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5 *Attorneys for Plaintiff,*  
*The Lincoln National Life Insurance Company*  
6

7 UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 THE LINCOLN NATIONAL LIFE  
INSURANCE COMPANY,

10 Plaintiff,

11 v.

12 LINDA E. PATTERSON, J. JEFFRY  
13 DILL, MICHAEL GLEN PATTERSON, JOHN  
DOES and JANE DOES,

14 Defendants.  
15

CASE NO.: 2:15-cv-00892

**JOINT MOTION OF THE PARTIES  
TO SET ASIDE ORDER OF  
DISMISSAL**

16 The parties in the above litigation, by and through their respective attorneys, hereby  
17 respectfully submit this Joint Motion of the Parties to Set Aside this Court's Order of Dismissal on  
18 grounds that Plaintiff/Stakeholder The Lincoln National Life Insurance Company ("Lincoln")  
19 inadvertently filed the wrong Stipulation of Dismissal in the above matter.

20 In further support of this Joint motion, the parties state that this matter arises from the death  
21 of John C. Patterson (the "Insured" or "Decedent") on July 16, 2012, and the competing claims that  
22 have been asserted as to the proceeds of his life insurance policy. The Decedent was originally  
23 insured under a life insurance Policy Number 000974241 issued by the United Life and Accident  
24 Insurance Company, predecessor in interest to Lincoln, in October, 1985, with a face amount of  
25 \$30,000.00 ( "the Policy Proceeds"). Defendants/Claimants, Linda E. Patterson, J. Jeffrey Dill, and  
26 Michael Glen Patterson ("Defendants/Claimants") have submitted competing claims to Lincoln for  
27 the Policy Proceeds. Lincoln is uncertain regarding the appropriate distribution of the Policy  
28 Proceeds and has entered into a Release and Settlement Agreement with the Defendants/Claimants

1 for Lincoln to pay the Policy Proceeds, less Lincoln's attorney's fees, into an attorney IOLTA  
2 account on behalf of the Defendants/Claimants. The parties have agreed to release Lincoln from any  
3 and all claims related to the Policy Proceeds.

4 Pursuant to the Release and Settlement Agreement entered into by the parties, Lincoln filed a  
5 Stipulation of Dismissal with Prejudice on March 23, 2016. The Court then entered an Order that  
6 same day dismissing all pending claims and instructing the clerk to close the case. However, Lincoln  
7 filed the incorrect Stipulation and inadvertently dismissed the claims between and among all the  
8 parties, when the Stipulation was only supposed to release the Defendants/Claimant's claims against  
9 Lincoln. Therefore, the parties respectfully request an Order from the Court: 1) setting aside the  
10 order of dismissal entered by the Court on March 23, 2016; and 2) allowing the parties to re-file a  
11 corrected Stipulation of Dismissal with Prejudice dismissing only the Defendant's/Claimant's claims  
12 against Lincoln attached as Exhibit A.

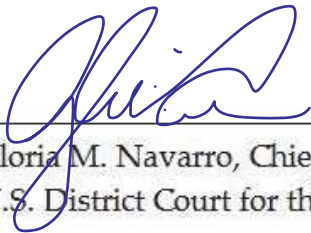
13 DATED this 5<sup>th</sup> day of April, 2016.

14 **WILSON, ELSER, MOSKOWITZ,**  
15 **EDELMAN & DICKER LLP**

16 BY /s/ Richard I. Dreitzer  
17 Richard I. Dreitzer  
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23 *Attorneys for Plaintiff*

24 Pursuant to the instant Joint Motion, the Court's Stipulated Dismissal Order, (ECF No. 20),  
25 is set aside. The parties in this case will have until April 19, 2016, to file an amended  
26 Stipulation of Dismissal in this case.

27 DATED: April 14, 2016

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Gloria M. Navarro, Chief Judge  
U.S. District Court for the District of Nevada

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**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP and that on this 5<sup>th</sup> day of April, 2016, I did cause a true copy of the forgoing document to be electronically transmitted to the Clerk of Court using the ECF System for filing.

By           /s/ Naomi E. Sudranski            
An Employee of  
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

# **EXHIBIT A**

# **EXHIBIT A**

1 Richard I. Dreitzer  
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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**

9 THE LINCOLN NATIONAL LIFE  
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10 Plaintiff,

11 v.

12 LINDA E. PATTERSON, J. JEFFRY  
DILL, MICHAEL GLEN PATTERSON, JOHN  
DOES and JANE DOES,

14 Defendants.

CASE NO.: 2:15-cv-00892

**STIPULATION OF DISMISSAL  
WITH PREJUDICE AS TO  
PLAINTIFF THE LINCOLN  
NATIONAL LIFE INSURANCE  
COMPANY ONLY**

15  
16 Plaintiff/Stakeholder, THE LINCOLN NATIONAL LIFE INSURANCE COMPANY  
17 (hereinafter “Lincoln”), and Defendants, LINDA E. PATTERSON, J. JEFFRY DILL, and  
18 MICHAEL GLEN PATTERSON (“Defendants”) hereby agree and stipulate, pursuant to Rule  
19 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, that any and all claims of the Defendants

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1 against Lincoln be dismissed with prejudice, and with each party bearing their own costs, attorneys'  
2 fees and expenses.

3 Dated this 5<sup>th</sup> day of April, 2016

Dated this 5<sup>th</sup> day of April, 2016

4 **WILSON, ELSER, MOSKOWITZ,**  
5 **EDELMAN & DICKER LLP**

**CREED & GILES**

6 /s/ Richard I. Dreitzer

/s/ Jerrold E. Creed

7 \_\_\_\_\_  
Richard I. Dreitzer, Esq.  
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(702) 727-1400; FAX (702) 727-1401  
10 Attorney for Plaintiff THE LINCOLN  
NATIONAL LIFE INSURANCE COMPANY

\_\_\_\_\_

Jerrold E. Creed, Esq.  
Nevada Bar No. 11094  
520 South 7th Street, Suite D  
Las Vegas, NV 89101  
Attorney for Defendant LINDA E.  
PATTERSON

11  
12 Dated this 5<sup>th</sup> day of April, 2016

13  
14 **PHILLIPS BALLENGER**

15 /s/ Christopher J. Phillips

16 \_\_\_\_\_  
Christopher J. Phillips, Esq.  
17 Nevada Bar No. 8224  
3605 S. Town Center Dr., Suite B  
18 Las Vegas, NV 89135  
Attorney for Defendants J. JEFFRY DILL and  
19 MICHAEL GLEN PATTERSON

**CERTIFICATE OF SERVICE**

Pursuant to FRCP 5(b), I certify that I am an employee of WILSON ELSER MOSKOWITZ EDELMAN & DICKER, LLP and that on this \_\_\_\_ day of \_\_\_\_\_, 2016, I did cause a true copy of the forgoing document to be electronically transmitted to the Clerk of Court using the ECF System for filing.

By \_\_\_\_\_  
An Employee of WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

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