

1 IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR KLAMATH COUNTY
2 PROBATE DEPARTMENT

3 In the Matter of the Small Estate)
4 of)
5 THOMAS LEO JOHN ZELL,)
6 Deceased.)

CLERK OF COURT
5: Doris Smith
Small Estate No. 9-002460 CV
AFFIDAVIT OF CLAIMING
SUCCESSOR TESTATE ESTATE

7 STATE OF California)
8 County of Santa Cruz) ss.

9 I, Phyllis J. Zell, being sworn, say that I am a devisee
10 and a claiming successor of the above-named decedent. This
11 affidavit is made pursuant to ORS 114.515.

12 1.

13 The following information is given with regard to the
14 decedent:

- 15 a. Name - THOMAS LEO JOHN ZELL
- 16 b. Date of Birth - July 14, 1923
- 17 c. Domicile at Death - Boulder Creek, California
- 18 d. Post Office Address - 13130 Oak, Boulder Creek, CA
- 19 e. Social Security Number - 541-14-3189

20 2.

21 A description of all decedent's property in Oregon,
22 including its location and its fair market value, is:

23 <u>Real Property Legal Description</u>	<u>Fair Market Value</u>	<u>Location</u>
24 See attached <u>EXHIBIT 1</u>	\$18,500.00	Klamath Cty

90 AUG 22 PM 3 32

3.

1 Reasonable efforts have been made by the affiant to
2 ascertain creditors of the estate. The debts of decedent
3 remaining unpaid, including the amounts thereof, and the names
4 and addresses of the creditors known to the affiant are: None.

4.

5
6 Decedent died on May 22, 1988, at home in Boulder Creek,
7 California; a certified copy of the decedent's death certificate
8 is attached hereto.

5.

9
10 No application or petition for the appointment of a
11 personal representative has been granted in Oregon.

6.

12
13 Decedent's heir and her last address as known to affiant
14 is:

15 Phyllis J. Zell, wife, 13130 Oak Street
16 Boulder Creek, CA 95006

17 A copy of this affidavit will be delivered to the heir or
18 mailed to the heir at the last known address stated above.

7.

19 Decedent died testate and the original Will has
20 been delivered to the heir or mailed to the heir at the last
21 known address stated above.
22

23
24
25
26 Page 2 - AFFIDAVIT OF CLAIMING SUCCESSOR TESTATE ESTATE
07190 (clzell@sml-esta.ajf)

8.

1 Decedent died testate; decedent's Will is attached to this
2 affidavit.

9.

3
4 Decedent's devisee and her last address as known to affiant
5 is:

6 Phyllis J. Zell, wife, 13130 Oak Street
7 Boulder Creek, CA 95006

8 A copy of this affidavit and a copy of the Will will be
9 delivered to the devisee or mailed to the devisee at the last
10 known address stated above.

10.

11 The interest in decedent's property described in this
12 affidavit to which each devisee is entitled is:

<u>Name</u>	<u>Interest</u>
Phyllis J. Zell	100 % net estate after expenses and claims

11.

13
14
15
16
17 A copy of this affidavit will be mailed to the Adult and
18 Family Services Division, Estate Administration Section, Salem,
19 Oregon, and to the Department of Revenue, Salem, Oregon.

12.

20
21 Claims against the estate not listed in this affidavit or
22 in amounts larger than those listed in this affidavit may be
23 barred unless:
24
25

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07/90 (c:\zell\sml-esta.aff)

1 a. A claim is presented to the affiant within four months
2 of the filing of this affidavit at the following address:

3 13130 Oak Street
4 Boulder Creek, CA 95006; or

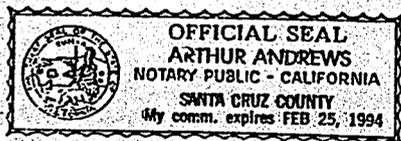
5 b. A personal representative of the estate is appointed
6 within four months after the filing of this affidavit.

7 13.

8 A copy of this affidavit and a copy of the Will will be
9 mailed with the required recording fee to the county clerk of
10 each county where decedent's real property is located.

