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**IN THE SUPERIOR COURT OF STATE OF WASHINGTON
IN AND FOR THE COUNTY OF PIERCE**

In the Guardianship of:)
) **Case No.:**
)
) **ORDER APPOINTING GUARDIAN AD**
) **LITEM AND NOTICE OF HEARING**
) **RCW 11.88.090**
)
) Clerk's code: **(ORAPGL)**
)
) **CLERK'S ACTION REQUIRED**

_____)
An Alleged Incapacitated Person.)

FINDINGS OF FACT

1. The facts set forth in the Petition include those necessary to give the Court jurisdiction over this matter.
2. Pursuant to RCW 11.88.090, a Guardian ad Litem should be appointed.
3. The Guardian ad Litem should be the person whose name next appears on the Pierce County Guardian ad Litem registry; OR
 The Guardian ad Litem should not be the person whose name next appears on the registry because the Court finds extraordinary circumstances exist as follows:

4. Payment of the filing fee, and the fees/costs of the Guardian ad Litem by Alleged Incapacitated Person would result in a substantial hardship upon such person because

ORDER

1. The Clerk's filing fee is waived

2. **The hearing on the Guardianship petition shall occur (*within 60 days of this hearing*):**

Date to be set by separate notice; OR

Date: _____ Hour: 1:30 PM

Department: Civil Department A

Address: County-City Building, 930 Tacoma Ave. S., Tacoma, WA 98402

3. Guardian ad Litem:

_____ is found or known by the Court to be a suitable disinterested person with the requisite knowledge, training or expertise, who is hereby appointed as Guardian ad Litem for the above-named person. The address and/or phone/fax of the Guardian ad Litem are:

The Guardian ad Litem shall be appointed at public expense, pursuant to the Pierce County Contract. Should evidence hereafter be submitted showing that hardship did not exist or no longer exists, the Alleged Incapacitated Person shall reimburse the filing fee and all other fees and costs.

The Guardian ad Litem shall be appointed at private expense. The Guardian ad Litem shall be paid at a rate of \$_____ per hour up to _____(hours/dollars) without further order from the court. These amounts may be increased or modified only upon application to the court in advance of the Guardian ad Litem providing further services. An application to increase the fee limits shall be presented upon notice to all parties.

4. The Guardian ad Litem shall have the following duties as mandated by statute:

(A) To file within five days of receipt of Notice of Appointment, and serve all parties personally or by certified mail with return receipt requested, his or her written statement of qualifications required by RCW 11.88.090(3)(b), which shall include all information required by RCW 11.88.090(3)(b);

(B) To meet and consult with the Alleged Incapacitated Person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed Guardian or Limited Guardian, the right to a jury trial on the issue of the person's alleged incapacity, the right to independent legal counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(C) To determine whether mediation may be appropriate in the matter and if so, to bring a motion before the court;

1 **(D)** To obtain a written report according to RCW 11.88.045 and such other written or oral reports
2 from other qualified professionals as are necessary to permit the Guardian ad Litem to complete the
3 report required by RCW 11.88.090 and to advise Alleged Incapacitated Person of the identity of the
4 health care professional selected by the Guardian ad Litem to prepare the medical report. If the
5 Alleged Incapacitated Person opposes said health care professional selected by the Guardian ad
6 Litem , the Guardian ad Litem shall use the health care professional selected by the Alleged
7 Incapacitated Person , but may obtain a supplemental examination by a different physician or
8 psychologist or advanced registered nurse practitioner;

9 **(E)** Pursuant to 45 C.F.R. 164.514, all providers who are covered entities under HIPAA and their
10 business associates, upon verification of the authority of the Guardian ad Litem to receive the
11 required information, shall release to the Guardian ad Litem a copy of the medical report required by
12 RCW 11.88.045;

13 **(F)** To meet with the person whose appointment is sought as Guardian or Limited Guardian and
14 ascertain:

15 **(i)** The proposed Guardian's knowledge of the duties, requirements, and limitations of a
16 Guardian;

17 **(ii)** The steps the proposed Guardian intends to take or has taken to identify and meet the
18 needs of the Alleged Incapacitated Person;

19 **(G)** To consult as necessary to complete the investigation and report required by RCW 11.88.090
20 with those known relatives, friends, or other persons the Guardian ad Litem determines to have had a
21 significant, continuing interest in the welfare of Alleged Incapacitated Person;

22 **(H)** To investigate alternate arrangements made or which might be created, by or on behalf of the
23 Alleged Incapacitated Person, such as revocable or irrevocable trusts, durable powers of attorney or
24 blocked account; whether good cause exists for any such arrangements to be discontinued; and why
25 such arrangements should not be continued or created in lieu of a Guardianship;

(I) To provide the Court with a written report which shall include the following:

(i) A description of the nature, cause and degree of incapacity, and the basis upon which
this judgment was made;

(ii) A description of the needs of the Incapacitated Person for care and treatment, the
probable residential requirements of the Alleged Incapacitated Person and the basis upon which
these findings were made;

(iii) An evaluation of the appropriateness of the Guardian or Limited Guardian whose
appointment is sought and a description of the steps the proposed Guardian has taken or intends
to take to identify and meet current and emerging needs of the Alleged Incapacitated Person;

(iv) A description of any alternative arrangements previously made by the Alleged
Incapacitated Person or which could be made, and whether and to what extent such alternatives

1 should be used in lieu of a Guardianship, and if the Guardian ad Litem is recommending
2 discontinuation of any such arrangements, specific findings as to why such arrangements are
3 contrary to the best interest of the Alleged Incapacitated Person;

