

1981

In The Matter of the Estate of Gilma Wheeler Larsen : Appellant's Brief

Utah Supreme Court

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Everett E. Dahl; Attorney for Respondent
Legrand P. Backman; Attorney for Zion's First National Bank
Mark S. Miner; Attorney for Appellant

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STATEMENT OF POINTS

POINT I

DIXIE LARSEN AND WILLIAM RICHARD LARSEN, JR. BOTH DIED PRIOR TO THEIR RECEIVING THEIR SHARE OF THE ESTATE EITHER UNDER THE BEQUEST OR AS BENEFICIARIES OF THE TRUST. BY REASON THEREOF, ALL FUNDS TO BE DISTRIBUTED WERE TRUST FUNDS AND AS SUCH MUST BE DISTRIBUTED AS PROVIDED IN THE TRUST, TO WIT: "IN THE EVENT OF THE DEATH OF DIXIE LARSEN PRIOR TO RECEIVING HER SHARE OF SAID ESTATE . . ." THEN THERE WAS A GIFT OVER TO MARSHA MANN PASKETT AND THE BROTHERS AND SISTERS PER STIRPES OF WILLIAM RICHARD LARSEN.

STATEMENT OF THE KIND OF CASE

This is an action founded upon a Petition for Interpretation of Decedent's Will and Codicils filed by Zion's First National Bank and a Trustee of Testamentary Trust of the Estate of Cilma Wheeler Larsen, deceased. The Zion's First National Bank and a Trustee of Testamentary Trust of the Estate of Cilma Wheeler Larsen, deceased, takes no position in the matter and the contest is between Marsha Mann Paskett, a beneficiary under the trust, and Lorna W. Anderson, a cousin of William Richard Larsen, deceased; Scott C. Walker, a second cousin of William Richard Larsen, deceased; and Jeff P. Walker, a second cousin of William Richard Larsen, Jr., deceased; all of whom have claimed a one-half of a one-third interest in said trust funds, by reason of the death of Dixie Larsen, a daughter of testatrix, and William Richard Larsen, Jr., a son of the testatrix herein.

DISPOSITION IN THE LOWER COURT

The case was heard by the Court. No evidence was taken and an interpretation of the Will and Codicils was made by the Court from receiving the documents themselves. From the Court's interpretation of paragraph 5 of the Second Codicil and the Order made by the Court, Marsha Mann Paskett appeals.

RELIEF SOUGHT ON APPEAL

Marsha Mann Paskett seeks reversal of the Court's Order and interpretation and seeks a decision in accordance with the previous Supreme Court ruling; that she be awarded one-half of the one-third share of William Richard Larsen, Jr., deceased, as was previously interpreted by this Court, Case Number 13090, 29 Utah 2nd, page 360.

STATEMENT OF FACTS

The decedent, Cilma Wheeler Larsen, died in Salt Lake City, Utah, on the 8th day of September, 1971. At the time of her death she was survived by a daughter, Dixie Larsen, and a son, William Richard Larsen, Jr. Cilma Wheeler Larsen, during her lifetime executed a Will on April 15, 1968; a Codicil on May 5, 1971; and a Second Codicil on August 15, 1971. The Second Codicil completely revoked the provisions of the Will and the First Codicil. It is the interpretation of paragraph 5 of the Second Codicil which has raised the legal problem to be determined herein.

Dixie Larsen died on the 10th day of November, 1971. William Richard Larsen, Jr. died on the 25th day of February, 1978. With regard to Dixie Larsen, the Second Codicil provided:

In the event of the death of Dixie Larsen prior to her receiving her share of the estate either under the bequest or as beneficiary of said trust, I hereby give and devise and bequeath the share of said estate to which Dixie Larsen would be entitled to if living to any surviving issue if no surviving issue one-half to my friend Marsha Mann Paskett and one-half to the brothers and sisters per stirpes of the brothers and sisters of my late husband, William Richard Larsen.

