and are available for your inspection.

DATED August 2<sup>nd</sup>, 2016.

Shawna C. Heuer

SHAWNA C. HEUER

Applicant

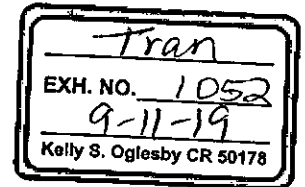
9400 W. Thomson Rd.

Coeur D'Alene, Idaho 83814

Clark Hill PLC  
Darra Lynn Rayndon, Bar No. 006146  
Michelle M. Tran, Bar No. 015893  
14850 N. Scottsdale Road Suite 500  
Scottsdale, Arizona 85254  
Telephone 480/684-1100  
Attorneys for Petitioner  
mtran@clarkhill.com

MICHAEL K. JEANES, CLERK  
BY *[Signature]*  
B. RETH FILED

16 AUG -4 AM 10:47



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the  
Estate of

DENNY J. CHITTICK,

Deceased.

No. PB2016-051754

NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN that the undersigned has been appointed Personal Representative of this estate. All persons having claims against the estate are required to present their claims within **four (4) months** after the date of the first publication of this notice, or within the time prescribed in A.R.S. §14-3801 et seq., as the case may be, or the claims will be forever barred. Claims must be presented to the undersigned Personal Representative at the law firm of CLARK HILL PLC, 14850 N. Scottsdale Road, Suite 500, Scottsdale, Arizona 85254.

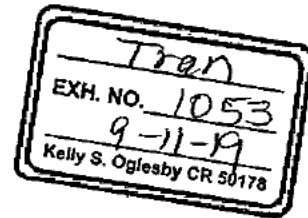
DATED August 2<sup>nd</sup>, 2016.

*[Signature]*  
SHAWNA C. HEUER  
Personal Representative

Clark Hill PLC  
Darra Lynn Rayndon, Bar No. 006146  
Michelle M. Tran, Bar No. 015893  
14850 N. Scottsdale Road Suite 500  
Scottsdale, Arizona 85254  
Telephone 480/684-1100  
Attorneys for Petitioner  
mtran@clarkhill.com

MICHAEL K. JEANES, CLERK  
BY B. Lopez DEF  
FILED

16 AUG -5 PM 4:25



IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the  
Estate of

DENNY J. CHITTICK,

Deceased.

No. PB 2016-051754

PROOF OF NOTICE

STATE OF ARIZONA )  
 ) ss.  
County of Maricopa )

The undersigned Michelle M. Tran states that a copy of the Order to Personal Representative and Acknowledgment and Information to Heirs was delivered or mailed on 8-5-16, 2016, in accordance with the requirements of Administrative Order No. 98-009 of the Superior Court of Maricopa County, Arizona, to the following persons entitled to such notice:

                     Chittick

                     Chittick

                     Chittick

[redacted] Heuer  
[redacted]

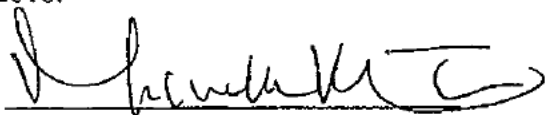
[redacted] Heuer  
[redacted]

[redacted] Heuer  
[redacted]

[redacted] Trust.  
Shawna C. Heuer, Trustee  
9400 W. Thompson Rd.  
Coeur D'Alene, ID 83814

[redacted] Trust  
Shawna C. Heuer, Trustee  
9400 W. Thompson Rd.  
Coeur D'Alene, ID 83814

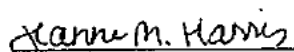
DATED 8-5, 2016.

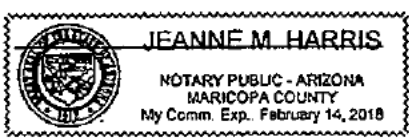
  
Michelle M. Tran  
14850 N. Scottsdale Road, Suite 500  
Scottsdale, Arizona 85254  
Attorney for Estate

SUBSCRIBED, SWORN TO, and ACKNOWLEDGED before me this 5 day of

August, 2016, by Michelle M. Tran.

My Commission expires:

  
Notary Public



**Beauchamp, David G.**

**From:** Shawna Heuer <2chittickboys2@gmail.com>  
**Sent:** Friday, August 05, 2016 1:29 PM  
**To:** Beauchamp, David G.  
**Subject:** Fwd: probate documents

Tran
EXH. NO. 1054
9-11-19
Kelly S. Oglesby CR 50178

----- Forwarded message -----

**From:** Shawna Heuer <2chittickboys2@gmail.com>  
**Date:** Fri, Aug 5, 2016 at 1:28 PM  
**Subject:** Re: probate documents  
**To:** "Tran, Michelle M." <MTran@clarkhill.com>

Thanks Michelle. Please fedex the documents to my home address on Thompson Rd. I am not positive of the date I need to return to Phoenix.

Is there any negative to me opening up the three accounts in Idaho, here at my own bank? Or should I try to use a bank that is in both states? Just curious.

The death certificate is still held up, medical examiner has not released body to mortuary, etc.

Not having a good day, so the questions I had for you have left my memory. I'll think about it this weekend and email again. Struggling with my family.

I appreciate your time. If I remember correctly with the engagement letter, I needed to give you some funds upfront, correct? Do you have a rough estimate of how much I need to send to you shortly to cover this time you have spent and filing fees, etc?

Remember I am an accountant by trade, so I think of budget, anticipate costs, etc so I need to know. Thank you, and thank goodness it's Friday.

On Fri, Aug 5, 2016 at 9:10 AM, Tran, Michelle M. <MTran@clarkhill.com> wrote:

Shawna,

I hope you and your family are doing well under the circumstances. Denny's probate has been opened by the probate court. The documents are attached. I also have hard copies for you as well as two original certified Letters of Appointment. Please let me know if I should FedEx them to you in Idaho or if you want to pick them up. They will be at our front desk until I hear otherwise from you. The Letters of Appointment are your authorization to act on behalf of the Estate.

✓ We will publish the Notice to Creditors and send copies of the documents to Sage and Ranasha as required by law. I will apply for the Estate's EIN today. Please let me know what questions you may have. I am happy to help as you are addressing various assets of the Estate and I will work with David on the corporate issues.

Thank you.

