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Court of Appeals
Division III
State of Washington
11/12/2019 4:24 PM

Court of Appeal Cause No. 364640

IN THE COURT OF APPEALS, DIVISION III, OF THE STATE OF WASHINGTON

RANDALL S. AMES, Appellant/Petitioner

v.

STANLEY R. AMES and WESLEY B. AMES, Respondents/Respondents

RESPONDENTS' BRIEF

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I. TABLE OF CONTENTS

III. Introduction.....1
IV. Statement of the Case.....3
IV. Assignments of Error.....18
VI. Law and Argument.....19
VII. Conclusion.....47

II. TABLE OF AUTHORITIES

Cases Cited

<i>Bonbrake v. Lee</i> , No. 43989-1-II at p.5 (2014)	21
<i>Estate of Cordero</i> , 113 P.3d 16, 127 Wn. App. 783 (2005).....	22
<i>Fred Hutchinson Cancer Research Ctr. v. Holman</i> , 107 Wn.2d 693, 732 P.2d 974 (1987).....	24
<i>In re Contested Election of Schoessler</i> , 140 Wn.2d 368, 998 P.2d 818 (2000).....	23
<i>In re Marriage of Fahey</i> , 164 Wn. App. 42, 262 P.3d 128 (2011).....	23
<i>In re Marriage of Stern</i> , 68 Wn. App. 922, 846 P.2d 1387 (1993)	22
<i>In re T.W.J.</i> , 367 P.3d 607, 193 Wn. App. 1 (2016)	21
<i>Lariva v. Lariva</i> , No. 49868-5-II, (April 24, 2018)	35
<i>Merriman v. Cokeley</i> , 168 Wn.2d 627, 230 P.3d 162 (2010)	24
<i>Sherrell v. Selfors</i> , 73 Wn. App. 596, 871 P.2d 168 (1994)	24
<i>Snyder v. Haynes</i> , 152 Wn. App. 774, 217 P.3d 787 (2009)	24
<i>State v. Hopson</i> , 113 Wn.2d 273, 778 P.2d 1014 (1989)).	22
<i>Standing Rock Homeowners Ass'n v. Misich</i> , 106 Wn. App. 231, 23 P.3d 520 (2001)....	23
<i>State ex rel. Carroll v. Junker</i> , 79 Wn.2d 12, 482 P.2d 775 (1971)	21
<i>State v. Robinson</i> , 189 Wn. App. 877, 359 P.3d 874 (2015).....	22
<i>State v. Robinson</i> , 171 Wn.2d 292, 253 P.3d 84 (2011)	42
<i>State v. Rodriguez</i> , 45 P.3d 541, 146 Wn.2d 260 (2002).....	22
<i>Ware v. Nelson</i> , No. 69738-2-I at pp. 2-3 (2014).....	21

Statutes Cited

RCW 9.41.040.....	27
RCW 26.50.....	32-35, 39

Rules Cited

ER 1101.....	20, 21, 33, 37
LCR 6.....	19, 20, 32
RAP 2.5.....	42
RAP 9.5.....	5, 17
RAP 9.6.....	6, 17
RAP 10.3.....	19
RAP 10.7.....	5
RAP 18.9.....	48

A. Introduction

Respondents Stanley R. Ames (“Stan”) and Wesley B. Ames (“Wes”) hereby respond to the initial brief from Randall Ames (“Randall”).¹²

Respondents respectfully submit Randall’s appeal is without merit, and the trial judge’s decision must be affirmed. In substance, Randall’s claims of error consist of his own mistakes of law, disagreement with the trial court’s credibility determinations, or simply attacks on the trial court’s exercise of discretion. The discussion below establishes the decision must be affirmed unless it resulted from clear abuse of discretion.

As exposed in his initial brief and limited, one-sided selection of in his Designation of Clerks Papers, Randall wants the appeal decision on the orders for protection to be based on nothing more than his own petition and oral arguments, with no consideration of (1) the Superior Court Commissioner’s knowledge, (2) relevant information in civil or criminal case databases, (3) Wes’ and/or Stan’s opposition documents, or (4) Wes’ and Stan’s oral arguments. **See, e.g., AB at 9, 11-12.** In effect, Randall seeks to be the only voice to be heard in order to achieve an unjustified and unjust result in this appeal.

