

**IN THE SUPREME COURT OF THE STATE OF MONTANA**  
Supreme Court Cause No. \_\_\_\_\_

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IN RE THE MATTER OF THE ESTATE OF RICHARD BRUCE NEAL, SR., a/k/a  
RICHARD B. NEAL, SR., RICHARD NEAL SR., RICHARD B. NEAL, and/or  
RICHARD NEAL,

*Petitioner,*

v.

MONTANA EIGHTH JUDICIAL DISTRICT COURT, CASCADE COUNTY,  
STANDING MASTER CHARLOTTE BEATTY

*Respondent.*

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**PETITION FOR WRIT OF SUPERVISORY CONTROL**

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*An Original Proceeding Arising From Rulings in the Eighth Judicial  
District Court, Cascade County, Cause No. DP-23-281  
Standing Master Charlotte Beatty*

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COMES NOW Petitioner Donald J. Neal (“Petitioner”) in the Estate of Richard Bruce Neal, Sr. (the “Estate”) and, pursuant to Rule 14, M.R.App. P., hereby petitions the Court for a writ of supervisory control, seeking reversal of Standing Master Charlotte Beatty’s January 28, 2024 Order and relief from the Eighth Judicial District Court’s imposition of extra-statutory notice requirements in the formal probate proceeding.<sup>1</sup>

**I. FACTS MAKING ACCEPTANCE OF JURISDICTION APPROPRIATE**

Richard Bruce Neal, Sr. (“Richard”) died on August 24, 2022, at the age of 83 years. Appendix (“Appx.”) at A000001. On November 7, 2023, Petitioner filed a Petition for Formal Probate, asking the Court to admit Richard’s original Last Will and Testament dated February 24, 2015 (the “2015 Will”) to probate. *Id.* A copy of a Last Will and Testament dated July 19, 2018 (the “2018 Will”) was also filed with the Petition. *Id.* at A000010. As alleged in the Petition, the 2018 Will is invalid because (i) Richard lacked testamentary capacity at the time it was executed, and (ii) Richard was unduly influenced by April Mancini (“Mancini”) who was charged criminally in *State of Montana v. April Mancini*, Montana Ninth Judicial District Court, Teton County Cause No. DC-2021-01 for exploitation of an

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<sup>1</sup> The January 28, 2024 Order is attached hereto as Exhibit A.

older person, incapacitated person, or person with developmental disability, a felony, in violation of Mont. Code Ann. § 45-6-333 (the “Criminal Case”). Appx. at A000003 and A000087-88.

The 2018 Will appoints Mancini as personal representative and bequeaths \$75,000 to her upon Richard’s death. *Id.* at A000011. The 2015 Will appoints Petitioner, Richard’s son, as personal representative and leaves nothing to Mancini. *Id.* at A000006-8. Richard’s cognitive function was first brought into question in late 2015 by Dr. Kristen Krauss. *Id.* at A000049. At some point before March 2016, Richard met Mancini, and she moved in with him. *Id.* His cognitive ability continued to decline while living with Mancini. *Id.*

Richard later executed the 2018 Will. Mancini’s actions over the next years resulted in the Criminal Case against her for exploiting Richard and using his personal funds and assets for her own benefit. *Id.* at A000050. Mancini died on November 14, 2022, less than two months after Richard.<sup>2</sup> *Id.* at A000051.

As noted in the Petition, Petitioner is aware of two potential putative heirs of Mancini: Faith E. Miller (“Faith”) and Aaron Mancini (“Aaron”). *Id.* at A000002. After conducting a diligent search, Petitioner was unable to identify the true legal name of Aaron, although he presumed that Aaron was the son of Mancini. *Id.* A

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<sup>2</sup> The Criminal Case was dismissed against Mancini on November 15, 2022, as a result of her death.

hearing was set on the Petition for January 31, 2024. Petitioner attempted to locate Mancini's heirs, but he could not confirm the addresses or identities of certain beneficiaries with reasonable diligence. *Id.* at A00001-2 and A000055. He filed a Proof of Service by Mail as required by Mont. Code Ann. § 72-1-301(1)(a) showing notice was sent on December 4, 2023, to the last known addresses for the known parties, including Faith. *Id.* at A000048. For unknown beneficiaries, a Notice of Hearing was published in the Great Falls Tribune on December 8, 2023, December 15, 2023, and December 22, 2023, according to Mont. Code Ann. § 72-1-301(1)(c). *Id.* at A000040. No objections were raised, and no parties appeared to the contest the proceedings at the hearing on the Petition on January 31, 2024. *Id.* at A000041.