**Michelle Margolies Tran**

**CLARK HILL PLC**

14850 N Scottsdale Rd | Suite 500 | Scottsdale, Arizona 85254  
480.822.6745 (direct) | 480.684.1169 (fax)

[mtran@clarkhill.com](mailto:mtran@clarkhill.com) | [bio](#) | [www.clarkhill.com](http://www.clarkhill.com)



*Birmingham • Chicago • Detroit • Grand Rapids • Lansing • Philadelphia •*

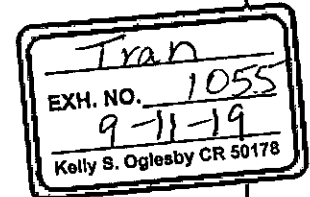
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*D. Vandenberg*  
D. VANDEBERG, FILED

16 AUG 11 PM 3:36



1 Scott A. Swinson (Bar No. 9321)  
2 SCOTT A. SWINSON, P.A.  
3 2400 E. Arizona Biltmore Circle,  
4 Suite 1300  
5 Phoenix, Arizona 85016  
6 (602) 957-6740  
7 swinsonsa@azbar.org  
8 Attorney for Rob Brinkman

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA.  
IN AND FOR THE COUNTY OF MARICOPA

7 In the matter of the estate of, )  
8 DENNY J. CHITTICK, )  
9 Deceased. )

NO. PB2016-051754  
REQUEST FOR NOTICE

10 NOTICE IS HEREBY GIVEN pursuant to A.R.S. §14-3204 that ROB  
11 BRINKMAN, by and through his attorney undersigned, having a  
12 financial or property interest in the above referenced estate,  
13 requests notice of any order or filing pertaining to the estate be  
14 sent to her/his undersigned attorney.

15 DATED this 9<sup>th</sup> day of August, 2016.

16 SCOTT A. SWINSON, P.A.

17 By: *[Signature]*

18 Scott A. Swinson  
19 2400 E. Arizona Biltmore Circle  
20 Suite 1300  
21 Phoenix, Arizona 85016-2195  
22 Attorney for Rob Brinkman

1 A COPY of the foregoing  
2 MAILED this 27 day of  
3 August, 2016, to:

4 Michelle Tran, Esq.  
5 CLARK HILL, P.C.  
6 14852 N. Scottsdale Road  
7 Suite 500  
8 Phoenix, AZ 85254  
9 Attorney for Personal Representative

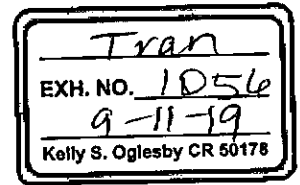
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(C:\Contract\1139.00\Not-Req;pfo)

Message

**From:** Beauchamp, David G. [/O=CLARKHILL/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DBEAUCHAMP]  
**Sent:** 8/15/2016 11:11:38 AM  
**To:** Tran, Michelle M. [mtran@clarkhill.com]  
**Subject:** Re: Ongoing business with Densco (for payoffs ect)



I will deal with it.

Thanks, David

Sent from my iPhone. Please excuse any typos.

On Aug 15, 2016, at 11:08 AM, Tran, Michelle M. <MTran@ClarkHill.com> wrote:  
David,

Please let me know how I should respond this email. Thanks.

**Michelle Margolies Tran**

CLARK HILL PLC

14850 N Scottsdale Rd | Suite 500 | Scottsdale, Arizona 85254  
480.822.6745 (direct) | 480.684.1169 (fax)

[mtran@clarkhill.com](mailto:mtran@clarkhill.com) | [bio](#) | [www.clarkhill.com](http://www.clarkhill.com) <image004.png>

*Birmingham • Chicago • Detroit • Grand Rapids • Lansing • Philadelphia •  
Phoenix • Pittsburgh • Princeton • Washington DC • Morgantown • Wilmington*

**From:** Chris Hyman [<mailto:CHyman@ATSAAZ.com>]  
**Sent:** Monday, August 15, 2016 8:48 AM  
**To:** Tran, Michelle M.  
**Subject:** Ongoing business with Densco (for payoffs ect)

Good Morning

After researching the Superior Court Records I see that you are representing the personal representative of Denny Chittick's estate. Denny was very much loved and highly respected by the people in our industry and his passing is truly a tragedy.

Since Densco made so many loans I was wondering if the personal rep has put something in place wherein those in our industry can continue to get loan payoffs and releases when paid.

Since I know that this was totally unexpected I want to keep contacts from our staff here to a minimum so as not to bother the personal rep. Any information or guidance you could provide would be most helpful.

Respectfully

Chris Hyman  
Executive Vice President  
American Title Service Agency  
2929 East Camelback Road # 218  
Phoenix Arizona 85016  
602 424 7200 Phone  
602 424-7210 Fax  
602 499-1667 Cell  
[chyman@atsaaz.com](mailto:chyman@atsaaz.com)

<image001.jpg>

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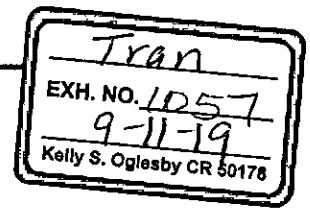
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American Title Service Agency of Arizona

Message

**From:** Beauchamp, David G. [/O=CLARKHILL/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=DBEAUCHAMP]  
**Sent:** 8/15/2016 2:06:21 PM  
**To:** CHyman@ATSAAZ.com  
**CC:** Gary Clapper [GRC@azcc.gov]; Tran, Michelle M. [mtran@clarkhill.com]; Kevin R. Merritt (kmerritt@gblaw.com) [kmerritt@gblaw.com]; James F. Polese (jpolese@gblaw.com) [jpolese@gblaw.com]  
**Subject:** FW: Ongoing business with Densco (for payoffs ect)



Chris:

Your email to Michelle Tran in my office was forwarded to me. Given the need to move quickly on certain items, we only represented the Estate so that a Personal Representative would be appointed for The Estate right away. Due to potential conflicts of interest, we have resigned as counsel to the Estate and new counsel has been appointed or is being appointed for the Estate. Jim Polese and Kevin Merritt of Gammage & Burnham will be representing the Estate going forward.

Since I have previously represented DenSco Investment Corporation ("DenSco"), I have been asked to continue to work on behalf of DenSco with respect to certain administrative matters on an interim basis until a Receiver is appointed for the company. Based upon requests from Borrowers looking to pay-off existing loans from DenSco, I have requested and received a few of the current loan files of DenSco from the Securities Division of the AZ Corporation Commission which has taken possession of those files. Upon receiving an email request, I will try to coordinate that the necessary loan pay-off amounts are provided to your office as well as the release documents.