¹ Because Appellant and both Respondents have the same last name, first names are generally used herein to identify the parties.

² Appellant’s initial brief is denoted as “AB” in citations herein.

In contrast, Stan and Wes believe this Court is entitled to review the full record, and therefore filed a Supplemental Designation of Clerk's Papers to provide a more complete record for the Court.

In addition, Stan and Wes believe there is significant information applicable to this appeal which was not presented in the trial court due to the extremely accelerated and constrained nature of the proceedings and/or because they relate to subsequent developments. Therefore, by separate motion, Stan and Wes request the Court to take judicial notice under ER 201, of additional documents and the information contained therein which are referenced in documents which are already included in the Clerk's Papers in this appeal and/or which represent subsequent developments of proceedings previously disclosed to the trial court. Stan and Wes respectfully submit those additional materials will assist the Court in deciding this appeal.

As discussed herein, Randall's initial brief is replete with falsehoods, just as were his case-initiating petitions. The trial court had ample basis on which to weigh credibility. As a result of weighing credibility, the trial court determined Randall's allegations were not credible, that Stan's and Wes' actions were justified, and therefore denied Randall's petitions. The trial court's determinations should not be disturbed on appeal.

B. Statement of the Case

1. Procedural History

The two cases underlying this appeal consist of separate petitions for protective order filed by Randall Ames against Stanley R. Ames and Wesley B. Ames, respectively. **CP at 1-7 and 97-104**. The petition against Stan was filed on 10/08/2018, and served on 10/11/2018, and the petition against Wes was filed on 10/11/2018 and served on Wes on 10/12/2018. As a result, Stan had the absolute minimum 5 court days before the hearing as specified in RCW 26.50.050, and Wes had less than the minimum, having only 4 court days from service until the hearing. Thus, the petition against Wes was not even properly before the trial court on 10/18/2018.

Despite the hearing on the petition against Wes being improper, the two petitions came before Superior Court Commissioner Allen C. Nielson on 10/18/2018, and were considered together due to Commissioner Nielson's familiarity with the parties³ and the background problems

³ Commissioner Nielson was previously Superior Court judge prior to his retirement. Judge Nielson presided in Case 11-2-00373-4 and in Randall's prior petitions for protective orders in Cases 18-2-00392-3 (against Stan's and Wes' sister, Merita Dysart), 18-2-00393-1 (against Wes), and 18-2-00391-5 (against Stan). Randall provided at least 17 declarations and was a principal witness in Case 11-2-00373-4, and the petitioner in the latter two cases. As a result of these cases, Commissioner Nielson had substantial familiarity with all parties in the present appeal.

between them caused by Randall Ames, and the overlapping facts. **CP 221-230, 276-338.**

After hearing from all parties, Commissioner Nielson denied Randall's petitions. **RP at p.26, lines 2-6; CP at 94-96 and 190-192.** Randall did not request revision by a Superior Court judge, instead electing to file a notice of appeal to this Court. Note absence of motion for revision in CP and in Superior Court docket list.

As the Court can readily determine from the docket listing and the file for this appeal, Randall repeatedly violated the Rules of Appellate Procedure, even submitting an improper brief and being sanctioned twice for his abuse of the Rules. **Clerk's Letter dated 7/11/2019; Clerk's Letter dated 8/9/2019; Commissioner's Ruling dated 9/26/2019.**

As previously set out in Respondents' Motion to Dismiss and corresponding Reply, during the entire proceedings in this appeal, Randall has repeatedly ignored provisions of the Rules of Appellate Procedure, including submitting a very late, and still improper brief, and refusing to provide a copy of the verbatim report of proceedings to Stan and Wes.

Indeed, due to Randall's repeated failures to file his initial brief, the Court imposed sanctions of \$300 for his failure to file his brief even after the Court gave him additional time. **Clerk's Letter dated 7/11/2019.**

In addition, despite Randall's brief being in improper form, the Court showed great leniency to Randall by accepting his brief and not administering additional sanctions. **Clerks Letter dated 8/9/2019.** Notably, RAP 10.7 states that when an improper brief is accepted, "The appellate court will ordinarily impose sanctions on a party or counsel for a party who files a brief that fails to comply with these rules." RAP 10.7 (emphasis added). Despite RAP 10.7, the Court did not impose sanctions on Randall for his improper brief. The undeserved magnitude of the Court's lenience toward Randall is shown, in part, by Randall's other willful violations of the RAPs.

