

ATTACHMENT A

RESPONDENT'S PETITION FOR RECONSIDERATION

1 Under California Evidence Code, which is applicable to administrative hearings, a witness' testimony
2 based on personal knowledge IS admissible and considered direct evidence of a fact in question. The ALJ and
3 this CalPERS Board cannot choose to reject nor ignore relevant admissible evidence, when it does not support
4 the initial CalPERS decision. Similarly, the mother of Mr. Garcia's biological daughter through her personal
5 observation, testified and authenticated multiple written documents and presented admissible evidence
6 establishing Mr. Garcia's state of mind and intent regarding the invalidity of the beneficiary designation forms.

7 As previously stated in Respondent's closing arguments submitted to this Board, the CalPERS statement
8 of issues filed with the administrative court conceded that the document titled Disability Retirement Election
9 Application, (IDR Application) was not a valid beneficiary designation. It was disregarded by CalPERS and
10 should not now be treated as a valid beneficiary designation.

11 As detailed in Respondent's argument submitted previously to the CalPERS Board, the IDR Application
12 can properly be construed as a forgery, a product of perjury, fraudulent in fact, and signed under false
13 pretense. The Supplemental Retirement Information (SRI) form suffers the same fate. It too must be
14 construed as a forgery, a product of perjury, fraudulent and signed under false pretense. It too is invalid as a
15 matter of law and cannot lawfully effectuate a beneficiary designation of a member's lifetime disability
16 benefit.

17 CalPERS own policy and procedure expresses a preference for the use of a CalPERS Power of Attorney,
18 to ensure the intent and desires of the retirement account owner are met. The exception stated in CalPERS
19 publications is that a non-CalPERS Power of Attorney may be accepted by CalPERS if the language therein
20 conforms to the substantive language contained in the CalPERS Power of Attorney; meaning the non-
21 CalPERS Power of Attorney form used must specifically reference CalPERS and the scope of authority of the
22 attorney in fact with respect to conducting business with CalPERS.

23 The statutory power of attorney form used by Ms. Kubicek did not conform to statutory requirements nor
24 did it conform to CalPERS published policies governing acceptance of non-CalPERS Power of Attorney
25 forms.

26 HEARSAY

27 Testimony and written documentation is not subject to exclusion as hearsay if it is proffered to show the
28 state of mind of the declarant. Intent is a state of mind not subject to exclusion under hearsay rules of
evidence. Furthermore, without an applicable hearsay objection having been made by CalPERS attorney,

1 Respondent's proffered evidence was admissible for all purposes, even despite it being potential excludable
2 hearsay evidence.

3 There were no applicable hearsay objections by CalPERS to any testimony elicited by Respondent and
4 given by Respondent's witnesses. There were no hearsay objections to testimony given by Respondent's
5 mother. Furthermore, there was no hearsay objections to key documentary evidence offered by Respondent
6 and admitted into evidence by the Administrative judge. As such most, if not all documents (to wit:
7 Respondent's Exhibits admitted into evidence during the hearing) and all of Respondent's witnesses'
8 statements are admissible and can be considered for all purposes.

9 PROBATE CODE SECTION 21380

10 The proposed decision is not based on the correct controlling burden of proof. Respondent requested and
11 was granted judicial notice of the applicable statutory law relevant to the issues heard during the
12 administrative hearing. One of which was Probate Code section 21380, which creates a statutory presumption
13 of fraud when a donative transfer is made by and through a power of attorney. Generally, the burden of proof
14 during an administrative hearing is on the Respondent to show by a preponderance of the evidence that his/her
15 factual allegations are true. However, once established that an attorney in fact used a power of attorney form
16 to self-designate her or himself as the beneficiary, the burden of proof governing the hearing shifts. Pursuant
17 to Probate Code 21380, Marian Kubicek was burdened with the onus to prove by clear and convincing
18 evidence that her self-designation through the use of a power of attorney was not the product of fraud. Ms.
19 Kubicek did not proffer any such evidence. As such, the presumption of fraud stands and the questionable
20 beneficiary designations relied upon by CalPERS are invalid and without legal effect.

21 Marian Kubicek testified during the hearing that she did not live with Joseph Garcia prior to his
22 incarceration. She explained that she moved into Mr. Garcia's home so that she could take care of household
23 tasks while he was serving time in jail. Ms. Kubicek also testified that she herself prepared and sent the SRI
24 form to CalPERS, after signing it. It should be noted that not only did Ms. Kubicek sign as Mr. Garcia's
25 spouse, she signed it as power of attorney for Mr. Garcia's spouse. Assertions that were clearly false and
26 deceptive in light of other credible witness testimony given at the hearing.

27 Probate Code 21380 therefore applies, and placed the burden of proof on Ms. Kubicek by "clear and
28 convincing evidence" to show that naming herself as the lifetime beneficiary was not the product of fraud.
Ms. Kubicek failed to meet her burden of proof. Her only explanation and offer of proof was her own
testimony stating that Mr. Garcia wanted to provide for her and her son (*to the exclusion of his own biological
child*) which is more than questionable in and of itself, but was in fact controverted by the testimony of
Charlene VanAlstine (*indicating that Ms. Kubicek bragged to her about screwing Mr. Garcia over by naming*

1 herself as his beneficiary and that there wasn't a damn thing he could do about it; and that Mr. Garcia told
2 Ms. VanAlstine on a number of occasions that RESPONDENT would be financially secure after his death as
3 she would receive his lifetime disability benefits), testimony of Diane Stewart (indicating that Mr. Garcia had
4 stated to her that RESPONDENT was his intended beneficiary both before and after the fraudulent
5 beneficiary designation was submitted to CalPERS and that she was shown the original IDR paperwork by
6 Mr. Garcia and Ms. Kubicek's name was nowhere included in it), testimony of Karen Olson (indicating that
7 Mr. Garcia told her RESPONDENT would be and was named as his lifetime disability beneficiary, and
8 showed her CalPERS forms with RESPONDENT'S name filled in as his beneficiary, not Ms. Kubicek's),
9 testimony of Angela Berry (indicating that Mr. Garcia complained of fraud and/or forgery by Ms. Kubicek,
10 retained legal representation to address the situation and also testified that Mr. Garcia stated that
11 RESPONDENT was and had always been his intended beneficiary).