11 Phyllis J. Zell
Phyllis J. Zell

12 SUBSCRIBED AND SWORN to before me this 26th day of
13 July, 1990.



14 Arthur Andrews
15 Notary Public for California
16 My Commission Expires: FEB 24, 1994
17

EXHIBIT "A"
LEGAL DESCRIPTION

The Westerly 70 feet of the following described property: Beginning at an iron pin which lies West along the South line of Section 35, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon, which is also the center line of Shasta Way, a distance of 180.5 feet and North 0 degrees 11' East a distance of 30 feet from the iron pin which marks the Southeast corner of said Section 35 and running thence; continuing North 0 degrees 11' East parallel to the East line of said Section 35 a distance of 263.2 feet to an iron pin; thence West parallel to the South line of said Section 35 a distance of 150.5 feet to an iron pin, which is on the West line of TRACT 68 OF FAIR ACRES SUBDIVISION NO. 1; thence South 0 degrees 11' West along the West line of said TRACT 68 and parallel to the East line of Section 35 a distance of 263.2 feet to an iron pin which is on the North right of way line of Shasta Way 30 feet Northerly from the South line of said Section 35; thence East along the North right of way line of Shasta Way, parallel to the South line of Section 35 a distance of 150.5 feet, more or less, to the point of beginning, said tract being in TRACT 68 OF FAIR ACRES SUBDIVISION NO. 1, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon in the SE1/4 of SE1/4 of Section 35, Township 38 South, Range 9 East of the Willamette Meridian, Klamath County, Oregon.

Tax Account No: 3809 035DD 03000

Last Will and Testament

PH 3-30
CLEAN COPY
BY John Smith

OF

THOMAS LEO JOHN ZELL

I, THOMAS LEO JOHN ZELL, also known as LEO T. ZELL, a resident of the County of Santa Barbara, State of California, declare this to be my Last Will and I hereby revoke all Wills and Codicils previously made by me.

FIRST: I declare that I am married, that my wife's name is PHYLLIS J. ZELL, and that we have two (2) adult children of this marriage, to wit:

RONALD L. ZELL

RAYMOND L. ZELL

SECOND: It is my intention to dispose of all real and personal property of which I have the right to dispose of by Will, including any and all property as to which I may have a power of appointment by Will.

THIRD: I direct that all estate and inheritance taxes payable as a result of my death, not limited to taxes assessed on property passing under this Will, shall be paid out of the residue of my estate, and shall not be deducted or collected from any legatee, devisee or beneficiary hereunder.

L.T.Z.
L.T.Z.

FOURTH: I give all my jewelry, clothing, household furniture and furnishings, personal automobiles and other tangible articles of a personal nature, or my interest in any such property, not otherwise specifically disposed of by this Will or in any other manner, together with any insurance on such property, to my wife, PHYLLIS J. ZELL, if she survives me for a period of thirty (30) days. If she does not so survive me, then such property I give in equal shares to my children, per stirpes, who survive me for that period, to be divided among them as they shall agree. If there is no agreement, that property shall be divided among them by my Executor in as nearly equal shares as my Executor, in her absolute discretion, deems practical, having due regard for the personal preferences of my children. My Executor shall represent any child under the age of eighteen (18) years in matters relating to any distribution under this paragraph, including selecting of the assets which shall constitute that child's share and my Executor may, in her discretion, sell for the child's account any part of that child's share. Any property or its proceeds distributable to a child under the age of eighteen (18) years pursuant to this paragraph, may be delivered, without bond, to any suitable person with whom such child resides or who has the care and control of him or her.

FIFTH: I give the residue of my property, both real and personal, to my wife, PHYLLIS J. ZELL, if she survives me for a period of one hundred eighty (180) days. If she does not so survive, then

L.T.Z.

such property I give in equal shares to my children, per stirpes, who survive me for that period, to be divided among them as they shall agree. If there is no agreement, that property shall be divided among them by my Executor in as nearly equal shares as my Executor, in his absolute discretion, deems practical, having due regard for the personal preferences of my children. My Executor shall represent any child under the age of eighteen (18) years in matters relating to any distribution under this paragraph, including selecting of the assets which shall constitute that child's share and my Executor may, in his discretion, sell for the child's account any part of that child's share. Any property or its proceeds distributable to a child under the age of eighteen (18) years pursuant to this paragraph, may be delivered, without bond, to any suitable person with whom such child resides or who has the care and control of him or her.

SIXTH: Except as otherwise provided in this Will, I have intentionally and with full knowledge omitted to provide for my heirs who may be living at the time of my death.