Cilma Wheeler Larsen was survived by her son, William Richard Larsen, Jr., then age 42, her daughter, Dixie Larsen, then age 34, and Marsha Mann Paskett, who since the age of one had lived with but had never been legally adopted by Cilma Wheeler Larsen. On November 10, 1971, two months after the death of Cilma Wheeler Larsen, her daughter, Dixie Larsen, died having never married and died without issue. On the 25th day of February, 1978, William Richard Larsen, Jr. died having never married, and died without issue. This Court in Larsen vs. Paskett, 29 Utah 2nd, 360, settled and determined once and for all the interpretation of paragraph 5 with regard to terms and conditions and the distribution of any and all trust funds which were due and owing Dixie Larsen, for which she had not received under the bequest or as beneficiary of the Trust. In paragraph 5 of the Second Codicil, there was a further provision which provided for disposition of the estate or trust in the event of the death of William Richard Larsen, Jr. which reads as follows:

In the event of the death of William Richard Larsen, Jr. prior to his receiving his share of the estate either under the bequest or as beneficiary of said estate, I hereby give and devise and bequeath the share of estate to which the said William Richard Larsen, Jr. would be entitled to if living to any surviving issue and if no surviving issue one-half to my daughter Dixie Larsen and one-half to the issue of the brothers and sisters per stirpes of the brothers and sisters of my late husband, William Richard Larsen.

As stated above, William Richard Larsen, Jr. died February 25, 1978, having never married, and died without issue. The cousins and second cousins of William Richard Larsen, Jr., deceased, now seek to have that portion which would have been awarded to Dixie Larsen awarded to them in complete defiance of the decision of this Court, set forth in 29 Utah 2nd, 360. The cousins admit that William Richard Larsen, Jr. died prior to his receiving his share of the estate, either under the bequest or as beneficiary of the trust. They further admit that they are in the same position now as they were when the Supreme Court interpreted paragraph 5 of the Codicil in the Larsen vs. Paskett case, supra. It is undisputed that the funds of Cilma Wheeler Larsen still remain in the trust fund with the Zion's First National Bank and they readily admit that these funds under the Codicil fall within the definition of the share of the estate to which Dixie Larsen would be entitled to if living. The

cousins present the same agrument as was presented in the Larsen vs. Paskett case, to wit: that William Richard Larsen, Jr. being the sole heir of Dixie Larsen was vested with the trust fund money on her death; that said funds then returned to her estate on William Richard Larsen, Jr.'s death. Hence, trust funds reverted back to William Richard Larsen, Jr.'s estate by reason of William Richard Larsen Jr. being the sole heir of Dixie Larsen; that now the funds have vested in the cousins by virtue of a Will of William Richard Larsen, Jr. The foregoing decision is based upon the effect of the term vesting, which is synonymous with the right to receive.

Respondent readily admits that had William Richard Larsen, Jr. died prior to the death of Dixie Larsen, that the holding of Larsen vs. Paskett would prevail, but under some stretch of the imagination, or mental gymnastics they now take the position that William Richard Larsen, Jr. having died subsequent to Dixie Larsen, that the trust fund moneys although not having been received, either under the bequest or as beneficiaries of the trust, should now be awarded to the cousins by reason of the fact that William Richard Larsen, Jr.'s death resulted in a vesting of the trust funds in the estate of Dixie Larsen, hence, back to the estate of William Richard Larsen, Jr., deceased, thence to the cousins by virtue of a Will of William Richard Larsen, Jr, presented

for probate in the District Court of Salt Lake County, on or about May 9, 1978.

It is undisputed that the cousins claim a one-half of the one-third interest of the Trust funds by reason of their being the vested devisees of William Richard Larsen, Jr. who was the sole heir of Dixie Larsen, deceased.

The same claim is made of a vesting as was made in the case of Larsen vs. Paskett, (supra) contra to the ruling therein.

In order to bring the facts of the case into proper perspective the pertinent parts of the Second Codicil should be reviewed and are as follows:

1. I hereby give and bequeath to Marsha Mann Paskett who has been very dear to this testatrix the sum of Ten Thousand and no/100 (\$10,000.00) Dollars providing she survives me.
2. I hereby give and bequeath to my niece Melva Wiseman Peters, the sum of Ten Thousand and no/100 (\$10,000.00) Dollars providing she survives me.
3. I hereby give, devise and bequeath to my daughter, Dixie Larsen, the house at 3909 South 6000 West Street, Salt Lake City, Utah with sufficient ground to serve said house and the furniture and furnishings in said house. The value will balance gifts already given by me to my son William Richard Larsen, Jr. The said Dixie Larsen to have no interference in her ownership of the above property from William Richard Larsen, Jr. and the said William Richard Larsen, Jr. to move from said premises within ten days of my death and in the event he refuses to do so I give to said William Richard Larsen, Jr. the sum of One and no/100 (\$1.00) Dollar and no other interests in my estate whatsoever.

