

Superior Court of Washington, County of _____

In re Guardianship/Conservatorship of:

No. _____

**Order Appointing Court Visitor - Adult
(ORAPCV)**

Respondent

Clerk's Action Required: 6, 7, 12

Order Appointing Court Visitor

Findings

1. This court has jurisdiction over this matter.
2. The court visitor (visitor):
 - should be the person whose name next appears on the visitor registry; or
 - should **not** be the person whose name next appears on the registry because the court finds that extraordinary circumstances exist, as follows:
 - there is a need for particular expertise in the area of _____
 - other: _____
3. The filing fee should be waived because:
 - the petition alleges that the Respondent has total assets of a value of less than \$3,000;
 - payment of the filing fee would impose a hardship upon the Respondent; or
 - the Attorney General is filing the petition. The filing fee should not be waived.

The court orders:

4. The filing fee:
 - is waived.
 - is not waived.
5. Payment of the visitor shall:
 - be at **public expense**, to be paid by _____ County at a rate not to exceed \$_____ per hour up to a maximum of _____

\$ _____ / _____ (hours) unless the visitor obtains prior approval from the court for a different amount. If evidence is submitted showing that there was not financial hardship or that financial hardship no longer exists, the court shall be reimbursed the filing fee and all other fees and costs.

be at private expense. The visitor shall be paid at a rate of \$ _____ per hour up to a maximum of \$ _____ / _____ (hours) unless the visitor obtains prior approval from the court for a different amount.

not be allocated by this court because the visitor is a salaried employee of a public agency.

be determined at a future hearing.

6. The hearing on the guardianship, conservatorship, or other protective arrangement petition shall be held within 60 days of the date the petition was filed. The hearing:

shall be held on (date) _____ at (time) _____ in (court's location and room or department) _____.

shall be scheduled by the parties.

7. The court finds or knows that (visitor's name) _____ has the required knowledge, training, or expertise to perform the duties required. The court appoints this person as visitor for the Respondent in this case. The visitor can be contacted in the following manner:

Address: _____

Telephone: _____

Email: _____

8. Professional Evaluation

The court orders Respondent to submit to a professional evaluation by a physician licensed to practice under chapter 18.71 or 18.57 RCW, a psychologist licensed under chapter 18.83 RCW, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A RCW, selected by the visitor who is qualified to evaluate Respondent's alleged cognitive and functional abilities and limitations and will not be advantaged or disadvantaged by a decision to grant the petition or otherwise have a conflict of interest.

9. The Visitor's Duties

The visitor shall have the following duties in all types of cases:

- A. Within the appropriate time limit of receiving the notice of appointment, file with the court and serve each party, either personally or by certified mail with return receipt, a statement including: their training relating to the duties as a visitor; their criminal history as defined in RCW 9.94A.030 for the period covering 10 years prior to the appointment; their hourly rate, if compensated; whether the visitor has had any contact with a party to the proceeding prior to their appointment, and whether they has an apparent conflict of interest;
- B. Interview Respondent in person (in an emergency petition use due diligence to interview in person) and explain, in a manner Respondent is best able to understand: the substance of the petition, the nature, purpose, and effect of the proceeding, the

Respondent's rights at the hearing on the petition and, if relevant, the general powers and duties of a guardian/conservator;

To determine Respondent's views about the appointment or protective arrangement sought by the petitioner, including views about a proposed guardian or conservator, the guardian or conservator's proposed powers and duties, and the scope and duration of the proposed order sought by the petitioner; and

To inform Respondent that all costs and expenses of the proceeding, including Respondent's attorney's fees, may be paid from Respondent's assets.

- C. To obtain information from a physician or other person known to have treated, advised, or assessed Respondent's physical or mental condition (in an emergency petition, use due diligence);
- D. If a guardianship or a protective arrangement related to Respondent's dwelling is sought, visit Respondent's current home (in an emergency petition, use due diligence) and any place Respondent may live, if an appointment for guardian is made or a protective arrangement is ordered;
- E. To interview the petitioner and the person whose appointment is sought as guardian and/or conservator;
- F. If relevant to the order sought, review Respondent's financial records, if relevant to the visitor's recommendation regarding the proposed conservator, guardian, or protective arrangement;
- G. To investigate alternate arrangements made, or which might be created, by or on behalf of Respondent;
- H. Investigate the allegations in the petition and any other matter/s relating to the petition the court directs;
- I. To provide the court with a written report which shall include the following:
 - If relevant to the order sought, a summary of self-care and independent living tasks Respondent cannot manage, can manage independently, and could manage with the assistance of appropriate supportive services, technological assistance, or supported decision making;
 - A recommendation regarding the appropriateness of the guardianship, conservatorship, or protective arrangement sought, including whether a protective arrangement instead of a guardianship, conservatorship, or other less restrictive alternative for meeting Respondent's needs is available;
 - A statement of the qualifications of the proposed guardian or conservator and whether Respondent approves or disapproves of the proposed guardian or conservator;
 - If a guardianship or conservatorship is recommended, a statement as to whether it should be full or limited and what powers should be granted to the guardian or conservator if it is a limited appointment;
 - If relevant to the order sought, a statement whether the proposed residence meets Respondent's needs and whether Respondent has expressed any preferences in regards to their residence;