For example, Randall's obdurate refusal to provide a copy of the verbatim report with his initial brief as required by RAP 9.5, or indeed within any reasonable time afterward, caused Stan and Wes to file a motion requesting the Court to require Randall to belatedly comply with RAP 9.5 and supply the copy of the verbatim report. Under pressure of the motion and the impending hearing, Randall finally provided copies of the Verbatim Report via email two months late, and only two days before the hearing on Stan's and Wes' motion. As a result, Randall was sanctioned \$300, payable immediately as \$150 each to Stan and Wes for his misconduct. **Commissioner's Ruling dated 9/26/2019.** As of the date of filing of this Brief, Randall has not paid the sanctions.

In the same 9/26/2019 Commissioner's Ruling, the Court granted Stan's and Wes' request for additional time due to the much delayed Verbatim Report from Randall.

Randall's refusal to follow the RAPs also includes his failure to even include the Notice of Appeal in his designation of clerk's papers as expressly required by RAP 9.6(b)(1)(A).

Thus, Randall comes before this Court having repeatedly abused the appeal process, with an appeal which comprehensively lacks merit.

2. Facts of the Case

The underlying petitions for protective orders against Stan and Wes followed a long period of Randall's misconduct against Stan and Wes, their sister, Merita Dysart, and Wes' and Merita's adult children, as well as both physical and financial abuse of parents, Roy and Ruby Ames, over several years until their deaths. In fact, after the May, 2018 trial in guardianship proceedings for Rubye Ames, the Superior Court removed Randall from any control over Ruby Ames (Roy Ames died in March 2016). The judge's decision in court and as provided in the Guardianship Order, Stan, Wes, and Merita Dysart were to have regular visiting rights with their mother. **Attachment 1** (guardianship order). However, Randall and his family repeatedly blocked any and all visitation attempts, until Ruby Ames surprisingly died under somewhat suspicious circumstances.

Not only did Randall vigorously undermine and prevent the visitation ordered by the Court, but he even blocked any contact by the court-appointed guardian with her ward, Rubye Ames, both before and after Rubye Ames died.

In order to prevent contact between the guardian and Rubye Ames, Randall lied about arranging a meeting, by purporting to arrange a meeting and then canceling at the last minute, even continuing his nefarious lies for more than two weeks after Rubye Ames died. As an example of Randall's lies, see **CP at 320-321**. That is, on 6/15/2018, Randall wrote to the court-appointed guardian, Katherine Cooley, concerning scheduling a meeting between Ms. Cooley and her ward, Rubye Ames. **CP at 321**. At that time, Rubye Ames was in the hospital, dying, and she died the very next day, 6/16/2019. Then, in response to the guardian's acceptance of 6/21/2018 for a meeting, on 6/21/2018, Randall wrote to the guardian stating "an unexpected scheduling conflict has arisen". **CP at 320**. Shockingly, on 6/21 Rubye Ames had already been dead for five days, but Randall continued with his lies. Then, on 6/25/2018, Randall sent a polemic to the guardian, setting out why Randall was arguing the guardian had no authority, and still concealing the fact Rubye Ames died nine days previous. **CP at 321-22**. On 6/28/2018, 12 days after Rubye Ames' death, the guardian expressed her alarm at being almost 30 days into the

guardianship, and still not having any information about the condition of her ward. **CP at 326-27.**

On 6/29/2018, Judge Timothy B. Fennessy sharply admonished Randall for Randall's 6/25 polemic email to the guardian. **CP at 328.** Also notable is the guardian's email to Judge Fennessy's judicial assistant on 7/2/2018 briefly setting out how the guardian was blocked from access and the efforts the guardian made to gain access to Rubye Ames' residence. **CP at 335-336.** Not only did Randall engage in this despicable behavior of lies and deceit, but he was joined in the cynical charade by his family, and an aligned sister, Arleta Parr.