4. I hereby give devise, and bequeath all of the rest, residue and remainder of my property of which I die possessed, whether real, personal or mixed and wheresoever situated to Le Grand P. Backman as Trustee in Trust for the following uses and purposes:

- a. to pay to my daughter, Dixie Larsen, the sum of Four Hundred and no/100 (\$400.00) Dollars per month for her care and maintenance for a period of ten (10) years from the date of my death.
- b. To pay to my son, William Richard Larsen, Jr. the sum of One Hundred Fifty and no/100 (\$150.00) Dollars per month for his care and maintenance for a period of ten (10) years from the date of my death.
- c. Ten (10) years from the date of my death said Trustee is authorized to distribute the residue of said trust estate as follows: Two-thirds to Dixie Larsen and one-third to William Richard Larsen Jr. subject to the condition that the said William Richard Larsen Jr. shall be capable and living worthy in the discretion of the Trustee to receive his share of said trust and in the event that the said William Richard Larsen Jr. is not capable and worthy then said Trustee shall pay to the said William Richard Larsen Jr. the sum of One and no/100 (\$1.00) Dollar and be discharged from any further obligations under the trust to the said William Richard Larsen Jr. and the one-third of the estate shall then be distributed one-half to Dixie Larsen and one-half to the surviving brothers and sisters or the issue of said brothers and sisters per stirpes of my late husband, William Richard Larsen.

5. In the event of the death of Dixie Larsen prior to her receiving her share of said estate

either under the bequest or as beneficiary of said trust, I hereby give and devise and bequeath the share of said estate to which the said Dixie Larsen would be entitled if living to any surviving issue and if no surviving issue, one-half to my friend Marsha Mann Paskett and one-half to the issue of the brothers and sisters per stirpes of the brothers and sisters of my late husband, William Richard Larsen. In the event of the death of William Richard Larsen, Jr. prior to his receiving his share of the estate either under the bequest or as beneficiary of said estate, I hereby give and devise and bequeath the share of estate to which the said William Richard Larsen, Jr. would be entitled to if living to any surviving issue and if no surviving issue one-half to my daughter Dixie Larsen and one-half to the issue of the brothers and sisters per stirpes of the brothers and sisters of my late husband, William Richard Larsen.

POINT I

DIXIE LARSEN AND WILLIAM RICHARD LARSEN, JR. BOTH DIED PRIOR TO THEIR RECEIVING THEIR SHARE OF THE ESTATE EITHER UNDER THE BEQUEST OR AS BENEFICIARIES OF THE TRUST. BY REASON THEREOF, ALL FUNDS TO BE DISTRIBUTED WERE TRUST FUNDS AND AS SUCH MUST BE DISTRIBUTED AS PROVIDED IN THE TRUST, TO WIT: "IN THE EVENT OF THE DEATH OF DIXIE LARSEN PRIOR TO RECEIVING HER SHARE OF SAID ESTATE . . ." THEN THERE WAS A GIFT OVER TO MARSHA MANN PASKETT AND THE BROTHERS AND SISTERS PER STIRPES OF WILLIAM RICHARD LARSEN.

ARGUMENT

When William Richard Larsen, Jr. died on the 25th of February, 1978, the only moneys to which he was entitled consisted of trust fund money, to wit: the sum of One Hundred and Fifty (\$150.00) Dollars per month for his care and maintenance for a period of ten (10) years. At the end of the ten (10) year period, William Richard Larsen, Jr. would have been entitled to one-third of the trust fund moneys subject to the conditions that the said William Richard Larsen, Jr. shall be capable and living worthy in the discretion of the Trustee to receive his share of said trust and in the event that the said William Richard Larsen, Jr. is not capable and worthy then said Trustee shall pay to the said William Richard Larsen, Jr. the sum of One and no/100 (\$1.00) Dollar and be discharged from any further obligation under said trust to the said William Richard Larsen, Jr. and the one-third of said trust estate shall then be distributed one-half to Dixie Larsen and one-half to the surviving brothers and sisters or the issue of said brothers and sisters per stirpes of my late husband, William Richard Larsen.