12 APPLICABLE PROBATE CODE SECTIONS

13 Notwithstanding the issue of fraud (perjury, false impersonation, and forgery) Probate Code Sections,
14 4264, 4462, and 4465, govern powers and scope of authority for durable and statutory powers of attorney.
15 Probate Code Section 4054, specifies the effective date of the applicable statute(s). The effective date of
16 January 1, 1995, "applies to all powers of attorney regardless of whether they were executed before, on, or
17 after January 1, 1995." (*Probate Code section 4054(a).*)

18 Using either power of attorney form to modify or designate a beneficiary of a disability retirement plan is
19 precluded unless express written authority to do so is stated within the power of attorney form. (*Prob. Code*
20 *section 4264(e)&(f).*)

21 Express written authority is held to mean, a written statement without ambiguity. Black's Law Dictionary
22 defines the term "express" as "Clear; definite; explicit; unmistakable; not dubious or ambiguous." Express
23 Authority is defined as, "authority delegated to agent by words which expressly authorize him to do a
24 delegable act. That which confers power to do a particular identical thing set forth and declared exactly,
25 plainly, and directly with well-defined limits; an authority given in direct terms, definitely and explicitly, and
26 not left to inference or implication." *Black's Law Dictionary 10th Edition*. The written statement in each of
27 the powers of attorney (CalPERS Exhibits 3 & 4) is neither clear, definite, explicit, nor unmistakable.

28 The Administrative Law Judge and in turn the CalPERS Board have inexplicably ignored the legal
deficiency of the power of attorney forms due to the missing required "express" wording.

The written statement on the power of attorney forms, is as follows: "***I, Joseph Garcia grant Marian
Davis who is my power of attorney the extended powers to accept and/or receive any of my property, in***

1 *trust or otherwise, as a gift*" (CalPERS Exhibit 3) and *secondly "I, Joseph Garcia grant Marian Davis who*
2 *is my power of attorney the [extendeds] to accept and/or receive any of my property in trust or otherwise as*
3 *a gift."* (CalPERS Exhibit 4) Neither of which constitute an express authority as a matter of law. Express
4 language authorizing Ms. Kubicek to designate herself as a beneficiary of a CalPERS disability retirement
5 benefit is non-existent. Both written statements contained in the power of attorney forms are ambiguous.
6 Neither specifically mentions the power to "create," "change," nor "designate a survivorship interest nor
7 "designate" or "change" a beneficiary designation. Neither hand written statement specifically includes a
8 reference to authority to self-designate oneself as a beneficiary of a CalPERS industrial disability retirement
9 account.

10 The statements refer generally to property and not specifically to retirement benefits nor a beneficiary
11 designation. The express language missing is wording to the effect that Mr. Garcia authorized Ms. Kubicek to
12 "change a beneficiary" or "name herself as a beneficiary" of his CalPERS disability retirement account. As
13 such the SRI form's beneficiary designation by way of a power of attorney by the attorney in fact is null and
14 void as it is not authorized under applicable statutory law.

15 Probate Code Section 4264, is applicable. It states, "An attorney-in-fact under a power of attorney may
16 perform any of the following acts on behalf of the principal or with the property of the principal **only if** the
17 power of attorney **expressly grants** that authority to the attorney-in-fact:...(e) Create or change survivorship
18 interests in the principal's property or in property in which the principal may have and interest; and (f)
19 Designate or change the designation of beneficiaries to receive any property, benefit, or contract on the
20 principal's death." [**emphasis added**]. The specific wording required in a power of attorney form pursuant
21 to this code section is absent.

22 There is only one valid beneficiary designation that should be recognized and upheld. The beneficiary
23 designation signed by Mr. Garcia on February 24, 2015 (CalPERS Exhibit 8) naming Respondent as his
24 beneficiary. Respondent is and has always been Mr. Garcia's intended beneficiary and more importantly the
25 rightful one to receive it.

26 Respondent urges this Board to

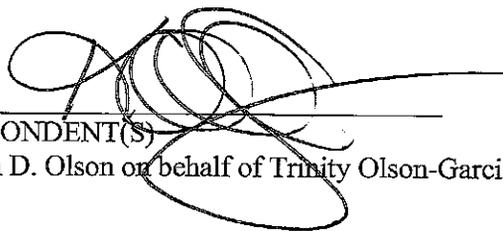
- 27 (1) declare the beneficiary designation(s) naming Marian Kubicek, a.k.a., Marian Davis, a.k.a., Marian
28 Danforth invalid and without effect;
- (2) declare the power of attorney form(s) used by Ms. Kubicek to self-designate to be statutorily
insufficient;

- 1 (3) declare Ms. Kubicek's burden of proof by clear and convincing evidence overcoming the statutory
2 presumption of fraud was not met; and
3 (4) uphold the beneficiary designation signed by Mr. Garcia in February 2015 as valid, naming
4 Respondent as the rightful beneficiary of his lifetime monthly benefit.

5 Relevant and probative exhibits admitted into evidence at the time of the Administrative hearing are
6 attached for this Board's review.

