IN THE SUPERIOR COURT OF STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

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| --- | --- | --- |
|  In the Guardianship of:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,An Alleged Incapacitated Person. | )))))))))) | Case No.: ORDER APPOINTING GUARDIAN AD LITEM AND NOTICE OF HEARING RCW 11.88.090(ORAPGL)**(CLERK’S ACTION REQUIRED****Paragraph 2.1,2.2,2.3)** |

# **FINDINGS OF FACT**

The Court finds:

1.1 The facts set forth in the Petition include those necessary to give the Court jurisdiction over this matter.

1.2 Pursuant to RCW 11.88.090, a Guardian ad Litem should be appointed.

1.3[ ] The Guardian ad Litem should be the person whose name next appears on the King County Guardian ad Litem registry; or

1.4[ ] 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

1.5[ ] 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**

The Court orders:

2.1 [ ] The Clerk’s filing fee is waived

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

[ ] Date to be set by separate notice; OR

[ ] Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Hour: 10:30 AM

Depart Ex Parte and Probate

[ ] Room 1J, Maleng Regional Justice Center 401 4th Avenue North, Kent, WA 98030

[ ] Room W-325 King County Superior Courthouse

516 Third Avenue, Seattle, WA 98030

[ ] **Virtual Hearing**

**Important**:

Parties, participants, families, and attorneys must attend their hearings as indicated below, virtually, by video or telephone participation through Zoom:

DIRECT LINK: <https://kingcounty.zoom.us/j/95589486575>

TELEPHONE: +1 253 215 8782

VIRTUAL COURTROOM ID NUMBER (SUBJECT TO CHANGE):

**955 8948 6575**

*Please only attend by phone if you are unable to join online or by the app. If you are connecting by phone you will not be able to join the correct courtroom without assistance. Please plan to call in to your hearing at least 15 minutes early to speak to someone.*

2.3 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/email for the Guardian ad Litem are: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

[] The Guardian ad Litem shall be appointed at public expense, to be paid at a rate not to exceed **$70 per hour up to a maximum of $700** without further, prior Court approval. Should evidence hereafter be submitted showing that hardship did not exist or no longer exists, the Court shall be reimbursed 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 **$275 per hour OR their regular hourly rate if less up to a maximum of $2,750**, 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.

2.4 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 his or her 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.

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

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

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

1. The proposed Guardian’s knowledge of the duties, requirements, and limitations of a Guardian;
2. The steps the proposed Guardian intends to take or has taken to identify and meet the needs of Alleged Incapacitated Person.

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

(H)To investigate alternate arrangements made or which might be created, by or on behalf of the Alleged Incapacitated Person, such revocable or irrevocable trusts, durable powers attorney or blocked account; whether good cause exists for any such arrangements to be discontinued; and why 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:

1. A description of the nature, cause and degree of incapacity, and the basis upon which this judgment was made;
2. 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;
3. 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;
4. 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 should be used in lieu of a Guardianship, and if the Guardian ad Litem is recommending discontinuation of any such arrangements, specific findings as to why such arrangements are contrary to the best interest of the Alleged Incapacitated Person;
5. A description of the abilities of the Alleged Incapacitated Person and a recommendation as to whether a Guardian or Limited Guardian should be appointed. If appointment of a Limited Guardian is recommended, the Guardian ad Litem shall recommend the specific areas of authority the Limited Guardian should have and the limitations and disabilities to be placed on the Alleged Incapacitated Person;
6. An evaluation of the Alleged Incapacitated Person’s mental ability to rationally exercise the right to vote and the basis upon which the evaluation is made;
7. Any expression of approval or disapproval made by the Alleged Incapacitated Person concerning the proposed Guardian or Limited Guardian or Guardianship or Limited Guardianship;
8. Identification of persons with significant interest in the welfare of the Alleged Incapacitated Person who should be advised of their right to request special notice of proceedings pursuant to RCW 11.92.150; and
9. Unless independent counsel has appeared for the Alleged Incapacitated Person, an explanation of how the Alleged Incapacitated Person responded to the advice of the right to jury trial, to independent counsel, and to present at the hearing on the petition.

(J) Within forty-five days after notice of commencement of the Guardianship proceeding has been served upon the Guardian ad Litem, and at least fifteen days before the hearing on the petition, unless an extension or reduction of time has been granted by the Court for good cause, the Guardian ad Litem shall file a report and send a copy to the Alleged Incapacitated Person and his or her counsel, spouse, all children not residing with a notified person, those persons described in (I)(viii) of 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 to communicate at all on the subject, and the Guardian ad Litem is satisfied that the Alleged Incapacitated Person does not affirmatively desire to be represented by counsel.

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

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

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

(O) The Court also ORDERS:

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 DATED AND SIGNED IN OPEN COURT THIS \_\_ DAY OF \_\_\_\_\_\_\_\_, 20\_\_\_.

 Judge/Court Commissioner

Presented by:

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature  |  | Printed Name  |
|  |  |  |
| Address |  | Telephone/Fax Number |
|  |  |  |
| City, State, Zip Code |  | Email Address |

**IMPORTANT**

**Service of Petition and Notice**. Notice that a guardianship proceeding has been brought and a copy of the petition *must be personally served* on the Alleged Incapacitated Person and the Guardian ad Litem **within 5 court days after the petition has been filed.** Because the GAL is a party to the case, it is improper for the GAL to personally serve the AIP with notice of the proceeding or a copy of the petition. **The Court does not serve or notify the Guardian ad Litem of their appointment.** This is the Petitioner’s responsibility.