The foregoing recitation clearly shows the intent of Cilma Wheeler Larsen to distribute the one-third share of William Richard Larsen, Jr. as trust fund one-half to

Dixie Larsen and one-half to the surviving brothers and sisters of her late husband. The clear intent of the testatrix, as expressed in the Will shows a clear intent that should William Richard Larsen, Jr. die prior to his receiving his portion of the trust fund that said trust funds were to be distributed one-half to Dixie Larsen and one-half to the surviving brothers and sisters * * * (William Richard Larsen Sr.).

The controversy again focuses on paragraph 5 of the Codicil (In the event of the death of William Richard Larsen, Jr. prior to his receiving his share of the estate either under bequest or as beneficiary of the trust, I hereby give and devise and bequeath the share of the estate to which the said William Richard Larsen, Jr. would be entitled to if living to any surviving issue if no surviving issue, one-half to my daughter Dixie Larsen * * *). On the 25th day of February, 1978, William Richard Larsen, Jr. having never married, died without issue. Dixie Larsen died on November 10, 1971, having never married and died without issue. The funds remained intact in the Trust. The rule as to immediate vesting of the property in an heir or a devisee upon the decedent's death does not apply in that by clear and concise language, Cilma Wheeler Larsen set forth with clarity what she intended and placed therein a condition

precedent to any vesting. See Section 74-2-1 Utah Code Annotated, 1953, Poppleton's Estate, 34 Utah 285, 97, P. 138: In RE: Johnson's Estate. 64 Utah 114, 228, P. 248; also 74-2-8, Utah Code Annotated, 1953. The entire contents of the Will and the Codicils are to be considered together. Cilma Wheeler Larsen fully intended that any Trust Fund money that had not been received either under the bequest or as beneficiary of the Trust was to be distributed as follows: "In the event of the death of Dixie Larsen prior to her receiving her share of the estate" * * * then there was a gift over to Marsha Mann Paskett and as the Supreme Court stated in Larsen vs. Paskett, on page 356 of their previous decision the phrase "prior to receiving her share of the estate" means prior to her coming into actual possession of the property so held by the Trustee. The same rule of law applies to the paragraph with regard to the death of William Richard Larsen, Jr. The one-half of the one-third was undistributed and an integral part of the Cilma Wheeler Larsen Trust and was to go to Dixie Larsen. Under no stretch of the imagination did Cilma Wheeler Larsen intend that any portion of the Trust Funds would go to persons outside her Will and Codicils, to wit: a distant relative, to wit: a cousin and second cousins of William Richard Larsen, Jr. As stated in the Larsen vs. Paskett case, Cilma Wheeler Larsen had clearly in mind, not only

her mother-child relationship and obligations to them and what she desired to leave them. As Justice Crockett stated "this includes the fact that she had what she thought was proper proper but somewhat guarded provisions for her son," * * * "she neither expressed nor intended any further provisions for him except through the trust, and it seems reasonable to believe that any further sharing in the estate by him necessarily be subject to the conditions stated in connection with it." To place the trust funds in the estate of Dixie Larsen, who died approximately nine years prior to the death of William Richard Larsen, Jr. would have the effect of giving the property back to William Richard Larsen, Jr. in that he was the only heir of Dixie Larsen. Under no stretch of the imagination was such ever intended by Cilma Wheeler Larsen.

CONCLUSION •

Marsha Mann Paskett, by reason of the Supreme Court interpretation of the Will and Codicils is entitled to one-half of the one-third of the total estate; by reason of the death of William Richard Larsen, Jr. It is respectfully requested that the Court set aside the interpretation made by the Honorable Kenneth Rigtrup, District Judge, and apply the law as set forth in Larsen vs.

Paskett, and order a distribution of the estate as was intended by Cilma Wheeler Larsen.

RESPECTFULLY SUBMITTED:


MARK S. MINER
Attorney for Marsha Mann Paskett

525 Newhouse Building
10 Exchange Place
Salt Lake City, Utah 84111

CERTIFICATE OF MAILING

I hereby certify I mailed a true and correct copy
of the foregoing Appellant's Brief to:

Everett E. Dahl, Esq.
760 East Center Street
Midvale, Utah 84047
Attorney for Respondent

and to:

LeGrand P. Backman
61 South Main
Suite 500
Salt Lake City, Utah 84111
Attorney for Zion's First National Bank

and that said Appellant's Brief was duly served according
to law on this 30 day of April, 1981.