7 DATED: 3-15-23

Respectfully Submitted by:

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11 RESPONDENT(S)
12 Karen D. Olson on behalf of Trinity Olson-Garcia
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BENEFICIARY DESIGNATION FORM VIA POA



Supplemental Retirement Information

**APPROVED
TO RETAIN**

Social Security Number [Redacted]
 First Name Joseph
 Middle Initial R.
 Last Name Garcia

Mailing Address [Redacted]
 City Gasquet
 State CA
 ZIP Code 95543
 (Area Code) Telephone Number [Redacted]

Option Election

I elect the following retirement payment option I understand that my election of option is irrevocable and that by electing Option 2W, 3W, or 4, I forfeit my right to an increase in my allowance based on the conditions described in the attached instructions for completing your Supplemental Retirement Information form. Elect only one

- Option 1
 Option 2
 Option 2W
 Option 3
 Option 3W

Beneficiary Information - Single Lifetime Beneficiary (Complete for Options 1, 2, 2W, 3 or 3W)

Social Security Number [Redacted]
 Name MARIA DAVIS
 Date of Birth [Redacted]
 Sex M
 Relationship FIANCE

Mailing Address [Redacted]
 City Gasquet
 State CA
 ZIP Code 95543

Unmodified Allowance. I understand there are no benefits payable upon my death with this election (except the Survivor Continuance Benefit, if applicable). There is no return of contributions

Option 4 - Single Lifetime Beneficiary (Check one of the following and complete beneficiary information below)

- Option 2W & Option 1 Combined
 Option 3W & Option 1 Combined
- Specific Dollar Amount to Beneficiary \$ _____ .00
 Specific Percentage to Beneficiary _____ %
- Reduced Allowance for Fixed Period of Time _____ (%or \$ Amount) through ____ / ____ / ____

Beneficiary Information (for Option 4 Single Lifetime Beneficiary)

Social Security Number	Name	Date of Birth	Sex	Relationship
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

Mailing address _____ City _____ State _____ ZIP Code _____

Option 4 - Multiple Lifetime Beneficiaries

Check to elect equal share for each beneficiary or state specific amount or percent in space below

Option 4 - Court Ordered Community Property (Refer to instructions for Community Property and check one of the following. Complete the beneficiary information below. Do not complete the space for specific dollar or percent)

- 4/Unmodified
 4/Option 1
 4/Option 2W
 4/Option 3W

Beneficiaries Information (for Option 4 multiple lifetime beneficiaries or Option 4 Court Ordered Community Property)

Social Security Number	Name	Date of Birth	Sex	Relationship	Specific dollar or %
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]
[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]	[Redacted]

Name: Joseph Garcia Social Security Number: [REDACTED]

Retired Death Benefit

Lump-Sum Retired Death Benefit Beneficiary

[REDACTED]	<u>MARIAN DAVIS</u>	<u>FINNCE</u>
Beneficiary's Social Security Number	Name	Relationship
[REDACTED]	<u>Gasquet</u>	<u>CA</u>
Mailing Address	City	State
		<u>95543</u>
		ZIP Code

The person listed for the retired death benefit will receive the Lump-Sum Retired Death Benefit which is payable upon my death. I understand that I may change this beneficiary at any time and that any change in my marital status or the birth or adoption of a child automatically revokes this designation.

Survivor Continuance

Not contracted for survivor continuance

Please answer all four questions and complete the information for each sector answered "yes".

Will you be married on and at least one year prior to your retirement date? Yes No

Spouse's Social Security Number	Name	Date of Birth	Sex	Date of Marriage
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Do you have natural or adopted unmarried children under 18? Yes No

Child's Social Security Number	Full Name	Date of Birth
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Child's Social Security Number	Full Name	Date of Birth
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Do you have unmarried children disabled prior to their 18th birthday and still disabled? Yes No

Child's Social Security Number	Full Name	Date of Birth
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Child's Social Security Number	Full Name	Date of Birth
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Are your parents dependent upon you for one-half of their support? Yes No

Parent's Social Security Number	Full Name	Date of Birth
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Parent's Social Security Number	Full Name	Date of Birth
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Name: JOSEPH GARCIA Social Security Number: 

Member Signature and Notary

2309

I hereby certify, under the penalty of perjury, that the information submitted hereon is true and correct to the best of my knowledge. I understand that to cancel this election I must notify CalPERS before the mailing of my first retirement allowance check.

I am not married.

Joseph Garcia Power of Attorney 6/22/2011
Member's Signature Date

Marian Dany Power of Attorney 6/22/2011
Spouse's Signature Date

California Del Norte
State of County of

On 6-22-2011 before me, James M. Crow, Notary Public, personally known to me or

proven to me on the basis of satisfactory evidence to be the person(s) whose name(s)/is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/hor/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

See Attached California Notary Seal

Witness my hand and official seal or authorized CalPERS representative signature. All-Purpose Acknowledgment

James M. Crow Notary Public 6/22/2011
Representatives Signature Position Title Date

Return to: Benefits Services Division
P.O. Box 942711
Sacramento, CA 94229-2711

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

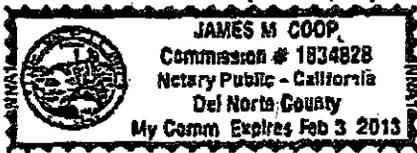
County of Del Norte

On 6-22-2011 before me, James M. COOP, Notary Public

personally appeared marion Davis and marion Davis, Power of Attorney

For Joseph Green

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature [Signature]
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Supplemental

Document Date 6-22-2011 Number of Pages 2 pages

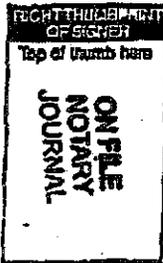
Signer(s) Other Than Named Above _____

Capacity(ies) Claimed by Signer(s)

Signer's Name marion Davis

- Individual
- Corporate Officer — Title(s) _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other _____

Signer is Representing _____



Signer's Name marion Davis Joseph Green

- Individual
- Corporate Officer — Title(s) _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other _____

Signer is Representing _____



16 0712



FAX TRANSMISSION

COLLEGE
OF THE
REDWOODS

To: *Bink*

Date: *4/22/11*

Fax #: *(916) 795-0385*

Total Pages: *5*

From: *Marian Davis*

Subject: *CalPERS*

Del Norte

883 W Washington Blvd.
Crescent City, CA
95531-8361
707.465.2300

FAX 707 464.6867

POWER OF ATTORNEY FORM

COPY

UNIFORM STATUTORY FORM POWER OF ATTORNEY
(California Probate Code Section 4401 Prob.)