Standing Master Charlotte Beatty presided over the January 31st hearing. *Id.* During the hearing, the Standing Master informed Petitioner that the case was not uncontested and that she could not hear it on the uncontested docket. *Id.* at A000043. After the hearing, on February 20, 2024, the matter was referred to Standing Master Beatty. *Id.* at A000042. Petitioner subsequently requested that the matter be considered by the District Court Judge. *Id.* at A000043. In response, Judge Kutzman reaffirmed Standing Master Beatty's authority to preside over the case. *Id.* at A000045.

A scheduling conference was held on April 22, 2024. Five days later, the District Court entered an Order requiring that Petitioner file a brief in support of the Petition, “with proper service provided to all potential heirs and beneficiaries flowing from both wills.” Appx. at A000046. Accordingly, Petitioner filed a Supplemental Brief, confirming that service by mail was enacted as required by Mont. Code Ann. § 72-1-301(1)(a) for all known addresses of the known heirs of Mancini, including Faith. *Id.* at A000055. However, Petitioner was not related to Mancini and after reasonable diligence, he could not locate information for certain potential heirs. *Id.* Petitioner, therefore, confirmed that notice had been published in accordance with Mont. Code Ann. § 72-1-301(1)(c). *Id.* Petitioner filed another Proof of Service showing that the Supplemental Brief had also been mailed to the identifiable addresses of known beneficiaries. *Id.* at A000093.

On June 5, 2024, the District Court issued its Order for Due Diligence, finding that Petitioner had not exercised appropriate due diligence in finding Mancini’s heirs and that publishing notice in the newspaper under Mont. Code Ann. § 72-1-301(1)(c) was insufficient. *Id.* at A000099. According to Standing Master Beatty, “surely the funeral home in Missoula would have information on who collected April Mancini’s ashes after she was cremated.” *Id.* She further noted, “And in this age of social media and other online search engines, it is the Court’s opinion that a person can locate almost anyone.” *Id.* The District Court

ordered that Petitioner “has one more chance to prove due diligence and show that he has exercised reasonable efforts in locating Ms. Mancini’s heirs for the purposes of notice and due diligence.” *Id.* at A000099-100.

On June 19, 2024, Petitioner filed a Proof of Service by Mail showing that he had sent copies of all pleadings in the case to every address that he could find for Faith, a potential heir of Mancini, which included six additional, different addresses. Appx. at A000101. On June 26, 2024, Petitioner submitted his Supplemental Brief, along with two supporting affidavits. *Id.* at A000104.

According to Christopher Hickman’s Affidavit, he is a private investigator hired by Petitioner’s attorney to locate Mancini’s potential heirs – Faith and Aaron. *Id.* at A000108. Hickman used two internet database systems, Tracers and idiCORE, to search for any additional information for Faith, including the addresses noted in the June 19th Proof of Service. *Id.* Hickman was unable to locate any contact information for Aaron or even confirm that he exists. *Id.*

Brittany Fydenlund, a paralegal, also engaged in due diligence efforts. *Id.* at A000112. According to Fydenlund’s Affidavit, she sent an email to Faith’s last known email address, asking for contact information for Mancini’s children. *Id.* Fydenlund also left a voicemail at Faith’s last known number requesting the same. *Id.* Faith never emailed or called Fydenlund back. *Id.* at A000113. Finally, Fydenlund used internet search engines and various social media applications to



attempt to locate contact information for Faith and Aaron. *Id.* She found a GoFundMe Account for Mancini, which listed both Faith and Aaron, but there was no contact information associated with it. *Id.*