Sincerely, David Beauchamp

**David G. Beauchamp**

CLARK HILL PLC

14850 N Scottsdale Rd | Suite 500 | Phoenix, Arizona 85254  
480.684.1126 (direct) | 480.684.1166 (fax) | 602.319.5602 (cell)  
[dbeauchamp@clarkhill.com](mailto:dbeauchamp@clarkhill.com) | [www.clarkhill.com](http://www.clarkhill.com)

**From:** Chris Hyman [mailto:CHyman@ATSAAZ.com]  
**Sent:** Monday, August 15, 2016 8:48 AM  
**To:** Tran, Michelle M.  
**Subject:** Ongoing business with Densco (for payoffs ect)

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Respectfully

Chris Hyman  
Executive Vice President  
American Title Service Agency  
2929 East Camelback Road # 218  
Phoenix Arizona 85016  
602 424 7200 Phone  
602 424-7210 Fax  
602 499-1667 Cell  
[chyman@atsaaz.com](mailto:chyman@atsaaz.com)

<image001.jpg>

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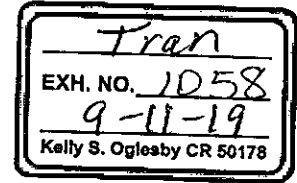
American Title Service Agency of Arizona



RECEIVED A. J. GARNES, CLERK  
BY *J. Castro* DEP  
J. CASTRO, FILED  
16 AUG 18 PM 4:06

1 Christopher L. Raddatz (#021282)  
2 **GAMMAGE & BURNHAM, PLC**  
3 Two N. Central Avenue, 15th floor  
4 Phoenix, Arizona 85004  
5 Telephone: (602) 256-0566  
6 E-mail: [craddatz@gblaw.com](mailto:craddatz@gblaw.com)

7 *Attorneys for Personal Representative*



8  
9  
10 **SUPERIOR COURT OF ARIZONA**  
11 **MARICOPA COUNTY**

12 In the Matter of the Estate of:

13 DENNY J. CHITTICK,

14 Deceased.

No. PB2016-051754

15 **NOTICE OF APPEARANCE**  
16 **ON BEHALF OF**  
17 **PERSONAL REPRESENTATIVE**

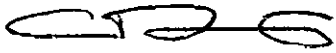
18 *(Assigned to*  
19 *Commissioner Andrew Russell)*

20 Christopher L. Raddatz and Gammage & Burnham, P.L.C. hereby give notice of  
21 appearance as counsel of record for Shawna C. Heuer, the Personal Representative in the above-  
22 captioned matter. Please include and forward all future pleadings and case-related documents as  
23 addressed below:

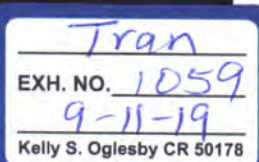
24 Christopher L. Raddatz  
25 Gammage & Burnham, P.L.C.  
26 Two N. Central Avenue, 15<sup>th</sup> Floor  
Phoenix, AZ 85004

DATED this 18th day of August, 2016.

GAMMAGE & BURNHAM, P.L.C.

By:   
Christopher L. Raddatz  
*Attorneys for Personal Representative*



**WESTLAW** Arizona Court Rules[Home Table of Contents](#)

**Rule 5.3. Duties of Counsel and Parties**  
Arizona Revised Statutes Annotated  
Rules of Civil Procedure for the Superior Courts of Arizona

Arizona Revised Statutes Annotated  
Rules of Civil Procedure for the Superior Courts of Arizona (Refs & Annos)  
II. Commencing an Action; Service of Process, Pleadings, Motions and Orders; Duties of Counsel

16 A.R.S. Rules of Civil Procedure, Rule 5.3  
Formerly cited as AZ ST RCP Rule 5.1, AZ ST RCP Rule 5.2

**Rule 5.3. Duties of Counsel and Parties**

Currentness

**(a) Attorney of Record; Withdrawal and Substitution of Counsel.**

**(1) Attorney of Record; Duties of Counsel.**

(A) Appearance Required. An attorney may appear as attorney of record by filing a document—including a notice of appearance, complaint, answer, motion to quash, notice of association of counsel, or notice of substitution of counsel—that identifies the attorney as the attorney of record for a party. No attorney may file anything in any action or act on behalf of a party in open court without appearing as attorney of record.

(B) Duties. Once an attorney has appeared as an attorney of record in an action, the attorney will be deemed responsible as the party's attorney of record in all matters involving the action until the action ends or the attorney withdraws as the party's attorney or is substituted as the party's attorney by another attorney.

**(2) Withdrawal and Substitution.**

(A) Court Order Required. Except as otherwise provided in these rules, in any local rules pertaining to domestic relations actions, or if there is a change of counsel within the same law firm or governmental law office, an attorney may not withdraw, or be substituted, as attorney of record in any pending action unless authorized to do so by court order.

(B) Application to Withdraw or Substitute Counsel. An application to withdraw or be substituted as attorney of record for a party must be in writing, state the reasons for the withdrawal or substitution, and set forth the client's address and telephone number. Additionally:

(i) If the application bears the client's written approval, it must be accompanied by a proposed written order and may be presented to the court ex parte. The withdrawing attorney must give prompt notice of the entry of such order, together with the client's name and address, to all other parties.

(ii) If the application does not bear the client's written approval, it must be made by motion and must be served on the client and all other parties. The motion must be accompanied by a certificate of the moving attorney that the client has been notified in writing of the status of the action (including the dates and times of any court hearings or trial settings, pending compliance with any existing court orders, and the possibility of sanctions), or that the client cannot be located or cannot be notified of the motion's pendency and the case status.

(C) Withdrawal After Trial Setting. No attorney will be permitted to withdraw as attorney of record after a trial date is set, unless:

(i) the application includes the signed statement of a substituting attorney stating that the attorney is aware of the trial date and will be prepared for trial, or the client's signed statement stating that the client is aware of the trial date and has made suitable arrangements to be prepared for trial; or



(ii) the attorney seeking withdrawal shows good cause for allowing the attorney to withdraw even though the action has been set for trial.

(D) **Change of Counsel Within the Same Firm or Office.** If there is a change of counsel within the same law firm or governmental law office, an order of substitution or association is not required. Instead, the new attorney must file a notice of substitution or association. The notice must state the names of the attorneys who are the subjects of the substitution or association and the current address and email address of the attorney substituting or associating.

**(b) Responsibility to Court.** Each attorney of record is responsible for keeping advised of the status of, and the deadlines in, pending actions in which that attorney has appeared. If an attorney changes his or her office address, the attorney must notify the clerk and court administrator, in each of the counties in which that attorney has actions that are pending, of the attorney's current office address and telephone number.

**(c) Limited Scope Representation.**

(1) *Scope.* In accordance with ER 1.2, Arizona Rules of Professional Conduct, an attorney may undertake a limited scope representation of a person involved in any court proceeding, including vulnerable adult exploitation actions.