MARK S. MINER

LAST WILL AND TESTAMENT

OF

58311

CILMA WHEELER LARSEN

FILED IN CLERK'S OFFICE

Salt Lake County Utah

SEP 14 1971

W. Sterling Evans, Clerk 3rd Dist. Court

By *W. Sterling Evans*
Deputy Clerk

KNOW ALL MEN BY THESE PRESENTS:

That I, Cilma Wheeler Larsen of Salt Lake City, Salt Lake County, State of Utah, being of lawful age and of sound and disposing mind and memory, not acting under any duress, menace, fraud or undue influence of any person whomsoever, do make, publish and declare this instrument to be my last will and testament, hereby revoking all former wills, codicils and testamentary dispositions heretofore made or attempted to be made by me.

FIRST: I direct that all my just debts, including my funeral expenses, the expenses of my last illness and the expenses of the administration of my estate be paid by my executor hereinafter named.

SECOND: I hereby give, devise and bequeath all of the rest, residue and remainder of my property of which I die possessed, whether real, personal or mixed and wheresoever situated to Zions First National Bank as Trustee in Trust for the following uses and purposes:

1. The house at 3909 South 6000 West Street, Salt Lake City, Utah with sufficient ground to serve said house and the furniture and furnishings in said house shall be maintained by said Trustee as a suitable home for my daughter, Dixie Larsen; said Trustee to pay taxes and all maintenance charges. 10 years from the date of my death, said Trustee is to make conveyance of said real property to the said Dixie Larsen and a bill of sale of the furniture and furnishings in the house located on said premises. The value of said real property and furniture and furnishings will balance gifts already given by me to my son, William Richard Larsen, Jr.

To pay to my daughter, Dixie Larsen, the sum of \$300.00 per month for her care and maintenance for a period of ten (10) years from the date of my death.

3. To pay to my son, William Richard Larsen, Jr. the sum of \$150.00 per month for his care and maintenance for a period of ten (10) years from the date of my death.

4. In the event of any serious or prolonged illness on the part of my daughter, Dixie Larsen, or my son, William Richard Larsen, Jr., or in the event of any emergency applicable to either of them over and above the requirements for normal care and maintenance when in good health, then in such event the Trustee is empowered and authorized in the exercise of its authority as Trustee as it may seem appropriate to give relief from the corpus of the Trust to the person or persons involved.

DATE
BY

W. STERLING EVANS
CLERK 3RD DIST. COURT

FILED IN CLERK'S OFFICE
Salt Lake County Utah

SEP 15 1973

FILED
APR 11 1973

13090
Dist. Supreme Court, Utah

5. Ten (10) years from the date of my death said Trustee is authorized to distribute the residue of said trust estate in equal shares, share and share alike to the said Dixie Larsen and William Richard Larsen, Jr. and in the event of the death of either of said beneficiaries prior to receiving his or her full share of said trust estate and said deceased beneficiary leaves surviving issue, then distribution shall be made to the surviving issue of said beneficiary in equal shares, share and share alike. In the event of the death of either of said beneficiaries prior to receiving his or her full share of said trust estate and said deceased beneficiary leaves no surviving issue, then distribution shall be made to the surviving beneficiary. In the event of the death of both beneficiaries prior to receiving the residue of said trust estate, then said Trustee shall distribute said Trust Estate as follows: One-half (1/2) to the surviving brothers and sisters of Cilma Wheeler Larsen, and One-half (1/2) to the surviving brothers and sisters of my husband, William Richard Larsen.

LASTLY: I hereby nominate and appoint Zions First National Bank, N.A., as Trustee and Executor of this my Last Will and Testament.

It is my desire that the executor employ Backman, Backman and Clark, my attorneys, for legal services in reference to the probating of my estate.

IN WITNESS WHEREOF, I the said Cilma Wheeler Larsen, have hereunto subscribed my name this 15th day of April, A. D. 1968.

