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THOMAS W. DOMINICK, State Bar # 120525

Attorney for Administrator, [REDACTED]

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF RIVERSIDE**

Estate of

[REDACTED]

Deceased.

Case No.: PR [REDACTED]

SUPPLEMENTAL DECLARATION
OF THOMAS W. DOMINICK RE
EXTRAORDINARY ATTORNEY'S
FEES

Date: January 3, 2023
Time: 8:30 a.m.
Dept.: 11

I, THOMAS W. DOMINICK, declare:

1. I am an attorney at law duly admitted to practice before all courts of the State of California and am a partner of the law firm of Fullerton, Lemann, Schaefer & Dominick, LLP ("the firm") counsel for the Administrator herein.

2. This declaration is made to address the probate examiner's note regarding the request for allowance of extraordinary attorney's fees. The notes question the reasonableness of the fees because the statutory compensation (\$10,600) "adequately compensates" for all services including the extraordinary services, citing *Estate of Hilton* (1996) 44 Cal.App.4th 890.

3. I have reviewed the *Hilton* case and initially note that matter involved an estate worth more than \$210 million with the statutory compensation amounting to over \$2.1 million. In addition, the probate court in *Hilton* had made previous awards of extraordinary fees to the

1 attorneys for the executor \$325,000 and \$48,870, yet counsel then sought an additional sum of
2 over \$2.5 million in fees which the probate court denied. The applicability of *Hilton* is
3 questionable because the estate value and compensation amounts involved there are a far cry from
4 the amounts involved in this very modest estate worth \$380,000, a statutory fee of only \$10,600
5 and an extraordinary fee of a mere \$1,815.

6 4. Setting aside whether the “Walker principle” applied in *Hilton* should be applied
7 here to deny our extraordinary fee request, I have reviewed our firm’s records for statutory
8 services rendered. That time, including estimated time to prepare for and attend the hearing on the
9 final account and report, process the order and complete the documentation to wind up the estate
10 through final discharge if billed at our normal hourly rates (\$450 for my time, \$325 for associate
11 attorney time and \$145 for paralegal time) amounts to \$9,892 (29.9 total hours) because we also
12 performed some services for the administrator that would normally be her responsibility, including
13 the preparation and processing of a request for a tax identification number, the preparation and
14 filing of IRS forms 56 (notice of fiduciary relationship) and 8822 (change of address of taxpayer)
15 and preparation and filing of a preliminary change of ownership report with the county assessor.

16 5. Secondly, the “Walker principle” relied upon by the *Hilton* court is based upon the
17 holding in *Estate of Walker* (1963) 221 Cal.App.2d 792. That case involved an estate worth
18 \$313,719 which, at the time, computed to statutory fees of \$6,085. Unlike the case at bar, the
19 estate in *Walker* consisted almost entirely of cash and securities, and executor and counsel each
20 sought an additional \$1,000 in extraordinary compensation. The probate court held that the
21 statutory compensation was “adequate and fair compensation for all services rendered to said
22 estate” and the court of appeal affirmed. Notably, the decision in *Walker* is almost 60 years old.
23 One dollar in 1963 is equivalent in purchasing power to about \$9.73 today, an increase of \$8.73
24 over 59 years. The dollar had an average inflation rate of 3.93% per year between 1963 and today,
25 producing a cumulative price increase of 872.91%. (See, [https://www.in2013dollars.com](https://www.in2013dollars.com/us/inflation/1963?amount=1)
26 [/us/inflation/1963?amount=1](https://www.in2013dollars.com/us/inflation/1963?amount=1).) Thus, the statutory fees allowed in *Walker* amounts to \$59.207 in
27 today’s money. The allowable statutory fees in this case represent only 18% of the present day
28 value of the statutory fees which were granted in *Walker*.

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6. Declarant, therefore, submits that the extraordinary services performed by our firm's attorneys and staff are reasonable in light of the hours incurred and served as a benefit to the estate and its beneficiary.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on December _____, 2022, at San Bernardino, California.

THOMAS W. DOMINICK

MAGALLANES / Probate / Pleadings / Supplemental Declaration re Extraordinary Services