SEVENTH: If any devisee or legatee or legal heir of mine, or person claiming through any of them, shall contest this Will or attack or seek to impair or invalidate any of its provisions, or any provisions of any Codicil thereto, I specifically disinherit each such person and all legacies, bequests, devises, and interests given under this Will to such person shall be forfeited and shall augment

L.F. J.
L.T. Z/

proportionately the shares of my estate going to such of my devisees and legatees as shall not have participated in such acts. If all my devisees, legatees, and beneficiaries and any of my heirs, shall participate in such proceedings, I give, devise, and bequeath the whole of my estate to my heirs at law in the proportions provided for by the laws of succession, excluding all contestants.

EIGHTH:

(1) I nominate my wife, PHYLLIS J. ZELL, as Executor of this Will. If she shall for any reason fail to qualify or cease to act as Executor, I nominate as Successor Executor RONALD L. ZELL, as Executor of this Will. I direct that no bond be required of any Executor nominated in this Will.

(2) I authorize my Executor:

(a) To sell at either public or private sale, with or without notice, any property belonging to my estate, subject only to any confirmation required by law.

(b) To invest or reinvest any surplus monies, in my estate in any kind of property, real, personal, or mixed, in any kind of investment, specifically including, but not by way of limitation, corporate obligations of every kind and stocks, common and preferred, which persons of prudence, discretion, and intelligence acquire for their own account. In so investing and reinvesting, the Executor shall exercise the judgment and care, under the circumstances then

L.T.Z.
L.T.Z. J.

prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, considering the probable income as well as the probable safety of their capital.

(c) To continue the operation of any business that I may own at the time of my death for the period of time and in the manner that she considers advisable and in the best interest of my estate, or to sell or liquidate the business at the time and on the terms and conditions that she considers advisable and in the best interest of my estate. Any operation, sale, or liquidation of such business performed in good faith by my Executor shall be solely at the risk of my estate and without any liability on the part of my Executor.

(d) To lease any real property belonging to my estate, subject only to the confirmation required by law.

(e) To borrow money on behalf of my estate and to encumber or hypothecate any property in my estate by deed of trust, mortgage, pledge, or otherwise.

(f) On any partial or final distribution of my estate in her absolute discretion to divide, allocate, and distribute the property of my estate in kind, including undivided interest, or partly in kind and partly in cash, or entirely in cash; the decision of my Executor as to what constitutes a proper division of the property of my estate shall be binding on all the distributees.

L.T.Z. J

NINTH:

(1) I have not entered into either a contract to make a will or a contract not to revoke a will.

(2) If any part of this Will is held to be void, invalid, or inoperative, I direct that such voidness, invalidity or inoperativeness shall not affect any part of this Will, and that the remainder of this Will shall be carried into effect as though such part had not been contained therein.

(3) As used in this Will, the masculine, feminine, or neuter gender, and the singular or plural number shall each be deemed to include the others whenever the context so indicates.

WHEREFORE, the foregoing Last Will is subscribed by me on this 15th day of Oct., 1987, at Santa Barbara, California.

Leo T. Zell
LEO T. ZELL

WITNESSED BY:
[Signature]
[Signature]
[Signature]

The foregoing instrument consisting of seven (7) pages including the page upon which this certificate is made, was on the date thereof subscribed at the end thereof by LEO T. ZELL, the testator, in our presence, and the said testator did, at the time of said subscription, declare to us that said instrument was his Last Will. We do now, understanding that this instrument is the Will of LEO T. ZELL, at his request, and in his presence, and in the presence of each other, hereunto subscribe our names and residences as attesting witnesses the day and year last above-mentioned.

The Testator is over eighteen years of age and appears to be of sound mind. We have no knowledge of any facts indicating that the instrument, or any part of it, was procured by duress, menace, fraud or undue influence. We certify under penalty of perjury that the foregoing is true and correct and that this declaration is executed on the above date at Santa Barbara, California.