Between Petitioner's filing of the June 19th Proof of Service and the June 26th Supplemental Brief, the District Court issued an Order Setting a Scheduling Conference and for Personal Service. Appx. at A000121. In the Order, Standing Master Beatty wrote that "Petitioner again thumbs his nose and submits yet another 'proof of service' via USPS (not certified mail) to Faith Miller at 6 different addresses." *Id.* Standing Master Beatty then ordered Petitioner to locate the correct addresses for Mancini's heirs and personally serve them 14 days before the next hearing. *Id.* at A000122-23. "If necessary, the Court will issue another order with more suggestions for Petitioner, who seems unable or unwilling to comply with its orders. In the alternate, the Court will consider sanctions." *Id.* at A000123.

Standing Master Beatty then listed several "suggestions to get Petitioner started" including hiring a process server, searching social media sites, using an online service that searches for people, contacting the tax assessor's office or recorder's office to search property records, and contacting the funeral home where Mancini was cremated. *Id.* As noted in Petitioner's June 25, 2024 Supplemental Brief, he hired a private investigator, conducted multiple online searches through

search engines and social media sites (both by the investigator and paralegal), and contacted Faith at her last known email address and phone number. Petitioner was still unable to locate Aaron. However, the mailings to Faith's correct address were not returned and were presumed to be delivered. *Id.* at A000105.

Petitioner reached out to the funeral home, confirming that the contact information that Petitioner had for Faith (used for the mailed notices and to contact her personally) matched the funeral home's records. Appx. at A000124. The funeral home would not release any further contact information without a court order. *Id.* at A000124-25. The Court subsequently issued an Order to Garden City Funeral Home. *Id.* at A000131-34.

On December 26, 2024, Petitioner filed a Second Status Report confirming his receipt and review of the funeral home records. *Id.* at A000135. According to the records, Faith is Mancini's daughter, and her address is 385 Riverside Avenue, Apartment 2, Torrington, CT 06970. *Id.* This is the same address to which the original documents were sent to in this matter, as confirmed by the Proof of Service filed on December 5, 2023. *Id.* at A000039. The funeral home also had a phone number for an Aaron "Miller." *Id.* at A000136. With this information, Petitioner personally served Faith at her home address by leaving a copy of the documents to a co-resident of the house. *Id.* at A000135.

Petitioner also made multiple attempts to contact Aaron at the phone number provided, but the number was inactive or not accepting calls. *Id.* at A000136. The number is no longer associated with Aaron Miller according to a reverse phone lookup. *Id.* After extensive searches in multiple databases for an address for Aaron, nothing was found. *Id.* Further database searches did not list him as a relative or associated contact for Mancini. *Id.* Standing Master Beatty had suggested that Petitioner should examine the contents of Mancini's wallet after her death, but Petitioner had no access to Mancini's personal belonging because he is not related to her. *Id.* Petitioner also conducted a review of Teton County property records and could not find any additional evidence of Mancini's heirs or beneficiaries. *Id.*

In response, the Court issued an Order on Motion for Clarification dated January 28, 2025 (the "January 28 Order"), requiring: (1) that Faith be personally served again, (2) that the investigator hired by Petitioner make another attempt to find Aaron through "a better search engine such as Truthfinder," and (3) that publication occur "in a Connecticut newspaper" without listing any particular county. Ex. A, at pp. 2-3. To date, Petitioner has expended \$17,060.60 in fees and costs attempting to satisfy Standing Master Beatty's "due diligence" requirements, with the goal posts constantly moving. *See* Affidavit of Brian Lee, at ¶ 17, attached hereto as Exhibit B. Those fees and costs are personal to Petitioner

because he has not been appointed as Personal Representative of the Estate. The most recent requirements of the District Court are, like the others, unsupported by law and likely unattainable.

Petitioner requests that this Court exercise supervisory control, vacate the January 28 Order, find that Petitioner has met the notice requirements of Mont. Code Ann. § 72-1-301, and set a hearing on the uncontested Petition to appoint Petitioner as Personal Representative of the Estate.