4 **(v)** A description of the abilities of the Alleged Incapacitated Person and a recommendation
5 as to whether a Guardian or Limited Guardian should be appointed. If appointment of a Limited
6 Guardian is recommended, the Guardian ad Litem shall recommend the specific areas of
7 authority the Limited Guardian should have and the limitations and disabilities to be placed on the
8 Alleged Incapacitated Person;

9 **(vi)** An evaluation of the Alleged Incapacitated Person's mental ability to rationally exercise
10 the right to vote and the basis upon which the evaluation is made;

11 **(vii)** Any expression of approval or disapproval made by the Alleged Incapacitated Person
12 concerning the proposed Guardian or Limited Guardian or Guardianship or Limited Guardianship;

13 **(viii)** Identification of persons with significant interest in the welfare of the Alleged
14 Incapacitated Person who should be advised of their right to request special notice of
15 proceedings pursuant to RCW 11.92.150; and

16 **(ix)** Unless independent counsel has appeared for the Alleged Incapacitated Person, an
17 explanation of how the Alleged Incapacitated Person responded to the advice regarding the right
18 to jury trial, the right to independent counsel, and the right to be present at the hearing on the
19 petition.

20 **(J)** Within forty-five days after notice of commencement of the Guardianship proceeding has been
21 served upon the Guardian ad Litem, and at least fifteen days before the hearing on the petition,
22 unless an extension or reduction of time has been granted by the Court for good cause, the Guardian
23 ad Litem shall file a report and send a copy to the Alleged Incapacitated Person and his or her
24 counsel, spouse, all children not residing with a notified person, those persons described in (I)(viii) of
25 this subsection, and persons who have filed a request for special notice pursuant to RCW 11.92.150.
If the Guardian ad Litem needs additional time to finalize his or her report, then the Guardian ad Litem
shall petition the Court for a postponement of the hearing or, with the consent of all other parties, an
extension or reduction of time for filing the report. If the hearing does not occur within sixty days of
filing the petition, then upon the two-month anniversary of filing the petition and on or before the same
day of each following month until the hearing, the Guardian ad Litem shall file interim reports
summarizing his or her activities on the proceeding during that time period as well as fees and costs
incurred.

(K) To advise the Court of the need for appointment of counsel for the Alleged Incapacitated Person
within five court days after the meeting described in (A) of this subsection unless (i) counsel has
appeared, (ii) the Alleged Incapacitated Person affirmatively communicated a wish not to be
represented by counsel after being advised of the right to representation and of the conditions under
which court-provided counsel may be available, or (iii) the Alleged Incapacitated Person was unable

1 to communicate at all on the subject, and the Guardian ad Litem is satisfied that the Alleged
2 Incapacitated Person does not affirmatively desire to be represented by counsel.

3 **(L)** The Guardian ad Litem shall provide the Court with a working copy of the Guardian ad Litem
4 report pursuant to local rule or custom.

5 **(M)** The Guardian ad Litem shall have the authority, in the event that the Alleged Incapacitated
6 Person is in need of emergency life-saving medical services and is unable to consent to such medical
7 services due to incapacity pending the hearing on the Petition, to give consent for such emergency
8 life saving medical services on behalf of the Alleged Incapacitated Person.

9 **(N)** At any time during the course of the Guardian ad Litem's appointment he/she may petition the
10 Court for additional instruction and authorization to undertake specific duties, including but not limited
11 to consent for medical treatment beyond which is provided in paragraph (M) above.

12 **(O)** The Guardian ad Litem shall have access to all information regarding the Alleged Incapacitated
13 Person. Such information may contain, but is not limited to the following: medical,
14 psychiatric/psychological, financial records or documentation, matters of legal representation of the
15 Alleged Incapacitated Person, and trust accounts for or on behalf of the Alleged Incapacitated
16 Person. By this Order, copies of information regarding the Alleged Incapacitated Person shall be
17 released to the Guardian ad Litem.

18 The Guardian Ad Litem shall simultaneously file, with the clerk of court, a written report with a
19 Sealed Confidential Reports (Cover Sheet) attached and Public Document Summary pursuant to GR
20 22(e)(2)(A) and (B). The sealed Guardian Ad Litem report may not be placed in the court file or used
21 as an attachment or exhibit to any other document except under seal. GR 22(e)(3).

22 **(P)** The Guardian ad Litem shall have access to the Adult Protective Service file and social report if
23 any exists, provided that Adult Protective Service shall not be required to release the identities of
24 persons making reports under RCW 74.34 et.seq., and shall have the right to reserve other privileged
25 or confidential information as it deems appropriate to protect the Alleged Incapacitated Person. Any
26 APS records released to the Guardian ad Litem are provided for the purpose of assisting the
27 Guardian ad Litem in his/her investigation and report to the Court. The records released to the
28 Guardian ad Litem shall be used in the guardianship proceedings, and shall not be further
29 disseminated without a court order and prior notice to the Attorney General's Office.

30 **The Guardian ad Litem shall maintain any information as confidential and shall not
31 disclose said information except in oral or written reports to the court, the parties and their
32 counsel, except as authorized under RCW 11.88.045, RCW 11.88.090, RCW 11.92.150, GR 15, GR
33 22 and GR 31.**

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(Q) The Court also ORDERS:

DATED AND SIGNED IN OPEN COURT THIS _____ DAY OF _____, 200_____.

JUDGE / COURT COMMISSIONER

Presented by:

Signature

Printed Name (and WSBA/CPG#)

Address

Telephone/Fax Number

City, State, Zip Code

Email Address