Cilma Wheeler Larsen

The foregoing instrument consisting of two (2) pages, including this one, was on this the 15th day of April, A. D. 1968, by the said Cilma Wheeler Larsen, the above named testatrix, signed, sealed, published and declared to be her Last Will and Testament, in the presence of us, who thereupon at her request, in her presence and by her expressed direction, and in the presence of each other, subscribed our names as witnesses thereto the day and year above written.

Ralph J. Marsh residing at Salt Lake City, Utah.

Charles P. Backman residing at Salt Lake City, Utah.

CODICIL TO LAST WILL AND TESTAMENT

OF

CILMA WHEELER LARSEN

KNOW ALL MEN BY THESE PRESENTS:

That whereas, I the undersigned, Cilma Wheeler Larsen, of Salt Lake City, Salt Lake County, State of Utah, did on the 15th day of April, 1968, make, execute, publish and declare my last will and testament in writing bearing date the day and year aforesaid.

Now, therefore, I, Cilma Wheeler Larsen, being of sound mind and memory, not acting under any duress, menace, fraud or undue influence of any person whomsoever, do make, publish and declare this my codicil to my last will and testament in manner following, that is to say:

FIRST: I revoke item 5 under Paragraph Second of my Last Will and Testament, and declare and direct in lieu thereof the following: "Five (5) years from date of my death said Trustee is authorized to distribute the residue of said trust estate in equal shares, share and share alike to the said Dixie Larsen and William Richard Larsen, Jr., and in the event of the death of the said Dixie Larsen prior to receiving her full share of said trust estate, then distribution of her share of said trust estate shall be made to Marsha Mann Paskett who has been very dear to this testatrix. In the event of the death of William Richard Larsen, Jr., prior to receiving his full distributive share of said trust estate, then distribution should be made of the share of said trust estate to which he would be entitled if living to the then surviving children of the brothers and sisters of my late husband, William Richard Larsen."

I do hereby ratify and confirm all and singular the provisions of my said Last Will and Testament, except as changed and modified by this, my codicil to my last will and testament.

IN WITNESS WHEREOF, I the said Cilma Wheeler Larsen, have hereunto subscribed my name this 5th day of May, A. D. 1971.

Cilma Wheeler Larsen

The foregoing instrument was on this the 5th day of May,
A. D. 1971, by the said Cilma Wheeler Larsen, the above named testatrix, signed
sealed, published and declared to be a codicil to her Last Will and Testament,
in the presence of us, who thereupon, at her request, in her presence, by her
expressed direction, and in the presence of each other, subscribed our names
as witnesses thereto, the day and year last above written.

Thomas R. D. [Signature] residing at Salt Lake City, Utah

Gary A. [Signature] residing at Salt Lake City, Utah

FILED
APR 11 1973
13290 - *Sept*
Circuit Supreme Court, Utah

SECOND
CODICIL TO LAST WILL AND TESTAMENT
OF
CILMA WHEELER LARSEN

58311

FILED IN CLERK'S OFFICE
Salt Lake County Utah
SEP 14 1971
W. Sterling Evans, Clerk 2nd Dis
By *[Signature]*
Deputy Clerk

KNOW ALL MEN BY THESE PRESENTS:

That whereas, I the undersigned, Cilma Wheeler Larsen of Salt Lake City, Salt Lake County, State of Utah did on the 15th day of April, 1968 make execute, publish and declare my last will and testament in writing bearing date the day and year aforesaid and on the 5th day of May, 1971 did make, execute, publish and declare a codicil to said last will and testament in writing bearing date the day and year aforesaid.

Now, therefore, I, Cilma Wheeler Larsen, being of sound mind and memory, not acting under any duress, menace, fraud or undue influence of any person whomsoever, do make, publish and declare this my second codicil to my last will and testament in manner following; that is to say:

FIRST: I revoke Paragraph Second of my last will and testament and I revoke all of the first Codicil to said last will and testament and declare and direct in lieu thereof the following:

1. I hereby give and bequeath to Marsha Mann Paskett who has been very dear to this testatrix the sum of Ten Thousand and no/100 (\$10000.00) Dollars providing she survives me.
2. I hereby give and bequeath to my niece, Melva Wiseman Peters the sum of Ten Thousand and no/100 (\$10000.00) Dollars providing she survives me.
3. I hereby give, devise and bequeath to my daughter, Dixie Larsen the house at 3909 South 6000 West St. Salt Lake City, Utah with sufficient ground to serve said house and the furniture and furnishings in said house. The value of said real property and furniture and furnishings will balance gifts already given by me to my son, William Richard Larsen, Jr. The said Dixie Larsen to have no interference in her ownership of the above property from William Richard Larsen, Jr. and the said William Richard Larsen Jr. to move from said premises within ten days of my death and in the event he refuses to do so I give the said William Richard Larsen Jr. the sum of One and no/100 (\$1.00) Dollar and no other interest in my estate

DATE *9-15-73*
BY *[Signature]*

FILED IN CLERK'S OFFICE
Salt Lake County Utah

SEP 15 1973
[Signature]

W. Sterling Evans, Clerk 2nd Dis

Whatsoever.

4. I hereby give, devise and bequeath all of the rest, residue and remainder of my property of which I die possessed, whether real, personal or mixed and wheresoever situated to ~~National Bank~~ ^{to Grand P. B. Knudsen} as Trustee in Trust ^{and in the event of his death to Henry L. Knudsen} for the following uses and purposes:

A. to pay to my daughter, Dixie Larsen, the sum of Four Hundred and no/100 (\$400.00) Dollars per month for her care and maintenance for a period of ten (10) years from the date of my death.

B. to pay to my son, William Richard Larsen Jr. the sum of One Hundred Fifty and no/100 (\$150.00) Dollars per month for his care and maintenance for a period of ten years from the date of my death.

C. In the event of any serious or prolonged illness on the part of my daughter, Dixie Larsen, or my son, William Richard Larsen, Jr. on in the event of any emergency applicable to either of them over and above the requirements for normal care and maintenance when in good health, then in such event the Trustee is empowered and authorized in the exercise of its authority as Trustee as it may seem appropriate to give relief from the corpus of the trust to the person or persons involved.

D. Ten (10) years from the date of my death said Trustee is authorized to distribute the residue of said trust estate as follows: two thirds to Dixie Larsen and one third to William Richard Larsen Jr. subject to the condition that the said William Richard Larsen Jr. shall be capable and living worthy in the discretion of the Trustee to receive his share of said trust and in the event that the said William Richard Larsen Jr. is not capable and worthy then said Trustee shall pay to the said William Richard Larsen the sum of One and no/100 (\$1.00) Dollar and be discharged from any further obligation under said trust to the said William Richard Larsen Jr. and the one third of said trust estate shall then be distributed one half to Dixie Larsen and one half to the surviving brothers and sisters or the issue of said brothers and sisters per stirpes of my late husband, William Richard Larsen.

5. In the event of the death of Dixie Larsen prior to receiver share of said estate either under the bequest or as beneficiary of said trust, I hereby give and devise and bequeath the share of said estate to which the said Dixie Larsen would be entitled if living, ^{to my surviving issue and if no surviving issue} one-half to my friend Marsha Mann Paskett and one-half to the issue of the brothers and sisters per stirpes of the brothers and sisters of my late husband, William Richard Larsen. In the event of the death of William Richard Larsen Jr. prior to receiving his share of said estate either under the bequest or as beneficiary of said trust, I hereby give and devise and bequeath the share of said estate to which the said William Richard Larsen Jr would be entitled if living, ^{to my surviving issue and if no surviving issue} one half to my daughter Dixie Larsen and one-half to the issue of the

brothers and sisters per stirpes of the brothers and sisters of my late husband, William Richard Larsen.

I do hereby ratify and confirm all and singular the provisions of my said last will and testament except as changed and modified by this, my condicil to my last will and testament.

IN WITNESS WHEREOF I the said Cilma Wheeler Larsen have hereunto subscribed my name this 15 day of August, 1971.

Cilma W. Larsen

The foregoing instrument consisting of three pages including this page was on this 15 day of August, 1971 by the said Cilma Wheeler Larsen, the above named testatrix, signed, sealed, published and declared to be a scond codicil to her last will and testament in the presence of us, whh thereupon, at her request, in her presence, by her expressed direction and in the presence of each other, subscribed our names as witnesses thereto, the day and year last above written.

Mary Campbell RN 276 W 2nd St #35 S.L.C., Utah
residing at Salt Lake City, Utah
Ronald L. Van Euring RN 1613 W. 47th St.
residing at Salt Lake City, Utah

