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01:19 PM

Official Record

Recording requested By
ROBERT J WINES

Eureka County - NV

Mike Rebaleati - Recorder

Fee: \$21.00

Page 1 of 8

RPTT:

Recorded By: LLH

Book- 530 Page- 0310



APN: 003-431-05; 003-433-01; 004-410-04
004-340-28; 005-010-11; 005-080-25

Recording Requested By:

Name: Robert J. Wines, Prof. Corp.

Address: 687 6th Street, Suite 1

City, State, Zip: Elko, NV 89801

Send Tax Statement To:

Name: James M. Kline

Address: P.O. Box 553

City, State, Zip: Carlin, NV 89822

Order for Division of Assets Pursuant to NRS 123.529

Please complete the cover page, check one of the following and sign below.



I the undersigned hereby affirm that this document submitted for recording does not contain a social security number.

or



I the undersigned hereby affirm that this document submitted for recording contains a social security number of a person as required by law: _____.

Robert J. Wines
Signature

3/29/12
Title

This page is added to provide additional information required by NRS 111.312 Sections 1-2.

(Additional recording fees applies)

This cover page must be typed or printed.

1 CASE NO. PR-GU-11-78

2 Dept. No. I

3 AFFIRMATION:

4 Pursuant to NRS239B.030 this document
5 does not contain a social security number

FILED
2012 MAR 21 A 9 21
DISTRICT COURT
CLERK _____ DEPUTY KA

6 IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
7 STATE OF NEVADA, IN AND FOR THE COUNTY OF ELKO

8 _____
9 IN THE MATTER OF THE GUARDIANSHIP
10 OF THE PERSON AND ESTATE OF
11 HELEN M. KLINE,
12 an Adult Ward.

**ORDER FOR DIVISION
OF ASSETS PURSUANT
TO NRS 123.259**

13 JAMES M. KLINE, filed herein his Petition for Division of Assets Pursuant to NRS123.259
14 and Notice of Hearing of said Petition having been given as required by law, the Court hereby finds:

15 1. That your Petitioner is a resident of the County of Eureka, State of Nevada, and over
16 the age of twenty-one (21) years; Petitioner has never been convicted of a felony.

17 2. Petitioner and that above named Ward, HELEN M. KLINE, are husband and wife.
18 The Ward and JAMES M. KLINE do not have any children in common, nor are either of them
19 parents of any children. To the best information and belief of Petitioner, the names and addresses
20 and relationship of all relatives within the second degree so far as they are known to Petitioner are:

21 <u>NAME AND ADDRESS</u>	<u>RELATIONSHIP</u>
22 Fern Smith Chaffee 23 7562 N. 5 th E. 24 Idaho Falls, ID 83401	Sister
25 Stanley Smith 17167 Ririe Hwy. Ririe, ID 83443-5015	Brother

26 3. The Ward's additional family members within second degree consanguinity, being
27 deceased siblings, are identified as follows:

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1 Robert V. Cole
Bruce D. Cole
2 Betty Cole Knapp

3 4. The Ward currently resides at Highlands Manor, Elko, Nevada. The Ward has been
4 diagnosed as suffering from physical impairment making it difficult or impossible for her to transfer
5 herself from one position to another or to feed herself. She is no longer capable of caring for herself,
6 either personally or financially

7 5. This Court entered an Order appointing JAMES M. KLINE as General Guardian of
8 the Person and Estate of the above named Ward by Order entered August 8, 2011.

9 6. The Parties own joint assets which, pursuant to Federal Spousal Impoverishment Act,
10 must be divided. These assets are more specifically described below.

11 **WARD'S INCOME:**

12 7. The Ward, HELEN M. KLINE, currently receives monthly income payable to her
13 consisting of approximately \$708.00 net after medicare insurance has been withheld per month in
14 Social Security benefits.

15 **SPOUSAL INCOME:**

16 8. Petitioner, JAMES M. KLINE, is currently employed by Newmont, and receives
17 monthly income payable to him of \$3,752.08 per month. JAMES M. KLINE is 66 years of age, and
18 is receiving monthly Social Security income in the amount of \$1,714.16. per month. JAMES M.
19 KLINE is vested in an employer sponsored 401K savings plan; because JAMES M. KLINE is still
20 employed, he is not eligible to withdraw from the 401K. Pursuant to Federal Minimum Monthly
21 Maintenance Needs Standards, Petitioner JAMES M. KLINE is entitled to retain all income
22 described in this paragraph as his separate property.