## **II. LEGAL QUESTION AND ISSUES**

A. Whether the District Court erred in its decisions on the following issues, and whether these issues warrant the exercise of supervisory control by this Court:

1. Whether Mont. Code Ann. § 72-1-301 requires the additional steps imposed by the January 28 Order as to Faith Miller after the reasonable diligence Petitioner has already completed.

2. Whether Mont. Code Ann. § 72-1-301 requires the additional steps imposed by the January 28 Order as to Aaron “Mancini” or Aaron “Miller” after the reasonable diligence Petitioner has already completed.

B. Whether this Court should set a hearing on the uncontested Petition so that the Estate can move forward with administration.

### **III. ARGUMENT**

#### **A. This Court Should Exercise Supervisory Control.**

This Court is granted “general supervisory control over all other courts” pursuant to Article VII, Section 2(2) of the Montana Constitution. *See also* Rule 14(3), M.R.App.P. Supervisory control is exercised “when the case involves purely legal questions” and when “the other court is proceeding under a mistake of law and is causing a gross injustice.” *Lamb v. District Court of Fourth Judicial Dist.*, 2010 MT 141, ¶ 9, 356 Mont. 534, 234 P.3d 893. Here, the issues presented are purely legal, and the District Court’s mistake of law is causing a gross injustice. The Estate remains in legal limbo after Petitioner attempted multiple times to meet the District Court’s extraordinary, unsupported requirements for notice.

The only legal issue to be determined is whether Petitioner has met the notice requirements of Mont. Code Ann. § 72-1-301. The Montana Uniform Probate Code (MUPC) governs notice requirements for formal probate proceedings. The MUPC requires:

Notice of hearing on a petition for formal probate of a will or formal appointment of a personal representative shall be given to interested persons in the manner prescribed by MCA § 72-1-301.

Mont. Code Ann. § 72-3-310. According to Section 72-1-301(1)(a), notice must be mailed at least 14 days before the time set for a hearing “by certified mail or ordinary first-class mail addressed to the person being notified” at the person’s address, if known. If a person’s address is not known “and cannot be ascertained with reasonable diligence” then notice must be given by “publishing the notice in a weekly paper once a week for 3 consecutive weeks . . . .” Mont. Code Ann. § 72-1-301(1)(c).

**i. The District Court erred in finding that additional methods of notification are required for Faith Miller.**

Petitioner met the requirements of Section 72-1-301(1)(a) when he filed his first Proof of Service by Mail on December 4, 2023. Appx. at A000048. That document shows that Faith Miller was served with all documents filed in the Estate up to that time, including the Notice of Hearing via first-class mail. *Id.* The address for Faith in that initial Proof of Service was correct, as confirmed by multiple online searches and the records from the funeral home. Yet, even if the first mailed service was insufficient, a copy of the first Supplemental Brief was also mailed to Faith on May 24, 2024, at the correct address. *Id.* at A000093. In addition, the pleadings were personally served at Faith’s address, she was informed about the case via email, and Frydenlund left a voicemail on her phone. *Id.* at A000135.

Faith's address and contact information are known. Petitioner's information has been correct since the beginning of this case, and Faith has received multiple copies of the pleadings. Not a single mailing to her correct address has been returned. *Id.* at A000105. Petitioner has met the statutory requirements of Mont. Code Ann. § 72-1-301(1)(a) as to Faith Miller.

In the January 28 Order, Standing Master Beatty orders Petitioner to personally serve Faith, again, and "complete a Facebook search of Ms. Miller and provide supporting evidence that he did or did not locate her." Ex. A, at p. 2. If he does locate her, Petitioner is required to provide evidence that he tried to contact her via Facebook Messenger. *Id.* There is nothing in Section 72-1-301(1)(a) that requires a petitioner to serve a party, whose address is known, personally with a copy of the pleadings. In fact, subsection (1)(b) of Section 72-1-301 allows for personal service as an alternative to notice via mail. The statute absolutely does not require a petitioner to find or contact interested parties via social media platforms. To be clear, Frydenlund already searched Facebook for Faith Miller and Aaron Mancini/Miller in June 2024. Appx. at A000113.