NOTICE THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT (CALIFORNIA PROBATE CODE SECTIONS 4400 Prob. - 4465 Prob.)

IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU YOU MAY REVOKE HIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO

I, JOSEPH R GARCIA / [REDACTED] 95543
(your name and address) appoint

MARION D DAVIS
[REDACTED] 95543

(name and address of the person appointed, or of each person appointed if you want to designate more than one) as my agent (attorney-in-fact) to act for me in any lawful way with respect to the following initialed subjects

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT YOU MAY BUT NEED NOT, CROSS OUT EACH POWER WITHHELD

INITIAL

- (A) Real property transactions
- (B) Tangible personal property transactions
- (C) Stock and bond transactions
- (D) Commodity and option transactions
- (E) Banking and other financial institution transactions
- (F) Business operating transactions
- (G) Insurance and annuity transactions
- (H) Estate, trust, and other beneficiary transactions
- (I) Claims and litigation
- (J) Personal and family maintenance

APPROV
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(K) Benefits from social security, medicare, medicaid, or other governmental programs, or civil or military service

 (L) Retirement plan transactions

 (M) Tax matters

 (N) ALL OF THE POWERS LISTED ABOVE YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N)

SPECIAL INSTRUCTIONS

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT

I, JOSEPH GARCIA, GRANT MARIAN DAVIS, WHO IS MY POWER OF ATTORNEY, THE EXTENDED TO ACCEPT AND/OR RECEIVE ANY OF MY PROPERTY, IN TRUST OR OTHERWISE, AS A GIFT.

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED

This power of attorney will continue to be effective even though I become incapacitated

STRIKE THE PRECEDING SENTENCE IF YOU DO NOT WANT THIS POWER OF ATTORNEY TO CONTINUE IF YOU BECOME INCAPACITATED EXERCISE OF POWER OF ATTORNEY WHERE MORE THAN ONE AGENT DESIGNATED

If I have designated more than one agent, the agents are to act

NONE

IF YOU APPOINTED MORE THAN ONE AGENT AND YOU WANT EACH AGENT TO BE ABLE TO ACT ALONE WITHOUT THE OTHER AGENT JOINING, WRITE THE WORD "SEPARATELY" IN THE BLANK SPACE ABOVE IF YOU DO NOT INSERT ANY WORD IN THE BLANK SPACE, OR IF YOU INSERT THE WORD "JOINTLY", THEN ALL OF YOUR AGENTS MUST ACT OR SIGN TOGETHER

I agree that any third party who receives a copy of this document may act under it. Revocation of the power of attorney is not effective as to a third party until the third party has actual knowledge of the revocation. I agree to indemnify the third

party for any claims that arise against the third party because of reliance on this power of attorney

Signed this 29 day of April, 2011

[Signature]
(your signature)

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA)
COUNTY OF Del Norte)

On 4-29-2011 before me,

James M. Coop Notary Public
(here insert name and title of the officer), personally appeared
Joseph Raymond Garcia

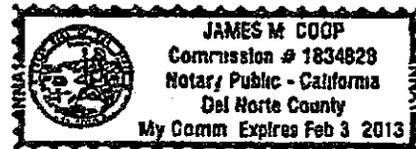
_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~ authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal

[Signature]
Signature

(Seal)



U.S. STATE COURT

ACKNOWLEDGMENT OF AGENT

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT

MARION DAVIS
[Typed or Printed Name of Agent]

Marion Davis
[Signature of Agent]

PREPARATION STATEMENT

This document was prepared by the following individual

JOSEPH R. BACIK
[Typed or Printed Name]

Joseph R. Bacik
[Signature]

There are no representations or warranty express or implied as to the fitness of this form for any specific use or purpose. If you have any question, it is always best to consult a qualified attorney before using this or any legal document.

05/27/2011 12:08 PM

COPY



CALIFORNIA GENERAL DURABLE POWER OF ATTORNEY

**THE POWERS YOU GRANT BELOW ARE EFFECTIVE
EVEN IF YOU BECOME DISABLED OR INCOMPETENT**

CAUTION A DURABLE POWER OF ATTORNEY IS AN IMPORTANT LEGAL DOCUMENT BY SIGNING THE DURABLE POWER OF ATTORNEY, YOU ARE AUTHORIZING ANOTHER PERSON TO ACT FOR YOU, THE PRINCIPAL BEFORE YOU SIGN THIS DURABLE POWER OF ATTORNEY, YOU SHOULD KNOW THESE IMPORTANT FACTS YOUR AGENT (ATTORNEY-IN-FACT) HAS NO DUTY TO ACT UNLESS YOU AND YOUR AGENT AGREE OTHERWISE IN WRITING THIS DOCUMENT GIVES YOUR AGENT THE POWERS TO MANAGE, DISPOSE OF, SELL, AND CONVEY YOUR REAL AND PERSONAL PROPERTY, AND TO USE YOUR PROPERTY AS SECURITY IF YOUR AGENT BORROWS MONEY ON YOUR BEHALF THIS DOCUMENT DOES NOT GIVE YOUR AGENT THE POWER TO ACCEPT OR RECEIVE ANY OF YOUR PROPERTY, IN TRUST OR OTHERWISE, AS A GIFT, UNLESS YOU SPECIFICALLY AUTHORIZE THE AGENT TO ACCEPT OR RECEIVE A GIFT YOUR AGENT WILL HAVE THE RIGHT TO RECEIVE REASONABLE PAYMENT FOR SERVICES PROVIDED UNDER THIS DURABLE POWER OF ATTORNEY UNLESS YOU PROVIDE OTHERWISE IN THIS POWER OF ATTORNEY THE POWERS YOU GIVE YOUR AGENT WILL CONTINUE TO EXIST FOR YOUR ENTIRE LIFETIME, UNLESS YOU STATE THAT THE DURABLE POWER OF ATTORNEY WILL LAST FOR A SHORTER PERIOD OF TIME OR UNLESS YOU OTHERWISE TERMINATE THE DURABLE POWER OF ATTORNEY