Wendell Sheer residing at Santa Barbara, California
Marion Cleverly residing at Santa Barbara, California
Dr. Sam residing at Santa Barbara, California

CERTIFICATE OF DEATH
STATE OF CALIFORNIA

3-88-44-702

STATE FILE NUMBER			CAL REGISTRATION DISTRICT AND CERTIFICATE NUMBER		
1A. NAME OF DECEDENT—FIRST		1B. MIDDLE	1C. LAST		2A. DATE OF DEATH (MONTH, DAY, YEAR)
LEO		THOMAS	ZELL		May 22, 1988
3. SEX	4. RACE/ETHNICITY	5. SPANISH/SPANISH NO	6. DATE OF BIRTH		7. AGE
male	caucasian	3	July 14, 1923		64 YEARS
8. BIRTHPLACE OF DECEDENT (STATE OR FOREIGN COUNTRY)		9. NAME AND BIRTHPLACE OF FATHER		10. BIRTH NAME AND BIRTHPLACE OF MOTHER	
Oregon		Edbert Zell Oregon		Anna Muns Gremany	
11A. CITIZEN OF WHAT COUNTRY		11B. IF DECEDENT WAS EVER IN MILITARY GIVE DATES OF SERVICE		12. SOCIAL SECURITY NUMBER	
USA		1950 to 1952		541-14-3189	
13. PRIMARY OCCUPATION		14. NUMBER OF YEARS THIS OCCUPATION		15. EMPLOYER, IF SELF-EMPLOYED, SO STATE	
Bookkeeper		10		self	
16. USUAL RESIDENCE—STREET ADDRESS (STREET AND NUMBER OR LOC. #) AND			17. CITY OR TOWN		
13130 Oak Street			Boulder Creek		
18. COUNTY			19. STATE		
Santa Cruz			California		
20. NAME AND ADDRESS OF INFORMANT—RELATIONSHIP			21. PLACE OF DEATH		
Phyllis Zell spouse			at home		
13130 Oak Street			22. CITY OR TOWN		
Boulder Creek, Ca. 95006			Santa Cruz		
23. DEATH WAS CAUSED BY: IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR A, B, AND C)			24. WAS DEATH REPORTED TO CORONER?		
(A) Adenocarcinoma liver			No		
(B) DUE TO, OR AS A CONSEQUENCE OF			25. WASopsy PERFORMED?		
(C) STATING THE UNDERLYING CAUSE LAST.			Yes		
23. OTHER SIGNIFICANT CONDITIONS—CONTRIBUTING TO DEATH BUT NOT RELATED TO CAUSE GIVEN IN 22A			24. WAS DEATH REPORTED TO CORONER?		
			No		
25. PHYSICIAN'S SIGNATURE AND DEGREE OR TITLE			26. DATE SIGNED		
James Poth, M.D.			5/23		
27. TYPE OF OPERATION			28. PHYSICIAN'S LICENSE NUMBER		
			0147210		
29. SPECIFY ACCIDENT, SUICIDE, ETC.			30. PLACE OF INJURY		
			1668 Dominican Way Santa Cruz, CA		
31. INJURY AT WORK			32A. DATE OF INJURY—MONTH, DAY, YEAR		
33. LOCATION (STREET AND NUMBER OR LOCATION AND CITY OR TOWN)			34. DESCRIBE HOW INJURY OCCURRED (EVENTS WHICH RESULTED IN INJURY)		
35A. I CERTIFY THAT DEATH OCCURRED AT THE HOUR, DATE AND PLACE STATED FROM THE CAUSES STATED, AS REQUIRED BY LAW I HAVE HELD AN (INQUEST- INVESTIGATION)			35B. CORONER—SIGNATURE AND DEGREE OR TITLE		
36. DISPOSITION			37. DATE—MONTH, DAY, YEAR		
cremation			5/25/1988		
40A. NAME OF FUNERAL DIRECTOR OR PERSON ACTING AS SUCH			40B. LICENSE NO.		
ARNOLD'S FUNERAL HOME			5877		
41. LOCAL REGISTRAR—SIGNATURE			42. DATE ACCEPTED BY LOCAL REGISTRAR		
[Signature]			MAY 24 1988		
STATE REGISTRAR		A.	B.	C.	D.

THIS IS TO CERTIFY THAT, IF BEARING THE SEAL OF COUNTY RECORDER OF SANTA CRUZ COUNTY, CALIFORNIA, THIS IS A CORRECT COPY OF DOCUMENT FILED/RECORDED IN THE RECORDS OF SANTA CRUZ COUNTY, CALIFORNIA.
RICHARD W. BEDAL, RECORDER

By Travis Anderson DEPUTY

DATE: JUN 12 1990

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title co. the 22nd day of Aug. A.D., 19 90 at 3:32 o'clock PM., and duly recorded in Vol. M90 of Deeds on Page 16927

FEE \$68.00

Evelyn Biehn County Clerk

By Dorlene Mulendata

Return: MTC