The only reasoning Standing Master Beatty cites for rejecting all prior notices to Faith Miller and imposing new ones is "the complexity of this case." Ex. A, at p.2. It is unclear what the District Court means by that phrase, but there is no additional burden in Section 72-1-301 imposed upon "complex cases."

Section 72-1-301(2) allows the Court “for good cause shown” to provide for a different method of notice, but no party has shown “good cause” for such a deviation. Apparently, Standing Master Beatty reads that provision to allow a court to *sua sponte* impose burdensome, complex notice requirements such as hiring a private investigator, searching multiple online databases, contacting the funeral home of a person who defrauded and exploited the decedent, personally serving a potentially interested party more than once, and conducting searches on social media. None of those requirements are supported by law.

**ii. The District Court erred in finding that additional methods of notification are required for Aaron Mancini/Miller.**

The original Affidavit of Publication satisfied the notice requirements for Aaron Mancini or Aaron Miller. Subsection (1)(c) of Section 72-1-301 allows for notice via publication if a person’s address is not known “and cannot be ascertained with reasonable diligence.” In the original Petition, it states, “Counsel for Petitioner, after conducting a diligent search has been unable to identify the true legal name of this individual and therefore for purposes of this Petition has presumed that, as the son of April Mancini, he has the same last name as his mother.” Appx. at A000002 (Fn1). The Supplemental Brief filed on May 24, 2024, similarly states that Petitioner was unable “to confirm the identify of certain beneficiaries under the 2018 Will with reasonable due diligence” and, therefore, notified unknown beneficiaries via publication. *Id.* at A000055.



The District Court apparently did not believe either Petitioner or Petitioner's attorney. Pursuant to multiple subsequent orders from the Court requiring additional due diligence, Petitioner and Petitioner's attorney: (1) hired a private investigator who conducted multiple searches in multiple databases to try to find Aaron, (2) had Frydenlund conduct numerous searches of online social media platforms and databases, (3) emailed Faith at the correct email address asking for the names and addresses of all Mancini's children, (4) left a voicemail on Faith's correct phone number, (5) searched property records in the county where Mancini died for information on her heirs, (6) obtained and reviewed the records from the funeral home that handled Mancini's remains, (7) attempted multiple times to call the phone number that the funeral home had on record for Aaron "Miller," eventually determining that the number was disconnected and/or assigned to someone else, and (8) conducted additional database searches on Mancini to determine if Aaron Mancini/Miller is listed as a relative of hers. *See, e.g.* Appx. at A000135-176.

Nothing in Section 72-1-301 requires these efforts. Nor does any other Montana law. As this Court held in *In re Estate of Bovey*, 2010 MT 217, ¶ 17, 358 Mont. 14, 244 P.3d 716, "reasonable diligence" to locate interested persons is met under Section 72-1-301 when an attorney conducted "an internet search," searched phone books for the area where the interested person might live, engaged a process

service to attempt to locate the heirs, reviewed a family tree, and reviewed public records of the court. Here, Petitioner has done more than the attorney in *Bovey*. To recap, Mancini moved in with Richard in the years before he died, exploited Richard while he was incapacitated, was charged criminally for her actions, and died within a few months of Richard. Petitioner is not related to Mancini, and he does not know her family. Nonetheless, the District Court ordered him to take extraordinary measures to try to find unknown relatives of his father's abuser.

Despite everything that Petitioner has done to locate Aaron, the January 28 Order requires more. According to the District Court, Petitioner must publish notice "in a Connecticut newspaper" and pay his investigator "to make one last attempt to locate Aaron Miller through a better search engine such as Truthfinder." Ex. A at pp.2-3. There is no explanation as to why the search engines already used by a professional private investigator are not good enough or why Truthfinder is a "better search engine." There is also no direction as to the Connecticut county in which the notification must be published. Notably, nothing of record suggests that Aaron has ever lived in Connecticut.