(2) *Notice.* An attorney undertaking a limited scope representation may appear by filing and serving a Notice of Limited Scope Representation in a form substantially as prescribed in Rule 84, Form 8.

(3) *Service.* Service on an attorney who has undertaken a limited scope representation on behalf of a party will constitute effective service on that party under Rule 5(c) with respect to all matters in the action, but will not extend the attorney's responsibility for representing the party beyond the specific matters, hearings, or issues for which the attorney has appeared.

(4) *Withdrawal.* Upon an attorney's completion of the representation specified in the Notice of Limited Scope Representation, the attorney may withdraw from the action as follows:

(A) **With Consent.** If the client consents to withdrawal, the attorney may withdraw from the action by filing a Notice of Withdrawal with Consent, signed by both the attorney and the client, stating:

(i) the attorney has completed the representation specified in the Notice of Limited Scope Representation and will no longer be representing the party; and

(ii) the last-known address and telephone number of the party who will no longer be represented.

The attorney must serve a copy of the notice on the party who will no longer be represented and on all other parties. The attorney's withdrawal from the action will be effective upon the filing and service of the Notice of Withdrawal with Consent.

(B) **Without Consent.** If the client does not sign a Notice of Withdrawal with Consent, the attorney must file a motion to withdraw, which must be served on the client and all other parties, along with a proposed order.

(i) If no objection is filed within 10 days after the motion is served on the client, the court must sign the order unless it determines that good cause exists to hold a hearing on whether the attorney has completed the limited scope representation for which the attorney has appeared. If the court signs the order, the withdrawing attorney must serve a copy of the order on the client. The withdrawing attorney also must promptly serve a written notice of the entry of such order, together with the client's name, last-known address, and telephone number, on all other parties.

(ii) If an objection is filed within 10 days after the motion is served, the court must conduct a hearing to determine whether the attorney has completed the limited scope representation for which the attorney appeared.

**(d) Notice of Settlement.** It is the duty of an attorney of record, or any party if unrepresented by counsel, to give prompt notice to the assigned judge or commissioner, the clerk, and court administrator of the settlement of any action or matter set for trial, hearing, or argument. If prompt notice is not afforded, the court may impose sanctions on the attorneys of record or the parties to ensure future compliance with this rule. Jury fees may be taxed as costs as provided in statute and local rule.

**Credits**

Added Sept. 2, 2016, effective Jan. 1, 2017.

16 A. R. S. Rules Civ. Proc., Rule 5.3, AZ ST RCP Rule 5.3  
Current with amendments received through 08/15/19

END OF DOCUMENT

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1 GUTTILLA MURPHY ANDERSON, P.C.

2 Ryan W. Anderson (Ariz. No. 020974)

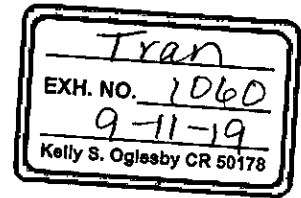
3 5415 E. High St., Suite 200

4 Phoenix, Arizona 85054

5 Email: randerson@gamlaw.com

6 Phone: (480) 304-8300

7 Fax: (480) 304-8301



8 Attorneys for the Receiver

9 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

10 IN AND FOR THE COUNTY OF MARICOPA

11 In the Matter of the Estate of )

12 DENNY J. CHITTICK, )

13 Deceased. )

Cause No. PB 2016-051754

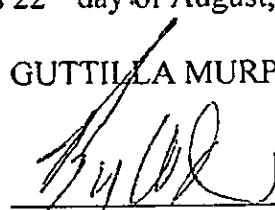
NOTICE OF APPEARANCE

(Assigned to Commissioner Andrew Russell)

14 The law firm of Guttilla Murphy Anderson, P.C., by and through Ryan W. Anderson,  
 15 hereby enters its appearance for Peter S. Davis, the Court Appointed Receiver in Densco  
 16 Investment Corporation, in Maricopa County Superior Court case *Arizona Corporation*  
 17 *Commission v. Densco Investment Corporation, An Arizona Corporation* Cause No. 2016-  
 18 014142.

19 Respectfully submitted this 22<sup>nd</sup> day of August, 2016.

20 GUTTILLA MURPHY ANDERSON, P.C.

21   
 Ryan W. Anderson

Attorneys for the Receiver



1 Original of the foregoing filed  
2 this 22<sup>nd</sup> day of August, 2016, with:

3 Clerk of the Maricopa County Superior Court

4 Copy of the foregoing hand-delivered this  
5 22<sup>nd</sup> day of August, 2016 to:

6 Commissioner Andrew Russell  
7 Maricopa County Superior Court  
8 Northeast Regional Center  
9 18380 N. 40<sup>th</sup> Street  
10 Phoenix, Arizona 85032

11 Copy of the foregoing mailed this  
12 this 22<sup>nd</sup> day of August, 2016 to:

13 Clark Hill, PLC  
14 Darra Lynn Rayndon  
15 Michelle M. Tran  
16 14850 N. Scottsdale Road  
17 Suite 500  
18 Scottsdale, Arizona 85254  
19 Attorneys for Shawna C. Heuer, Personal Representative  
20 of the Estate of Denny J. Chittick, Deceased

21 James F. Polese  
Christopher L. Hering  
Gammage & Burnham, P.L.C.  
Two North Central Avenue  
15<sup>th</sup> Floor  
Phoenix, Arizona 85004  
Attorneys for the Estate of Denny Chittick, Deceased  
And Densco Investment Corporation

Peter S. Davis, Receiver of Densco Investment Corporation  
3200 North Central Avenue  
Suite 2460  
Phoenix, Arizona 85014

By: 

2359-001(255676)

**COPY**

DEC 09 2016



MICHAEL K. JEANES, CLERK  
T. SHEPARDSON  
DEPUTY CLERK

**GUTTILLA MURPHY ANDERSON, P.C.**

Ryan W. Anderson (Ariz. No. 020974)

Alisan M. B. Patten (Ariz. 009795)

5415 E. High St., Suite 200

Phoenix, Arizona 85054

Email: randerson@gamlaw.com

Phone: (480) 304-8300

Fax: (480) 304-8301

Tran
EXH. NO. 1061
9-11-19
Kelly S. Oglesby CR 50178

Attorneys for Receiver

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

In the Matter of the Estate of

DENNY J. CHITTICK,

Deceased.

Cause No. PB 2016-051754

NOTICE OF CLAIM AGAINST ESTATE OF  
DENNY J. CHITTICK

(Assigned to Commissioner Andrew  
Russell)

Gutilla Murphy Anderson, P.C.  
5415 E. High Street, Suite 200  
Phoenix, AZ 85054  
(480) 304-8300

1. The Claimant is Peter S. Davis in his capacity as court appointed Receiver of DenSco Investment Corporation ("DenSco") in *Arizona Corporation Commission v. DenSco Investment Corporation, an Arizona corporation*, Maricopa County Superior Court, case No. CV2016-014142 ("Receiver").