THE POWERS YOU GIVE YOUR AGENT IN THIS DURABLE POWER OF ATTORNEY WILL CONTINUE TO EXIST EVEN IF YOU CAN NO LONGER MAKE YOUR OWN DECISIONS RESPECTING THE MANAGEMENT OF YOUR PROPERTY YOU CAN AMEND OR CHANGE THIS DURABLE POWER OF ATTORNEY ONLY BY EXECUTING A NEW DURABLE POWER OF ATTORNEY OR BY EXECUTING AN AMENDMENT THROUGH THE SAME FORMALITIES AS AN ORIGINAL YOU HAVE THE RIGHT TO REVOKE OR TERMINATE THIS DURABLE POWER OF ATTORNEY AT ANY TIME, SO LONG AS YOU ARE COMPETENT

THIS DURABLE POWER OF ATTORNEY MUST BE DATED AND MUST BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC OR SIGNED BY TWO WITNESSES IF IT IS SIGNED BY TWO WITNESSES, THEY MUST WITNESS EITHER (1) THE SIGNING OF THE POWER OF ATTORNEY OR (2) THE PRINCIPAL'S SIGNING OR ACKNOWLEDGMENT OF HIS OR HER SIGNATURE A DURABLE POWER OF ATTORNEY THAT MAY AFFECT REAL PROPERTY SHOULD BE ACKNOWLEDGED BEFORE A NOTARY PUBLIC SO THAT IT MAY EASILY BE RECORDED

YOU SHOULD READ THIS DURABLE POWER OF ATTORNEY CAREFULLY WHEN EFFECTIVE, THIS DURABLE POWER OF ATTORNEY WILL GIVE YOUR AGENT THE RIGHT TO DEAL WITH PROPERTY THAT YOU NOW HAVE OR MIGHT ACQUIRE IN THE FUTURE THE DURABLE POWER OF ATTORNEY IS IMPORTANT TO YOU IF YOU DO NOT UNDERSTAND THE DURABLE POWER OF ATTORNEY, OR ANY PROVISION OF IT, THEN YOU SHOULD OBTAIN THE ASSISTANCE OF AN ATTORNEY OR OTHER QUALIFIED PERSON

NOTICE TO PERSON ACCEPTING THE APPOINTMENT AS ATTORNEY-IN-FACT BY ACTING OR AGREEING TO ACT AS THE AGENT (ATTORNEY-IN-FACT) UNDER THIS POWER OF ATTORNEY YOU ASSUME THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT THESE RESPONSIBILITIES INCLUDE

- 1 THE LEGAL DUTY TO ACT SOLELY IN THE INTEREST OF THE PRINCIPAL AND TO AVOID CONFLICTS OF INTEREST**
- 2 THE LEGAL DUTY TO KEEP THE PRINCIPAL'S PROPERTY SEPARATE AND DISTINCT**

**APPROVED
TO RETAIN**

FROM ANY OTHER PROPERTY OWNED OR CONTROLLED BY YOU YOU MAY NOT TRANSFER THE PRINCIPAL'S PROPERTY TO YOURSELF WITHOUT FULL AND ADEQUATE CONSIDERATION OR ACCEPT A GIFT OF THE PRINCIPAL'S PROPERTY UNLESS THIS POWER OF ATTORNEY SPECIFICALLY AUTHORIZES YOU TO TRANSFER PROPERTY TO YOURSELF OR ACCEPT A GIFT OF THE PRINCIPAL'S PROPERTY IF YOU TRANSFER THE PRINCIPAL'S PROPERTY TO YOURSELF WITHOUT SPECIFIC AUTHORIZATION IN THE POWER OF ATTORNEY, YOU MAY BE PROSECUTED FOR FRAUD AND/OR EMBEZZLEMENT IF THE PRINCIPAL IS 65 YEARS OF AGE OR OLDER AT THE TIME THAT THE PROPERTY IS TRANSFERRED TO YOU WITHOUT AUTHORITY, YOU MAY ALSO BE PROSECUTED FOR ELDER ABUSE UNDER PENAL CODE SECTION 368 IN ADDITION TO CRIMINAL PROSECUTION, YOU MAY ALSO BE SUED IN CIVIL COURT I HAVE READ THE FOREGOING NOTICE AND I UNDERSTAND THE LEGAL AND FIDUCIARY DUTIES THAT I ASSUME BY ACTING OR AGREEING TO ACT AS THE AGENT (ATTORNEY-IN-FACT) UNDER THE TERMS OF THIS POWER OF ATTORNEY

DATE 4/29/11

Marian Davis
 (SIGNATURE OF AGENT)

Marian Davis
 (PRINT NAME OF AGENT)

CALIFORNIA GENERAL DURABLE POWER OF ATTORNEY

THE POWERS YOU GRANT BELOW ARE EFFECTIVE EVEN IF YOU BECOME DISABLED OR INCOMPETENT

NOTICE THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING THEY ARE EXPLAINED IN THE UNIFORM STATUTORY FORM POWER OF ATTORNEY ACT IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE TO BE EFFECTIVE EVEN IF YOU BECOME DISABLED, INCAPACITATED, OR INCOMPETENT

I, JOSEPH R GARCIA, [redacted] 95543
MARIAN D DAVIS, [redacted] 95543 [insert your name and address] appoint
 [redacted] 95543 [insert the name and address of the
 person appointed] as my Agent (attorney-in-fact) to act for me in any lawful way with respect to
 the following intited subjects

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS

TO GRANT ONE OR MORE, BUT FEWER THAN ALL, OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF EACH POWER YOU ARE GRANTING

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF IT YOU MAY, BUT NEED NOT, CROSS OUT EACH POWER WITHHELD

Note If you initial item A or item B, which follow, a notarized signature will be required on behalf of the Principal

INITIAL:

____ (A) Real property transactions To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any interest in real property whatsoever, on such terms and conditions, and under such covenants, as my Agent shall deem proper, and to maintain, repair, tear down, alter, rebuild, improve manage, insure, move, rent, lease, sell, convey, subject to liens, mortgages, and security deeds, and in any way or manner deal with all or any part of any interest in real property whatsoever, including specifically, but without limitation, real property lying and being situated in the State of California under such terms and conditions, and under such covenants, as my Agent shall deem proper and may for all deferred payments accept purchase money notes payable to me and secured by mortgages or deeds to secure debt, and may from time to time collect and cancel any of said notes, mortgages, security interests, or deeds to secure debt

____ (B) Tangible personal property transactions To lease, sell, mortgage, purchase, exchange, and acquire, and to agree, bargain, and contract for the lease, sale, purchase, exchange, and acquisition of, and to accept, take, receive, and possess any personal property whatsoever, tangible or intangible, or interest thereto, on such terms and conditions, and under such covenants, as my Agent shall deem proper, and to maintain, repair, improve, manage, insure, rent, lease, sell, convey, subject to liens or mortgages, or to take any other security interests in said property which are recognized under the Uniform Commercial Code as adopted at that time under the laws of the State of California or any applicable state, or otherwise hypothecate (pledge), and in any way or manner deal with all or any part of any real or personal property whatsoever, tangible or intangible, or any interest therein, that I own at the time of execution or may thereafter acquire, under such terms and conditions, and under such covenants, as my Agent shall deem proper

____ (C) Stock and bond transactions To purchase, sell, exchange, surrender, assign, redeem, vote at any meeting, or otherwise transfer any and all shares of stock, bonds, or other securities in any business, association, corporation, partnership, or other legal entity, whether private or public, now or hereafter belonging to me

____ (D) Commodity and option transactions To organize or continue and conduct any business which term includes, without limitation, any farming, manufacturing, service, mining, retailing or other type of business operation in any form, whether as a proprietorship, joint venture, partnership, corporation, trust or other legal entity, operate, buy, sell, expand, contract, terminate or liquidate any business, direct, control, supervise, manage or participate in the operation of any business and engage, compensate and discharge business managers, employees, agents, attorneys, accountants and consultants, and, in general, exercise all powers with respect to business interests and operations which the principal could if present and under no disability

____ (E) Banking and other financial institution transactions To make, receive, sign, endorse, execute, acknowledge, deliver and possess checks, drafts, bills of exchange, letters of credit, notes, stock certificates, withdrawal receipts and deposit instruments relating to accounts or deposits in, or certificates of deposit of banks, savings and loans, credit unions, or other institutions or associations To pay all sums of money, at any time or times, that may hereafter be owing by me upon any account, bill of exchange, check, draft, purchase, contract, note, or

trade acceptance made, executed, endorsed, accepted, and delivered by me or for me in my name, by my Agent To borrow from time to time such sums of money as my Agent may deem proper and execute promissory notes, security deeds or agreements, financing statements, or other security instruments in such form as the lender may request and renew said notes and security instruments from time to time in whole or in part To have free access at any time or times to any safe deposit box or vault to which I might have access

_____ (F) **Business operating transactions** To conduct, engage in, and otherwise transact the affairs of any and all lawful business ventures of whatever nature or kind that I may now or hereafter be involved in

_____ (G) **Insurance and annuity transactions** To exercise or perform any act, power, duty, right, or obligation, in regard to any contract of life, accident, health, disability, liability, or other type of insurance or any combination of insurance, and to procure new or additional contracts of insurance for me and to designate the beneficiary of same, provided, however, that my Agent cannot designate himself or herself as beneficiary of any such insurance contracts

_____ (H) **Estate, trust, and other beneficiary transactions** To accept, receipt for, exercise, release, reject, renounce, assign, disclaim, demand, sue for, claim and recover any legacy, bequest, devise, gift or other property interest or payment due or payable to or for the principal, assert any interest in and exercise any power over any trust, estate or property subject to fiduciary control, establish a revocable trust solely for the benefit of the principal that terminates at the death of the principal and is then distributable to the legal representative of the estate of the principal, and, in general, exercise all powers with respect to estates and trusts which the principal could exercise if present and under no disability, provided, however, that the Agent may not make or change a will and may not revoke or amend a trust revocable or amendable by the principal or require the trustee of any trust for the benefit of the principal to pay income or principal to the Agent unless specific authority to that end is given

_____ (I) **Claims and litigation** To commence, prosecute, discontinue, or defend all actions or other legal proceedings touching my property, real or personal, or any part thereof, or touching any matter in which I or my property, real or personal, may be in any way concerned To defend settle, adjust, make allowances, compound, submit to arbitration, and compromise all accounts, reckonings, claims, and demands whatsoever that now are, or hereafter shall be, pending between me and any person, firm, corporation, or other legal entity, in such manner and in all respects as my Agent shall deem proper

_____ (J) **Personal and family maintenance** To hire accountants, attorneys at law, consultants, clerks, physicians, nurses, agents, servants, workmen, and others and to remove them, and to appoint others in their place, and to pay and allow the persons so employed such salaries, wages, or other remunerations, as my Agent shall deem proper

_____ (K) **Benefits from Social Security, Medicare, Medicaid, or other governmental programs, or military service** To prepare, sign and file any claim or application for Social Security, unemployment or military service benefits, sue for, settle or abandon any claims to any benefit or assistance under any federal, state, local or foreign statute or regulation, control, deposit to any account, collect, receipt for, and take title to and hold all benefits under any Social Security, unemployment, military service or other state, federal, local or foreign statute or regulation, and, in general, exercise all powers with respect to Social Security, unemployment, military service, and governmental benefits, including but not limited to Medicare and Medicaid, which the principal could exercise if present and under no disability

_____ (L) **Retirement plan transactions** To contribute to, withdraw from and deposit funds in any type of retirement plan (which term includes, without limitation, any tax qualified or nonqualified pension, profit sharing, stock bonus, employee savings and other retirement plan, individual retirement account, deferred compensation plan and any other type of employee

benefit plan), select and change payment options for the principal under any retirement plan, make rollover contributions from any retirement plan to other retirement plans or individual retirement accounts, exercise all investment powers available under any type of self-directed retirement plan, and, in general, exercise all powers with respect to retirement plans and retirement plan account balances which the principal could if present and under no disability