23 **SPOUSAL RESIDENCE:**

24 9. The Federal Minimum Monthly Maintenance Needs Standard allows the community
25 spouse (Petitioner JAMES M. KLINE), to retain the community dwelling, and one automobile. The
26 Community Dwelling is located at Emigrant, Nevada, and is subject to a Reverse Mortgage which
27 pays out \$640.00 per month.

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1 **SPOUSAL VEHICLE:**

2 10. The Parties own a 2012 Ford Explorer automobile. Division of Welfare and
3 Supportive Services - MAABD Program Manual, Section 230, provides that the full value of a motor
4 vehicle is exempt if the Community Spouse can establish that it 1) "is necessary for employment;"
5 2) "is necessary for transportation to or from medical treatment of a specific or regular medical
6 problem;" or 3) "is necessary because of climate, terrain or distance to provide transportation to
7 perform essential daily activities (such as going to the grocery store, going to the post office, etc.)."
8 The Community dwelling is located at Emigrant, at 5,500' above sea level, in a mountainous, rugged
9 area, approximately fifteen (15) miles west of Carlin, Nevada. One (1) mile to the east of the Kline
10 residence is a high mountain pass that climbs about 500' in that mile, while one (1) mile to the west
11 is a different high mountain pass at about 350' in that mile. Emigrant is located in heavy snow
12 county, where reliable 4-wheel drive is a necessity. The Community Spouse relies upon this vehicle
13 for travel to work and to town for grocery purchases, and for necessary medical treatment. This
14 vehicle should be awarded to the Community Spouse as his sole and separate property.

15 **OTHER ASSETS:**

16 10. The Federal Minimum Monthly Maintenance Needs Standard allows the division of
17 assets into spousal shares, and allows the community spouse (Petitioner JAMES M. KLINE), to
18 retain assets with a minimum value of \$21,912.00, and a maximum value of \$109,000.00.

19 **DIVISION OF ASSETS:**

20 11. The assets currently owned by the Parties are as described on Exhibit "A" attached
21 to the Petition; the allocation appears to be equal.

22 12. Therefore, Petitioner requests that the Parties spousal shares be assigned as follows,
23 in furtherance of the Act:

24 A. To JAMES M. KLINE, as his sole and separate property, the f:

25 1. All income payable to him from his employment, as described in
26 Paragraph 6 above; and

27 2. The community dwelling located at Emigrant, Nevada;

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- 3. The 2012 Ford Explorer;
- 4. All right, title and interest in the employer sponsored 401(K);

B. To JAMES M. KLINE, pursuant to Exhibit "A" of the Petition, the following additional properties:

- 1. Contract Receivable from Griffith in the approximate unpaid balance of \$44,582.36 with 10% interest, payable at \$434.26/month;
- 2. Parcel of Land, 11.78 Acres, APN: 003-431-05 located in T31N, R49E, Section 12;
- 3. Parcel of Land, 10 Acres, APN: 003-433-01, located T31N, R49E, Section 13;
- 4. Parcel of Land, 46.4 Acres, APN: 004-410-04 located T32N, R50E, Section 14;
- 5. Parcel of Land, 144 Acres APN: 004-340-28, located T32N, R50E, Section 14;
- 6. Cash, in the amount of \$3,415.91.

C. That the following assets be awarded to HELEN M. KLINE as her sole and separate property:

- 1. Her social security and pension income totaling \$708.00;
- 2. Contract Receivable from Nebeker, in the approximate unpaid balance of \$58,517.18 @7% interest, payable at \$400.00/month;
- 3. Parcel of Land, 160 Acres, APN: 005-010-11 located SE¼, § 5, T31N, R48E;
- 4. Parcel of Land, APN: 005-080-25 located SW¼SE¼, § 12, T31N, R49E; Sale has been approved for the cash sale price of \$5,000.00;
- 5. Cash on hand in the amount of \$11,684.09.