Surely, Randall's deceitful actions and false communications surrounding Rubye Ames' death, which Randall used in his despicable plan to conceal Rubye Ames' death from Rubye Ames' three older children, from the guardian, and from the court for 16 days irrevocably destroyed any vestige of credibility Randall might have retained. The noted email communications were before Commissioner Nielson in the cases underlying this appeal, so Commissioner Nielson was well able to incorporate this information in his credibility determinations. Respondents respectfully submit neither Commissioner Nielson nor any other fair-minded judicial officer could have given Randall's statements any credibility with the cited email communications before them.

a. Randall's prior aggressive conduct

In addition to a distinctly demonstrated practice of lies and concealment, e.g., as described above, Randall both engaged in and instructed one of his sons, Nathan Ames, to engage in physically aggressive conduct, even assault, toward Stan, Wes, Merita Dysart, Savannah Ames (Wes' youngest daughter), and Delina Dysart (Merita Dysart's daughter). These incidents of aggressive conduct, and even assault, are described in documents which were before Commissioner Nielson in the cases underlying this appeal. Without presenting needless repetition here, Respondents requests the Court review **CP at 222-224, 277-315.**

The only reasonable conclusion is that Randall exhibits very strong hostility and even hatred toward Stan and Wes and anyone connected with Stan and Wes, leads him to demonstrate an uncontrollable need to stage conflict and control situations.

b. Randall's trespassing on Stan's and Wes' Farm and Randall's false statements of Stan and Wes trespassing

Randall repeatedly misrepresents the basic facts to the Court, including misrepresenting the facts concerning trespass on Stan's and Wes' farm (the "Farm"). Randall claims Stan and Wes were trespassing on their own Farm, despite the fact the previous life estate had ended on

6/16/2018 and Stan and Wes expressly had full access to the Farm by prior court order at all times on and after 7/7/2018. **CP at 261, lines 1-2.** This order demonstrates that Randall repeatedly, consistently, and deliberately lied to law enforcement and is now misrepresenting the facts to this Court concerning Randall's allegations of Stan and Wes trespassing. This order also establishes the fact that Spokane County Superior Court Judge Timothy Fennessy found that Stan and Wes were concerned about their safety due to the threat of harm from Randall. **CP at 259 ¶ 6.** Once again, Randall demonstrates he is willing to lie to law enforcement and to the courts in his attempts to achieve his vindictive ends. Just as with Randall's communications with Rubye Ames' guardian noted above, Randall's false claims of Stan and Wes trespassing are very compelling, even conclusive evidence of Randall's total lack of credibility.

c. Events Leading to Randall's Petitions

In the context of the events described above, Randall's petitions against Stan and Wes arose from interactions between Randall and Stan, Randall and Wes, and Randall and Stan and Wes in the period from 7/8/2018 to about 9/25/2018 on Stan's and Wes' Farm at 3885 Haverland Meadows Rd., Valley, WA 99181. Randall and his family had been invitees living in the residence on the Farm with Roy and Rubye Ames during Roy's and Rubye's life estate in the Farm. Although initially

invitees, Randall and his family quickly exerted complete control over all aspects of the farm, including controlling the lives of Roy and Ruby Ames. The life estate terminated on 6/16/2018, immediately upon the death of Rubye Ames, with Roy Ames having died previously.

Despite the end of the life estate, Randall and his family did not promptly vacate the Farm, instead concealing Rubye Ames' death for 16 days (see discussion above), at which time disclosure was forced from Randall on 7/2/2018 by pressure from the court-appointed guardian for Rubye Ames, who even called for a Steven's County Deputy Sheriff to assist her. Even with the admission of Rubye Ames' death, Randall continued his concealment by avoiding mentioning the fact Rubye Ames had been dead for 16 days, and avoiding mentioning where Rubye Ames had died or where her remains were located. Randall's refusal to notify anyone of Ruby's death was in direct violation of Judge Fennessy's Court Order to give notice to siblings Stan, Wes, and Merita, and further, not to proceed with final arrangements without such notification and involvement.