(M) Tax matters To prepare, to make elections, to execute and to file all tax, social security, unemployment insurance, and informational returns required by the laws of the United States or of any state or subdivision thereof, or of any foreign government, to prepare, to execute, and to file all other papers and instruments which the Agent shall think to be desirable or necessary for safeguarding of me against excess or illegal taxation or against penalties imposed for claimed violation of any law or other governmental regulation, and to pay, to compromise, or to contest or to apply for refunds in connection with any taxes or assessments for which I am or may be liable

(N) ALL OF THE POWERS LISTED ABOVE YOU NEED NOT INITIAL ANY OTHER LINES IF YOU INITIAL LINE (N)

SPECIAL INSTRUCTIONS

ON THE FOLLOWING LINES, YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT

I, JOSEPH GARCIA, GRANT MARIAN DAULS, WHO IS MY POWER OF ATTORNEY, THE EXTENDED POWERS TO ACCEPT AND/OR RECEIVE ANY OF MY PROPERTY, IN TRUST OR OTHERWISE, AS A GIFT.

THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED

THIS POWER OF ATTORNEY SHALL BE CONSTRUED AS A GENERAL DURABLE POWER OF ATTORNEY AND SHALL CONTINUE TO BE EFFECTIVE EVEN IF I BECOME DISABLED, INCAPACITATED, OR INCOMPETENT

(YOUR AGENT WILL HAVE AUTHORITY TO EMPLOY OTHER PERSONS AS NECESSARY TO ENABLE THE AGENT TO PROPERLY EXERCISE THE POWERS GRANTED IN THIS FORM, BUT YOUR AGENT WILL HAVE TO MAKE ALL DISCRETIONARY DECISIONS IF YOU WANT TO GIVE YOUR AGENT THE RIGHT TO DELEGATE DISCRETIONARY DECISION-MAKING POWERS TO OTHERS, YOU SHOULD KEEP THE NEXT SENTENCE, OTHERWISE IT SHOULD BE STRICKEN)

Authority to Delegate My Agent shall have the right by written instrument to delegate any or all of the foregoing powers involving discretionary decision-making to any person or persons whom my Agent may select, but such delegation may be amended or revoked by any agent (including

any successor) named by me who is acting under this power of attorney at the time of reference

(YOUR AGENT WILL BE ENTITLED TO REIMBURSEMENT FOR ALL REASONABLE EXPENSES INCURRED IN ACTING UNDER THIS POWER OF ATTORNEY STRIKE OUT THE NEXT SENTENCE IF YOU DO NOT WANT YOUR AGENT TO ALSO BE ENTITLED TO REASONABLE COMPENSATION FOR SERVICES AS AGENT)

Right to Compensation My Agent shall be entitled to reasonable compensation for services rendered as agent under this power of attorney

(IF YOU WISH TO NAME SUCCESSOR AGENTS, INSERT THE NAME(S) AND ADDRESS(ES) OF SUCH SUCCESSOR(S) IN THE FOLLOWING PARAGRAPH)

Successor Agent If any Agent named by me shall die, become incompetent, resign or refuse to accept the office of Agent, I name the following (each to act alone and successively, in the order named) as successor(s) to such Agent

None

Choice of Law THIS POWER OF ATTORNEY WILL BE GOVERNED BY THE LAWS OF THE STATE OF CALIFORNIA WITHOUT REGARD FOR CONFLICTS OF LAWS PRINCIPLES IT WAS EXECUTED IN THE STATE OF CALIFORNIA AND IS INTENDED TO BE VALID IN ALL JURISDICTIONS OF THE UNITED STATES OF AMERICA AND ALL FOREIGN NATIONS

I am fully informed as to all the contents of this form and understand the full import of this grant of powers to my Agent

I agree that any third party who receives a copy of this document may act under it Revocation of the power of attorney is not effective as to a third party until the third party learns of the revocation I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney

Signed this 29 day of APRIL, 2011


[Your Signature]


[Your Social Security Number]

CERTIFICATE OF ACKNOWLEDGMENT OF NOTARY PUBLIC

STATE OF CALIFORNIA
COUNTY OF Del Norte

This document was acknowledged before me on 4 29 2011 [Date] by Joseph Raymond Garcia [name of principal]

1002645074641

[Notary Seal, if any]

See Attached California
All-Purpose Acknowledgment

David Cap
(Signature of Notarial Officer)

Notary Public for the State of California

My commission expires 3 Feb 2013

ACKNOWLEDGMENT OF AGENT

BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, THE AGENT ASSUMES THE
FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT

Marian Davis
[Typed or Printed Name of Agent]

Marian Davis
[Signature of Agent]

PREPARATION STATEMENT

This document was prepared by the following individual

Joseph R. Garcia
[Typed or Printed Name]

Joseph R. Garcia
[Signature]

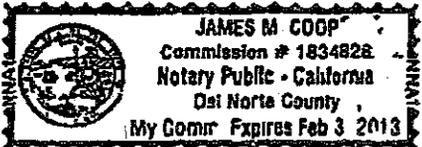
CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California }
County of Del Norte }

On 4 29 2011 before me, James M. Coop, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Joseph Raymond Garcia
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity(ies), and that by his signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct

WITNESS my hand and official seal

Signature James M. Coop
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document California General Durable Power of Attorney

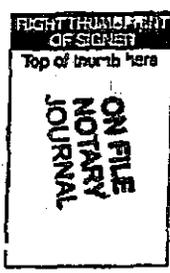
Document Date 4 29 2011 Number of Pages 7 pages

Signer(s) Other Than Named Above _____

Capacity(ies) Claimed by Signer(s)

Signer's Name Joseph Raymond Garcia

- Individual
- Corporate Officer — Title(s) _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other _____



Signer Is Representing _____

Signer's Name _____

- Individual
- Corporate Officer — Title(s) _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other _____



Signer Is Representing _____

DECLARATION OF CHARLENE VANALSTINE

1 12. She stated that she knew that the change she had made to the beneficiary designation, naming
2 herself, was a permanent change and there wasn't "a damn thing" that Mr. Garcia could do about
3 it.