- A statement as to whether Respondent declined a professional evaluation and, if so, what other information is available to determine Respondent's needs and abilities without the professional evaluation;
 - A statement whether Respondent is able to attend a hearing at the location where court proceedings are typically held;
 - A statement whether Respondent is able to participate in a hearing, including identifying any technology or other form of support that would enhance Respondent's ability to participate; and
 - If relevant to the order sought, the visitor should state the amount of the bond or other verified receipt needed under RCW 11.130.445 and 11.130.500.
 - If an Emergency Order is sought, a detailed summary of the alleged emergency and the substantial and irreparable harm to the individual's health, safety, welfare, property, or finances that is likely to be prevented by the appointment of an emergency guardian and/or conservator.
 - If an Emergency Order is sought, a statement as to whether the alleged emergency and Respondent's alleged needs are likely to require an extension of 60 days;
 - If an Emergency Order is sought, the specific powers to be granted to the emergency conservator and/or guardian/s and how the specific powers will address the alleged emergency and Respondent's alleged need;
 - If an Emergency Order is sought, a recommendation regarding the appropriateness of an emergency guardianship and/or conservatorship, including whether a protective arrangement instead of a guardianship and/or conservatorship or other less restrictive alternative for meeting Respondent's needs is available, and if an emergency guardianship and/or conservatorship is recommended;
- J. At least 15 days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the visitor shall file their report with the court and send a copy to Respondent, Petitioner, and any other party entitled to notice under RCW 11.130.080. If the visitor needs additional time to finalize their report, then the visitor 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;
- This is an emergency proceeding. The visitor shall report to the court and send a copy to Respondent, the petitioner, and any notice party 7 days prior to the hearing on the *Emergency Petition*.
- K. The visitor's report shall be confidential. The sealed report must be filed under a Sealed Confidential Reports cover sheet. The sealed visitor report may not be placed in the court file or used as an attachment or exhibit to any other document except under seal.
- L. To advise the court of the need for appointment of counsel for the Respondent as soon as practical after the meeting described in **section B of this order** unless (i) counsel has appeared, (ii) Respondent 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) Respondent

was unable to communicate at all on the subject, and the visitor is satisfied that Respondent does not affirmatively desire to be represented by counsel.

10. Visitor's Authority and Access to Information

- A. Upon request of the visitor, all providers that are covered entities under the Health Insurance Portability and Accountability Act (HIPAA) and their business associates shall release to the visitor a professional evaluation required by RCW 11.130.290, .390, .615.
- B. Upon the visitor's request, financial institutions holding accounts in Respondent's name, or in the name of the respondent and any other individual, shall provide the visitor with all records and financial information regarding those accounts. By this order, copies of financial information regarding Respondent shall be released to the visitor.
- C. The visitor shall have access to the Adult Protective Service (APS) file and social report if any exists, provided that APS shall not be required to release the identities of persons making reports under RCW 74.34 et. seq., and shall have the right to reserve other privileged or confidential information as it deems appropriate to protect Respondent. Any APS records released to the visitor are provided for the purpose of assisting the visitor in his/her investigation and report to the court. The records released to the visitor shall be used in the chapter 11.130 RCW proceedings and shall not be further disseminated without a court order and prior notice to the Attorney General's Office.
- D. The visitor shall have access to Social Security Administration records regarding Social Security benefits received by Respondent, including but not limited to, type and amount of benefit, status of benefits, direct deposit information, and any other information deemed necessary by the visitor to complete their investigation.

11. Visitor's Duty to Keep Information Confidential

The visitor shall maintain any information as confidential and shall not disclose said information except in oral or written reports to the court, the parties, and their counsel, except as authorized under RCW 74.34.095, GR 15, GR 22, GR 31, and GALR 2.

12. Attorney Appointment (RCW 11.130.320, .430)

This is an Emergency Guardianship and/or Conservatorship. The court appoints the following person as lawyer for Respondent.

Name and WSBA number: _____

Address: _____

Phone number: _____

Email address (optional): _____

Payment is:

- Reserved. The court may decide the responsibility to pay and the reasonableness of fees at a later hearing.
- The lawyer must be paid:
 - at private expense of the person being represented.

[] at public expense.

The lawyer must be paid at a rate of \$ _____ per hour up to a maximum of \$ _____ or _____ hours unless the lawyer obtains prior approval from the court for a different amount.

The court may decide later if anyone must reimburse public or private fees paid.

13. The court also orders: _____

Dated _____

Judge/Court Commissioner

Presented by:

Signature of Party/Lawyer *Printed Name* *WSBA No.*