2. The Estate of Denny J. Chittick is indebted to the Receiver in the amount of \$46,811,635.54 as detailed in paragraph 3 below.

3. The Receiver's claims against Estate of Denny J. Chittick are as follows:

A. At all material times, Chittick was the sole owner, officer, employee and shareholder of DenSco. From and after November 27, 2013, Chittick was aware that DenSco had

been insolvent, or would soon be insolvent, or was, or would

1 become, unable to pay its debts as they became due. On or about December 31, 2014, Chittick  
2 transferred all of the funds in his DenSco 401(k) Plan (\$359,609.00) and transferred it to a new  
3 account at Vanguard. Likewise, on or about December 31, 2014, Chittick transferred all of the funds  
4 from the DenSco Defined Benefit Plan (\$1,817,243.03) to a certificate of deposit at an FDIC insured  
5 bank. Additionally, on or about December 31, 2014, Chittick's caused DenSco to convert  
6 \$1,448,460.49 from his personal investment in DenSco, into DenSco stock in Chittick's name, as a  
7 book entry.

8 I. CHITTICK'S PERSONAL INVESTMENT ACCOUNT

9 On December 31, 2014, Chittick converted \$1,448,460.49 from his personal investment in  
10 DenSco into DenSco stock. Between January 29, 2015 and June 28, 2016, Chittick caused DenSco to  
11 make "distributions" to Chittick, in the total sum of \$555,000.00 (cash), which were funded by a  
12 corresponding liquidation of Chittick's shares of DenSco stock. In other words, Chittick caused  
13 DenSco to redeem Chittick's shares of DenSco stock for a total amount of \$555,000.00, during a time  
14 period when the true value of the shares of stock would have been worthless, or nearly worthless,  
15 given that DenSco had been defrauded out of millions of dollars and was insolvent or would soon be  
16 insolvent, or was, or would become, unable to pay its debts as they became due.

17 Additionally, Chittick caused DenSco to transfer \$120,000 (cash) as "distributions," to  
18 Chittick, between January 31, 2014 and December 26, 2014. These "distributions" were in addition to  
19 the annual wages Chittick was paid by DenSco and were made at a time that DenSco was insolvent,  
20 or would soon be insolvent, or was, or would become, unable to pay its debts as they became due.

21 Last, Chittick caused DenSco to transfer \$11,963.90 as "wages" to Chittick's minor children.  
These funds may have been deposited into an IRA account for the benefit of the children.

1                    II. CHITTICK'S 401(K) PLAN.

2            On or about December 31, 2014, Chittick caused, or directed, the transfer of all funds in his  
3 401(k) Plan from DenSco into a 401(k) plan at Vanguard in Chittick's name. At this time, the funds  
4 in the 401(k) Plan had been invested in DenSco, so the true value of the 401(k) investment was  
5 worthless or nearly worthless. Still, Chittick transferred \$359,609.00 as "funds of the plan" to the  
6 new account at Vanguard. Even if the value of the 401(k) plan was worth \$359,609.00 at the time of  
7 its transfer, \$121,799.71 belonged to DenSco. These funds include \$84,800.00 from transfers made to  
8 the 401(k) plan which Chittick characterized as "wages," but in reality were a type of distribution  
9 from DenSco to Chittick, from and after December 23, 2013. Additionally, the \$121,799.71 includes  
10 \$36,999.71 in interest that accrued on the 401(k) Plan's investor balance after November 27, 2013, on  
11 the date that Chittick became aware of the fraud committed against DenSco by Menaged. These  
12 transfers left DenSco with even less money to pay its creditors, at a time when it already was  
13 insolvent, or would soon be insolvent, or was, or would become, unable to pay its debts as they  
14 became due.

15                    III. CHITTICK'S DEFINED BENEFIT PLAN

16            Chittick participated in a Defined Benefit Pension Plan at DenSco. All of the funds in this  
17 account were invested in DenSco. On or about December 24, 2014, Chittick caused the liquidation of  
18 all "funds" in the Defined Benefit Pension Plan at DenSco and directed the transfer of the liquidated  
19 funds to a secure investment in the form of a certificate of deposit at an FDIC insured bank. The  
20 actual value of the investment in the Defined Benefit Pension Plan was worthless, or nearly  
21 worthless. Still, Chittick transferred \$1,817,243.03 out of the Defined Benefit Plan into the  
certificate of deposit. Even if the value of the investment in the Defined Benefit Plan was

1 because \$867,289.00 was transferred to the Defined Benefit Plan as a type of distribution for Chittick  
2 over and above his annual wages, plus \$9,405.49 in interest that accrued on the Defined Benefit  
3 Pension Plan's investor balance, after November 27, 2013, or the date that Chittick became aware of  
4 the fraud committed against DenSco by Menaged. The \$1,817,243.03 is funds belonging to DenSco.  
5 Even if the value of the Defined Benefit Pension Plan was truly worth \$1,817,243.03 on the date of  
6 its transfer, at least \$876,694.49 of those funds belongs to DenSco. These transfers left DenSco with  
7 even less money to pay its creditors, at a time when it already was insolvent, or would soon be  
8 insolvent, or was, or would become, unable to pay its debts as they became due.

9           Claims: As a result of the foregoing actions by Chittick, the Receiver has the  
10 following claims against Chittick: Conversion, common law fraud, breach of fiduciary duty as  
11 director and officer of DenSco, fraudulent transfer (both actual and constructive) pursuant to A.R.S.  
12 §§ 44-1004 et seq., unjust enrichment, or, alternatively, gross negligence or negligence as an officer  
13 or director of DenSco.

14           B. Chittick was the sole owner, officer, employee and shareholder of DenSco. Chittick  
15 transferred funds in the form of purported secured loans from DenSco to Yomtov Scott Menaged or  
16 his related entities as an investment of the cash assets of DenSco. Menaged was to sign a Promissory  
17 Note for the monies loaned to him from DenSco, purchase real property with the lent funds, and sign  
18 a first position Deed of Trust, or mortgage, with DenSco as a beneficiary on the real property  
19 purchased by Menaged or his related entities. All DenSco monies loaned to Menaged were to be  
20 repaid by Menaged with interest. If a default occurred, DenSco's first priority secured interest in the  
21 real property purchased by Menaged was intended to protect DenSco's loans. However, Menaged  
defrauded DenSco by taking advantage of DenSco's lending practices and in numerous instances,

1 DenSco's loans to Menaged or his related entities were not secured with a first position deed of trust  
2 or Menaged failed to even purchase any real property the proceeds of the DenSco loans to Menaged.