13. Since the Ward is a patient in a long-term care facility, it is in the best interest of both the Ward and her spouse, that the Court enter an order dividing the assets of the Ward and her spouse as their separate assets as set forth in Paragraph 12 above.

1 14. Petitioner further requests the Court to order that the income and property set aside
2 to JAMES M. KLINE as his sole and separate property no longer be available or responsible for the
3 cost of the necessities of life or medical needs of HELEN M. KLINE, pursuant to NRS 123.259.

4 15. That no bond should be required of the Guardian, as the Petitioner is the Spouse of
5 the Proposed Ward and is already in possession of the property belonging to the Parties. Significant
6 amounts of the Ward's assets will need to be transferred to Highland Manor to offset current living
7 expense.

8 16. That the Ward's mental and physical condition is such she should be excused
9 from attending.

10 NOW THEREFORE, it is hereby the Order of this Court as follows:

11 1. That JAMES M. KLINE is awarded the following assets as his sole and separate
12 assets, and that those assets no longer be available or responsible for the cost of the necessities of
13 life or medical needs of HELEN M. KLINE, pursuant to NRS 123.259;

14 2. That the assets awarded to JAMES M. KLINE are as follows:

15 A. JAMES M. KLINE's employment income from Newmont, in the approximate
16 amount of \$3,752.08 per month;

17 B. JAMES M. KLINE's monthly Social Security income in the amount of
18 \$1,714.16. per month;

19 C. Any and all right, title, interest or estate belonging to JAMES M. KLINE,
20 pursuant to his employer sponsored 401K savings plan;

21 D. The community dwelling, located at Emigrant, Nevada, subject to a Reverse
22 Mortgage and together with all disbursements therefrom;

23 E. The 2012 Ford Explorer automobile, with a special finding of fact the
24 Community Spouse has established that the motor vehicle "is necessary for employment;" and "is
25 necessary because of climate, terrain or distance to provide transportation to perform essential daily
26 activities (such as going to the grocery store, going to the post office, etc.)." The Community
27 dwelling is located at Emigrant, at 5,500' above sea level, in a mountainous, rugged area,
28 approximately fifteen (15) miles west of Carlin, Nevada. One (1) mile to the east of the Kline



1 residence is a high mountain pass that climbs about 500' in that mile, while one (1) mile to the west
2 is a different high mountain pass at about 350' in that mile. Emigrant is located in heavy snow
3 county, where reliable 4-wheel drive is a necessity. The Community Spouse relies upon this vehicle
4 for travel to work and to town for grocery purchases, and for necessary medical treatment. This
5 vehicle should be awarded to the Community Spouse as his sole and separate property.

6 F. Contract Receivable from Griffith @ \$434.26/month; approximate balance
7 owing \$44,582.36;

8 G. The following parcels of real property, held for investment purposes:

- 9 1. APN: 003-431-05 - 11.78 acre, § 12, T31N, R49E;
- 10 2. APN: 003-433-01 - 10 acre, § 13, T31N, R49E;
- 11 3. APN: 004-410-04 - 46.4 acre, § 14, T32N, R50E;
- 12 4. APN: 004-340-28 - 144 acre, § 14, T32N, R50E;

13 H. The sum of \$ 3,415.91 from the Party's accounts;

14 I. From and after the date of division, the account at Bank of America shall
15 consist solely of money received by JAMES M. KLINE from employment, his social security
16 income, and money received from the investments assigned to him, above described, and those
17 resources shall no longer be available to HELEN M. KLINE for any purpose.

18 3. That HELEN M. KLINE is awarded the following assets as her sole and separate
19 assets, and that those assets shall be used for and available for the cost of the necessities of life,
20 medical needs and daily living expenses of HELEN M. KLINE:

- 21 A. Her social security and pension income totaling \$708.00;
- 22 B. Contract Receivable from Nebeker, in the approximate unpaid
23 balance of \$58,517.18 @7% interest, payable at \$400.00/month;
- 24 C. Parcel of Land, 160 Acres, APN: 005-010-11 located SE¼, § 5,
25 T31N, R48E;
- 26 D. Parcel of Land, APN: 005-080-25 located SW¼SE¼, § 12, T31N,
27 R49E; Sale has been approved for the cash sale price of \$5,000.00;
- 28 E. Cash on hand in the amount of \$11,684.09.