Randall and his family still did not move out promptly, but subsequently represented to courts that they did not reside on the Farm after 7/11 or 7/12/2018, as the basis for Randall's argument he and his

family members had not been properly served by substitute service on Nathan Ames (Randall's second son). **CP at 245-247.**

However, Randall and his family persisted in returning to Stan's and Wes' Farm and taking property belonging to Stan and Wes from the Farm. The property taken included antique and vintage vehicles, household goods including appliances, firewood logs, and farm machinery, tools, and equipment. Randall and his family even destroyed and disconnected the well water pump and stole the heating stove and chimney, leaving a gaping hole in the roof, and stole other property not belonging to him, leaving the house almost a bare shell, even with a hole through the living room ceiling.

On 7/8/2018 and numerous subsequent occasions, Randall falsely asserted Stan and Wes were trespassing on the Farm, despite the court order expressly stating Stan and Wes had full access to their Farm no later than 21 days after Rubye Ames' death. **CP at 261; RP at 4, lines 18-21.** On 7/8/2018, Randall called the Sheriff's Department; one of the responding officers, a Sergeant, reviewed the order granting Stan and Wes full access and agreed Stan and Wes had the right to be on their Farm. In spite of this fact, Randall still asserted Stan and/or Wes were trespassing on multiple subsequent occasions.

On 8/26/2018, Wes discovered the back door of the house open. **CP at 238, 251.** Because Wes was certain Randall would accuse Wes of breaking into the house, Wes requested a third party accompany him as he entered the house. **CP at 250-251 (Larry Walker Declaration).** Wes discovered the house was abandoned, with none of the type of items which could allow a family or even one person to live there. Because the house had been abandoned and left unsecured, Wes secured the house by barring three of the four entry doors with boards on the inside, and secured the fourth door with a new door latch and a hasp and padlock. Stan and Wes moved a few items into the house to allow Stan to stay there, but, because Randall had disconnected the water supply, Stan had to leave from time to time to obtain water and use a toilet. During one of Stan's absences, on 9/2/2018, Randall broke into the house by kicking in another back door, cut off and removed Stan's and Wes's padlock, and replaced it with his own padlock, and changed door locks.

When Stan returned to the Farm, he discovered Randall's break-in, and therefore telephoned Wes, asking Wes to come to the Farm, reporting a scary encounter with individuals in the house, and then with Randall's van. Immediately after receiving Stan's call, Wes drove to the Farm. Not immediately seeing Stan, Wes approached the back door of the house. As Wes approached the door, he heard Randall yell through the door that Wes

was trespassing and had to leave. Wes replied that Randall was the one trespassing, and Wes had the right to be on the Farm.

Both Randall and Stan called 911, resulting in Sheriff's deputies responding. After listening to Randall, a deputy arrested Stan, impounded his vehicle, and took him to jail. Because 9/2/2018 was a Sunday and Monday was a court holiday, Stan had to wait until Tuesday to appear in court, at which time the charge against Stan was dismissed without even the probable cause hearing. The facts just did not support the charge.

After Randall broke into the house, Stan and Wes checked the house regularly to determine whether Randall or any of his family members had moved back into the house, but determined no one had done so. Therefore, on or about 9/18/2018, Stan and Wes again secured the house, this time by screwing sheets of plywood and OSB over the entry doors. However, on 9/20/2018, Randall again broke into the house, ripping the wood sheets off and hiding the wood sheets in the woods about 300 feet away from the house. Randall send an email to Stan and Wes stating, and apparently bragging he had broken back into the house. After Randall's second break-in, that same day Stan and Wes again secured the house, and thereafter maintained a continuous presence in the house until the court issued Writs of Restitution on 10/12/2018 against Randall and his adult family members, barring Randall and the other members of his family

from again coming onto Stan's and Wes' Farm. The continuous presence in the house was essential, because Randall trespassed multiple times, only leaving after discovering Stan, Wes, or Merita was in the house.

Apparently disgruntled that Stan was not prosecuted and irate that Stan and Wes had control of the house, and even more irate that he was on the verge of being barred from the Farm under a Writ of Restitution, Randall filed his petitions for orders of protection against both Stan and Wes on 10/08/2018 and 10/11/2018, respectively.