3 To date, the Receiver has identified 91 remaining DenSco loans to Menaged, or his related  
4 entities, totaling \$43,947,819.61. From these 91 loans, it appears that only 6 real properties were  
5 actually purchased by Menaged or his related entities, however, these properties are not secured by a  
6 1<sup>st</sup> position lien in favor of DenSco. The Receiver has determined that of the \$43,947,819.61 that was  
7 lent to Menaged or his related entities, \$14,339,339.79 was advanced to Menaged under a  
8 forbearance agreement to purportedly ensure DenSco had first position liens on property previously  
9 purchased by Menaged with previous DenSco loans, and \$28,122,300.00 appears to represent  
10 unsecured loans to Menaged. It is not yet known what Menaged has done with the \$28,122,300.00  
11 of DenSco funds. Menaged filed for Chapter 7 bankruptcy relief on April 20, 2016.

12 Chittick failed to institute or follow proper management and control of DenSco's business  
13 operations which enabled and contributed to the fraud committed against DenSco by Menaged.  
14 Chittick was aware of the fraud committed against DenSco, by Menaged, at least by November 27,  
15 2013. Despite his actual knowledge of the fraud by Menaged, Chittick continued to accept monies  
16 for investors into DenSco, and continued to make loans to Menaged and his related entities, adding to  
17 the liabilities of DenSco which could not be met. Chittick's failure to provide proper management  
18 and control of DenSco's operations also included the preparation of false, or inaccurate financial  
19 records of DenSco, upon which the tax liability of DenSco was based, resulting in artificially inflated  
20 tax liabilities of DenSco. The tax liability of DenSco was borne by Chittick since DenSco was  
21 treated as an S corp for tax purposes. However, DenSco presumably would reimburse Chittick for the  
tax liability he paid related to DenSco's income in the form of draws and/or payroll. Therefore, to

1 artificially inflated tax liability of DenSco, DenSco was harmed in an amount to be determined, in  
2 addition to the loss of the \$43,947,819.61, earlier discussed.

3 Claims: As a result of the foregoing actions by Chittick, the Receiver has the following  
4 claims against Chittick: common law fraud, misrepresentation, breach of fiduciary duty as director  
5 and officer of DenSco, fraudulent transfer (both actual and constructive) pursuant to A.R.S. §§ 44-  
6 1004 et seq., aiding and abetting Yomtov Scott Menaged in his torts against DenSco, unjust  
7 enrichment, or, alternatively, gross negligence or negligence as an officer or director of DenSco.

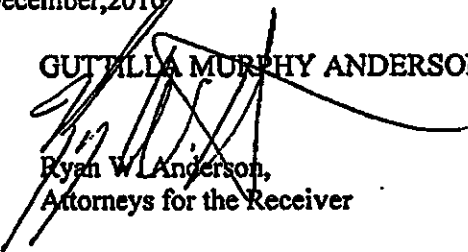
8 4. Given the complexity of the issues surrounding DenSco and the Receiver's ongoing  
9 investigations into DenSco and its business operations, the Receiver believes further discovery into  
10 the actions or omissions of Chittick may expose additional potential claims and/or monetary damages  
11 against Estate of Denny J. Chittick. Accordingly, the Receiver may amend this Notice of Claim if and  
12 when new information is discovered.

13 5. The Receiver's claims against the Estate of Denny J. Chittick are unsecured.

14 6. The Receiver shall mail a copy of the Notice of Claim against Estate of Denny J.  
15 Chittick to the Personal Representative.

16 DATED this 9th day of December, 2016

17 GUTILLA MURPHY ANDERSON, P.C.

18   
19 Ryan W. Anderson,  
Attorneys for the Receiver

20 Original of the foregoing filed  
21 this 9th day of December, 2016, with:

Clerk of the Maricopa County Superior Court



Gardilla Murphy Anderson, P.C.  
5415 E. Highland Street, Suite 200  
Phoenix, AZ 85004  
(602) 304-3300

1 Copy of the foregoing hand-delivered this  
2 9th day of December, 2016 to:

3 Commissioner Andrew Russell  
4 Maricopa County Superior Court  
5 Northeast Regional Center  
6 18380 N. 40<sup>th</sup> Street  
7 Phoenix, Arizona 85032

8 Copy of the foregoing mailed this  
9 this 9th day of December, 2016 to:

10 Clark Hill, PLC  
11 Darra Lynn Rayndon  
12 Michelle M. Tran  
13 14850 N. Scottsdale Road  
14 Suite 500  
15 Scottsdale, Arizona 85254  
16 Attorneys for Shawna C. Heuer, Personal Representative  
17 of the Estate of Denny J. Chittick, Deceased

18 James F. Polese  
19 Christopher L. Hering  
20 Gammage & Burnham, P.L.C.  
21 Two North Central Avenue  
15<sup>th</sup> Floor  
Phoenix, Arizona 85004  
Attorneys for the Estate of Denny Chittick, Deceased  
And Densco Investment Corporation

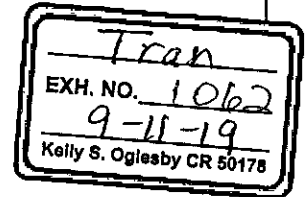
Scott A. Swinson, Esq.  
2400 E. Arizona Biltmore Circle, Suite 1300  
Phoenix, AZ 85016  
Attorney for Robert Brinkman Family Trust

Peter S. Davis, Receiver of Densco Investment Corporation  
3200 North Central Avenue  
Suite 2460  
Phoenix, Arizona 85014

By: 

MICHAEL K. JEANES, CLERK  
BY *A. Deiver*  
FILED

16 DEC 15 PM 3:51



1 Christopher L. Raddatz (#021282)  
2 **GAMMAGE & BURNHAM, PLC**  
3 Two N. Central Avenue, 15th floor  
4 Phoenix, Arizona 85004  
5 Telephone: (602) 256-0566  
6 E-mail: [craddatz@gbllaw.com](mailto:craddatz@gbllaw.com)

*Attorneys for Shawna Heuer*

6 **SUPERIOR COURT OF ARIZONA**  
7 **MARICOPA COUNTY**

8 In the Matter of the Estate of:

9 **DENNY J. CHITTICK,**

10 Deceased.

No. PB2016-051754

**APPLICATION TO SUBSTITUTE  
COUNSEL**

11  
12  
13  
14  
15 Shawna Heuer, the Personal Representative of the Estate of Denny J. Chittick  
16 ("Heuer") – by and through counsel, Christopher L. Raddatz of Gammage & Burnham,  
17 P.L.C. ("G&B") – requests that Michelle M. Tran of Clark Hill PLC ("Clark Hill") be  
18 allowed to withdraw as counsel for Heuer and that G&B be formally substituted in as  
19 counsel of record.