4 13. I know for a fact, based on conversations I had with Mr. Garcia prior to him going to jail, that he
5 had designated his daughter, Trinity, as his beneficiary, and not Ms. Kubicek.
6

7 14. Based on my personal knowledge and my own observations, I believe Ms. Kubicek to be a
8 dishonest and very manipulative individual.

9 15. What she did to Mr. Garcia and his daughter is, in my opinion, evil.
10

11
12 I, Charlene VanAlstine, do hereby declare under penalty of perjury under the laws of the State of
California that the foregoing is true and correct.
13

14 DATED: 8-3-20

15 
16 Charlene Van Alstine
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DECLARATION OF DIANE STEWART (DIANE GARCIA)

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DECLARATION OF DIANE STEWART

I, Diane Stewart, have personal knowledge of the facts and information stated herein. If called as a witness, I could and would testify competently and truthfully to the following:

1. I am personally familiar with Joseph Garcia. We were involved in a close intimate relationship from the fall of 2007 through the month before his passing in November of 2017.
2. Despite separating the summer of 2010 and ultimately getting a divorce in ~~August~~ ^{October} of 2011, Joe and I remained close during the ten years or so that we knew each other.
3. We were continuously involved in an intimate physical relationship that overlapped his other relationships, including his relationship with Marian Kubicek.
4. Joe Garcia and I started dating in the Fall of 2007, and eventually got married in May of 2009.
5. We had a love-hate relationship where we couldn't stand to be apart for any considerable length of time but couldn't seem to live together peacefully either.
6. From February of 2010 through the date Joe was taken into custody to serve his jail sentence, Joe and I regularly spent intimate time together, at least once per month, if not more.
7. I'm not proud of the fact that my continuing relationship with Joe always overlapped my other relationships. There was just something about Joe and my relationship that neither of us could let go of. We were drawn to one another, almost addicted to each other.
8. During the time we were together just prior to him going to jail, Joe talked a lot about his health, his future and his daughter. Trinity was Joe's entire world.
9. Joe mentioned on numerous occasions that when he died, Trinity would receive his disability retirement benefits and she would be "set for life."
10. Prior to Joe submitting his industrial disability retirement application packet to the County for approval, we went over the packet together.
11. No where in the application packet nor on the beneficiary forms was Marian Kubicek's name mentioned or listed in any manner.
12. I distinctly remember having a conversation with Joe about him naming only Trinity as his retirement benefits beneficiary, while leaving his other daughter Buergin out.

- 1 13. We discussed how upset I thought Courtney (Buergin's mom) would be about it and even told
2 him that he had better check with Karen (Trinity's mom) before he turned the paperwork like
3 that into the County.
- 4 14. After Joe was released from jail in November of 2011, our intimate relationship continued all the
5 way up to the summer preceding his passing.
- 6 15. I wasn't surprised at all when he told me that Marian ended up in another relationship in August
7 of 2011, that she had taken all of his money out of his bank accounts, and that she had taken
8 some of his personal belongings when she moved out of his house.
- 9 16. Long after his break-up with Marian, approximately early 2014 or mid-2014, Joe showed up at
10 my doorstep one day in a fit of rage. He was screaming about how that "bitch" forged
11 paperwork and stole his retirement benefits.
- 12 17. The essence of his emotional rant was about him finding out through his PERS online account
13 that Marian Kubicek had taken Trinity off as a beneficiary and replaced Trinity with herself and
14 her son.
- 15 18. Joe was livid. He even logged into his PERS account on my computer to show me what he was
16 so upset about.
- 17 19. When he finally showed me his online account records on the computer screen, I understood why
18 he was so upset. It clearly showed Marian Kubicek named as his lifetime benefit beneficiary and
19 not Trinity.
- 20 20. I also saw that Marian Kubicek was listed as Joe's "Registered Domestic Partner." Which
21 seemed to infuriate Joe all the more.
- 22 21. I also saw in Joe's PERS account records that Trevor Kubicek had been listed as Joe's biological
23 son and was also named as a beneficiary to a one-time payment. I do not recall at this time what
24 the one-time payment was for nor the amount, but I do recall without a doubt that Trevor was
25 listed as Joe's biological child.
- 26 22. Joe was so angry about what he had just discovered, that I had to tell him to quiet down several
27 times so the neighbors wouldn't think we were fighting between ourselves.
28

1 23. Based on the multiple discussions Joe and I had about his retirement and about Marian, I can say
2 with absolute certainty that he would never have listed Marian as his lifetime beneficiary in place
3 of his (at the time) 5-year-old daughter.

4 24. During the 2-3 months immediately prior to Joe being taken into custody to serve his jail time
5 (which I believe to be in May 2011), we began discussing the possibility of getting back together
6 and moving in together after his release.

7 25. Joe was trying to talk me into giving him another shot at a happily-ever-after with him, saying
8 things like I was the love of his life and that I just had to say the word and he would dismiss the
9 divorce. So, it was clear to me that his relationship with Marian was not that serious and was not
10 going to last.

11 26. I don't believe for a second that Joe knowingly allowed Marian to be added as his beneficiary.
12 Joe was always so proud of the fact that after his passing, Trinity would be well taken care of
13 financially.

14 27. When Joe discovered Marian was listed as a beneficiary on his retirement account, he appeared
15 to be genuinely surprised and he was clearly upset, to the point of being in a fit of rage.

16
17 I, Diane Stewart, do hereby declare under penalty of perjury under the laws of the State of
18 California that the foregoing is true and correct.

19 DATED: 9-2-2020

20 
21 Diane Stewart

22 P.O. Box 123

23 Gasquet, CA 95543

24 (707) 951-4887
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