Again, Section 72-1-301 does not support these additional requirements. If the address of a person or identity is not known "and cannot be ascertained with reasonable diligence," then a petitioner is required to publish a notice in a weekly paper once a week for three consecutive weeks. Mont. Code Ann. § 72-1-

301(1)(c). Petitioner did that nearly two years ago. The District Court's offhand remark about the complexity of this case does not change the statutory requirements. The January 28 Order is unsupported by Montana law.

**iii. Petitioner has no other remedies.**

This case was referred to the Standing Master after the initial hearing, which was conducted by Standing Master Beatty. According to Mont. Code Ann. § 3-5-124, a party may object to a standing master referral “within 20 days after the date the matter was referred to the standing master but before the first meeting with the standing master.” (emphasis added). It was impossible for Petitioner to object because the first meeting came before the referral order. Nonetheless, Petitioner asked the District Court Judge to resume jurisdiction; the Standing Master's referral was simply confirmed. Standing Master Beatty has never issued a temporary order that is subject to review by the district court or submitted findings of facts and conclusions of law to the clerk as required by Mont. Code Ann. § 3-5-124 and § 3-5-126. Thus, Petitioner could not serve written objections to the District Court on any of the orders, including the January 28 Order.

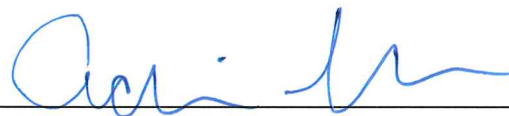
The District Court is operating under a mistake of law that impacts this entire case. Petitioner cannot move forward with the Estate because he cannot meet the District Court's constantly changing notice requirements. After spending over \$17,000, Petitioner simply cannot keep throwing money into the wind trying

to satisfy unwritten, unlawful, and unattainable obligations. The District Court's interpretation of Section 71-1-301 has created a gross injustice, and this Court should exercise supervisory control to find that Petitioner has met the notice requirements.

**B. This Court Should Set a Hearing on the Uncontested Petition**

The District Court has effectively prevented Petitioner from moving forward with the case, and the Estate sits in limbo two and a half years after Richard's death. After successfully serving Faith multiples times, taking unprecedented steps to track down other heirs, and publishing notice as required – nobody has appeared to contest the Petition. Accordingly, Petitioner is entitled to a hearing on his uncontested Petition to probate the 2015 Will and appointment as Personal Representative of the Estate.

DATED this 4<sup>th</sup> day of April, 2024.

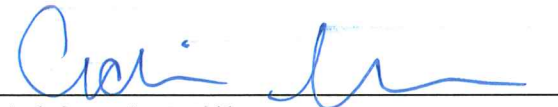


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## **CERTIFICATE OF COMPLIANCE**

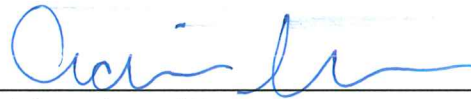
Pursuant to Rule 11(4)(e) of the Montana Rules of Appellate Procedure, I certify that this Brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double-spaced, except for quoted and indented material; and the word count calculated by Microsoft Word is 3,832 words, excluding table of contents, table of authorities, caption, certificate of service and certificate of compliance.

  
Adrian A. Miller

## CERTIFICATE OF SERVICE

I hereby certify that on April 4, 2025, I served true and accurate copies of the foregoing PETITION FOR WRIT OF SUPERVISORY CONTROL by depositing said copies in the U.S. mail, first-class postage prepaid, address to the following:

District Court Standing Master  
Charlotte Beatty  
415 2nd Avenue North, Room 302  
Great Falls, MT 59401



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Adrian A. Miller

## **CERTIFICATE OF SERVICE**

I, Adrian Ann Miller, hereby certify that I have served true and accurate copies of the foregoing Petition - Writ to the following on 04-04-2025:

Eighth Judicial District Court (Respondent)  
415 2nd Avenue North  
Room 302  
Great Falls MT 59401  
Representing: Self-Represented  
Service Method: Conventional

Electronically Signed By: Adrian Ann Miller  
Dated: 04-04-2025