20 Pursuant to Rule 5.1(a)(2)(A), because Heuer approves of Clark Hill's withdrawal  
21 as counsel (as indicated by the signature of G&B as new counsel for Heuer), this request  
22 is accompanied by a proposed written order and is presented *ex parte*.

23 ///

24 ///


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26

DATED this 15th day of December 2016.

GAMMAGE & BURNHAM P.L.C.

By:   
Christopher L. Raddatz  
Two North Central Avenue, 15th Floor  
Phoenix, Arizona 85004  
*Attorneys for Shawna Heuer*

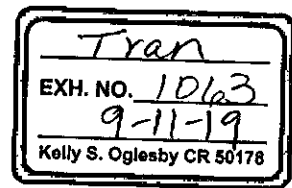
ORIGINAL filed in Probate Court  
this 15th day of December, 2016, and  
a copy MAILED this same day, to:

Michelle M. Tran  
CLARK HILL PLC  
14850 N. Scottsdale Road, Suite 500  
Scottsdale Arizona 85254  
*Former Attorney for Shawna Heuer*

Scott A. Swinson, Esq.  
2400 E. Arizona Biltmore Circle, Suite 1300  
Phoenix, Arizona 85016

Ryan W. Anderson, Esq.  
Guttilla Murphy Anderson, P.C.  
5415 E. High Street, Suite 200  
Phoenix, Arizona 85054

By: 



FILED  
1-13-17 10:00 am  
MICHAEL K. JEANES, Clerk  
By L. Carlson  
L. Carlson, Deputy

Christopher L. Raddatz (#021282)  
GAMMAGE & BURNHAM, PLC  
Two N. Central Avenue, 15th floor  
Phoenix, Arizona 85004  
Telephone: (602) 256-0566  
E-mail: [craddatz@gblaw.com](mailto:craddatz@gblaw.com)

*Attorneys for Shawna Heuer*

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

In the Matter of the Estate of:

DENNY J. CHITTICK,

Deceased.

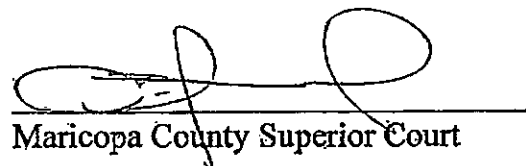
No. PB2016-051754

ORDER SUBSTITUTING  
COUNSEL FOR SHAWNA HEUER

Pursuant to the *Application to Substitute Counsel*, with good cause appearing,

IT IS HEREBY ORDERED that Michelle M. Tran of Clark Hill PLC is withdrawn as counsel in this matter and that Christopher L. Raddatz of Gammage & Burnham, P.L.C. is formally substituted in as counsel of record for Shawna Heuer, Personal Representative of the Estate of Denny J. Chittick.

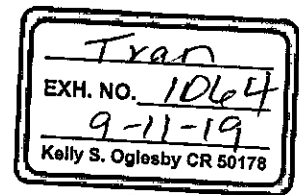
Dated: 1/6/17



Maricopa County Superior Court

COMMISSIONER ANDREW RUSSELL

# CLARK HILL



David Beauchamp  
T: 480.684.1126  
F: 480.684.1199  
dbeauchamp@clarkhill.com

Clark Hill PLC  
14850 N. Scottsdale Road  
Suite 500  
Scottsdale, AZ 85254  
T: 480.684.1100  
F: 480.684.1199

clarkhill.com

September 15, 2016

Estate of Denny J. Chittick  
c/o Shawna Heuer, Personal Representative  
9400 W. Thomson Road  
Coeur D'Alene, ID 83814

Via E-Mail and US Mail  
(2chittickboys2@gmail.com)

**Re: Probate**

Dear Shawna:

Enclosed is the invoice for legal services provided by Clark Hill for the Estate of Denny J. Chittick through the end of August. If you have any questions concerning this invoice, please contact me to discuss.

Very Truly Yours,

A handwritten signature in cursive script that reads 'David'.

David G. Beauchamp  
CLARK HILL PLC

Enclosure

# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, Arizona 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Estate of Denny J. Chittick  
9400 W. Thompson Road  
Coeur D'Alene, ID 83814

Invoice # 670494  
September 10, 2016  
Client: 55318  
Matter: 306861

RE: Probate

FOR SERVICES RENDERED through August 31, 2016

Total Services: \$2,557.00

FOR EXPENSES INCURRED OR ADVANCED:

Filing Fees \$387.20

Total Expenses: \$387.20

INVOICE TOTAL \$2,944.20

PAYABLE UPON RECEIPT IN U.S. DOLLARS

# CLARK HILL P.L.C.

Estate of Denny J. Chittick  
Probate  
September 10, 2016  
INVOICE # 670494  
Page 2

## DETAILED DESCRIPTION OF SERVICES

08/01/16 MMT	Meet with S. Heuer; begin preparing probate documents; send email to S. Heuer regarding information needed and video links.	2.30
08/02/16 MMT	Continue work on probate documents; prepare paperwork to obtain EINs; meet with S. Heuer; instructions to staff regarding probate; apply for first EIN and send to S. Heuer.	2.20
08/02/16 JMH	Compile and file probate documents.	.60
08/05/16 MMT	Review and process documents from probate court; email to S. Heuer; instructions to staff; prepare transmittal to S. Chittick and R. Chittick; apply for Estate EIN and send to client; send Inventory with explanatory email.	1.00
08/05/16 JMH	File Proofs of Notice with court; send Notice to Creditors to Record Reporter for publication.	.70
08/08/16 MMT	Read and respond to email from S. Heuer; apply for third EIN and send to S. Heuer; instructions to staff.	.30
08/10/16 MMT	Read email and letter from S. Swinson; discuss with D. Beauchamp and respond; prepare for and meet with S. Heuer.	.70
08/10/16 JMH	Review Notice of Publication; email to client.	.10

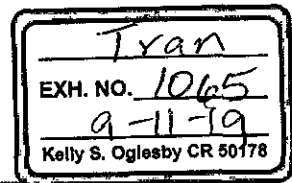
\$2,557.00

## TIMEKEEPER SUMMARY

MMT	Michelle M. Tran	6.50 hours at	\$360.00 =	\$2,340.00
JMH	Jeanne M. Harris	1.40 hours at	\$155.00 =	\$217.00



# CLARK HILL



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Clark Hill PLC  
14850 N. Scottsdale Road  
Suite 500  
Scottsdale, AZ 85254  
T 480.684.1100  
F 480.684.1199

clarkhill.com

October 20, 2016

Estate of Denny J. Chittick  
c/o Shawna Heuer, Personal Representative  
9400 W. Thomson Road  
Coeur D'Alene, ID 83814

Via E-Mail and US Mail  
(2chittickboys2@gmail.com)

**Re: Probate**

Dear Shawna:

Enclosed is the invoice for legal services provided by Clark Hill for the Estate of Denny J. Chittick through the end of September. If you have any questions concerning this invoice, please contact me to discuss.

Very Truly Yours,

A handwritten signature in cursive script that reads "David".

David G. Beauchamp  
CLARK HILL PLC

Enclosure

# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500

Scottsdale, Arizona 85254

Telephone (480) 684-1100

Fed.ID # 38-0425840

## INVOICE

Estate of Denny J. Chittick  
9400 W. Thompson Road  
Coeur D'Alene, ID 83814

Invoice # 677705  
October 18, 2016  
Client: 55318  
Matter: 306861

=====

RE: Probate

FOR SERVICES RENDERED through September 30, 2016

Total Services:	\$36.00
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FOR EXPENSES INCURRED OR ADVANCED:

Publication	\$31.66
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Total Expenses:	<u>\$31.66</u>
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INVOICE TOTAL	\$67.66
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PAYABLE UPON RECEIPT IN U.S. DOLLARS

# CLARK HILL P.L.C.

Estate of Denny J. Chittick  
Probate  
October 18, 2016  
INVOICE # 677705  
Page 2

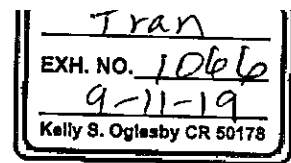
## DETAILED DESCRIPTION OF SERVICES

09/02/16	MMT	Review email from new attorney regarding Affidavit of Publication; checkstatus with staff; instructions to staff; respond to email.	.10
09/07/16	MMT	Exchange emails with C. Raddatz regarding status of affidavit of publication (No Charge).	.10

\$36.00

## TIMEKEEPER SUMMARY

MMT	Michelle M. Tran	0.10 hours at	\$0.00 =	\$0.00
MMT	Michelle M. Tran	0.10 hours at	\$360.00 =	\$36.00



# CLARK HILL

---

David Beauchamp  
T: 480.684.1126  
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dbeauchamp@clarkhill.com

Clark Hill PLC  
14850 N. Scottsdale Road  
Suite 500  
Scottsdale, AZ 85254  
T: 480.684.1100  
F: 480.684.1199  
clarkhill.com

January 19, 2017

Estate of Denny J. Chittick  
c/o Shawna Heuer, Personal Representative  
9400 W. Thompson Road  
Coeur D'Alene, ID 83814

Via E-Mail and US Mail  
(2chittickboys2@gmail.com)

***Re: Probate***

Dear Shawna:

Enclosed is the invoice for legal services provided by Clark Hill for the Estate of Denny J. Chittick through the end of December. Thank you for the previous payments. I have been watching some of the legal issues and you are doing a great job trying to protect the boys.

If you have any questions concerning this invoice, please contact me to discuss.

Very Truly Yours,

David G. Beauchamp  
CLARK HILL PLC

Enclosure

# CLARK HILL

P.L.C.

ATTORNEYS AT LAW

14850 N. Scottsdale Road, Suite 500  
Scottsdale, Arizona 85254  
Telephone (480) 684-1100  
Fed.ID # 38-0425840

## INVOICE

Estate of Denny J. Chittick  
9400 W. Thompson Road  
Coeur D'Alene, ID 83814

Invoice # 690882  
January 14, 2017  
Client: 55318  
Matter: 306861

RE: Probate

FOR SERVICES RENDERED through December 31, 2016

Total Services: \$144.00

INVOICE TOTAL \$144.00

PAYABLE UPON RECEIPT IN U.S. DOLLARS

# CLARK HILL P.L.C.

Estate of Denny J. Chittick  
Probate  
January 14, 2017  
INVOICE # 690882  
Page 2

## DETAILED DESCRIPTION OF SERVICES

12/12/16	MMT	Review email from Quarles & Brady; respond to email; call to Quarles & Brady; contact C. Raddatz regarding updating court records.	.20
12/19/16	MMT	Review court filings from Gammage & Burnham related to change of counsel.	.10
12/28/16	MMT	Exchange emails regarding creditor claim received to new attorney.	.10

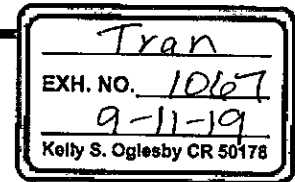
\$144.00

## TIMEKEEPER SUMMARY

MMT	Michelle M. Tran	0.40 hours at \$360.00 =	\$144.00
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**Beauchamp, David G.**

**From:** Tran, Michelle M.  
**Sent:** Friday, August 19, 2016 11:00 AM  
**To:** Beauchamp, David G.  
**Subject:** FW: Ntc of Appearance on Behalf of PR.PDF  
**Attachments:** Ntc of Appearance on Behalf of PR.PDF



Re: Chittick, see attached. Thanks.

**Michelle Margolies Tran**

CLARK HILL PLC

14850 N Scottsdale Rd | Suite 500 | Scottsdale, Arizona 85254  
480.822.6745 (direct) | 480.684.1169 (fax)



[mtran@clarkhill.com](mailto:mtran@clarkhill.com) | [bio](http://bio) | [www.clarkhill.com](http://www.clarkhill.com)

Birmingham • Chicago • Detroit • Grand Rapids • Lansing • Philadelphia •  
Phoenix • Pittsburgh • Princeton • Washington DC • Morgantown • Wilmington

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**From:** Patti Meloserdoft [<mailto:pmeloserdoft@qblaw.com>] **On Behalf Of** Christopher L. Raddatz  
**Sent:** Friday, August 19, 2016 10:14 AM  
**To:** Tran, Michelle M.  
**Cc:** Christopher L. Raddatz  
**Subject:** Ntc of Appearance on Behalf of PR.PDF

Please see attached.

**Patti Meloserdoft**

Legal Assistant  
602.256.4480 Direct | [pmeloserdoft@qblaw.com](mailto:pmeloserdoft@qblaw.com)

**GAMMAGE & BURNHAM**

*World Class Counsel. Arizona Roots.*

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602.256.0566 | 602.256.4475 Fax | [www.qblaw.com](http://www.qblaw.com)

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