Even though Randall was no longer on the Farm and was living at some other location (later disclosed to be Oldtown, Idaho), and even though no instance of conflict occurred except when Randall initiated conflict on Stan's and Wes's farm, Randall surprisingly continued to pursue his unfounded petitions for orders for protection against Stan and Wes, with both cases set for hearing before Superior Court Commissioner Allen C. Nielson on 10/18/2018.

Notably, during the seven years since Randall had initiated the lawsuit through the parents, Roy and Rubye Ames, to take the farm away from Stan and Wes, Randall repeatedly staged conflicts, and repeatedly made claims of assault, combined with petitions for protective orders against both Stan and Wes. This current Appeal is nothing more than a clear

demonstration of Randall's irrational hatred of, and focus on destroying the lives of Stan and Wes in any way he can.

d. Proceedings before Trial Court

As noted above, Stan was served with Randall's petition on 10/11/2018 at the hearing on Stan's and Wes' action for unlawful detainer against Randall and his family members. Wes was served with Randall's petition on 10/12/2018, while Stan and Wes were obtaining the Writ of Restitution from the Superior Court Clerk. Those service dates gave Stan 5 court days before the hearing, but gave Wes only 4 court days.

As quickly as possible, Wes drew information and documents together, and prepared an opposition, which he filed on 10/17/2018, with a copy by email to Randall and his family. **RP at 12.** At the same time, Stan was preparing his opposition. However, due to a computer problem, Stan was not able to complete his opposition documents until the morning of 10/18/2018, at which time Wes filed the document and sent a copy to Randall and family by email.

In the hearing on 10/18/2018, Commissioner stated he would consider Wes' opposition filing, but not Stan's opposition filing. **RP at 8, 12.**

After hearing oral arguments from Randall, Stan, and Wes, Commissioner Nielson denied Randall's petitions. **RP at 25; CP at 094-096, 190-192.**

Randall did not move for revision, so the 30-day deadline for filing a notice of appeal was 11/19/2018 (11/17/2018 being a Saturday), and Randall filed his notice of appeal on 11/19/2018, the last possible day.

d. Proceedings in Appeal

After filing his notice of appeal, Randall embarked on a process of largely disregarding the Rules of Appellate procedure.

After failing to serve his notice of appeal on Stan and Wes, Randall again demonstrated disregard for the rules, or at least neglect of the rules, by failing to designate the notice of appeal in his designation of clerks papers, as required by RAP 9.6(b)(1)(A). **Designation of Clerks Papers.**

Notable as an additional demonstration of Randall's disregard for the law and court rules, Respondents had to file a motion in this appeal to compel Randall Ames to provide a copy of the Verbatim Report of Proceedings (RP), despite the clear requirement for him to do so stated in RAP 9.5(a)(1). The Court recognized Randall's deficient behavior and ordered Randall to provide the Verbatim Report forthwith, also applying sanctions against Randall. **Commissioner's Ruling dated 9/26/2019.**

Also, because Appellant deliberately excluded substantial important materials from his Designation of Clerk's Papers, on 9/12/2019 Respondents filed a Supplemental Designation of Clerk's Papers to address the deficiency and provide a proper record for the Court.

e. Randall's Assignments of Error

In his initial brief, Randall alleged eight different purported trial court errors. In slightly shortened form, Randall argued that the trial court erred on each of the following:

1. Court erred by considering Wesley Ames' responsive document.
2. Court erred by considering Wesley Ames' responsive document which was allegedly not served on Randall Ames.
3. Court erred in denying the DV Petitions.
4. Court erred in finding that Stanley Ames and Wesley Ames had a right to be on the Ames Farm on September 2, 2018.
5. Court erred in denying Randall Ames' petition for possession of essential personal belongings.
6. Court erred in finding that Stanley Ames and Wesley Ames acted in self defense.
7. Court erred in finding that there would be no conflict in the future.
8. Court erred in drafting and signing a Denial Order before the hearing of the matter.

Randall has mixed purported errors in the trial court's decisions with supposedly erroneous findings of fact. Nonetheless, as discussed below, none of Randall's assignments of error withstand inspection.

C. Respondents' Assignments of Error

Because Respondents Stan Ames and Wesley Ames are not making a cross-appeal, they make no assignments of error. **RAP 10.3(b)**.

D. Argument - Law and Application to Facts

1. Controlling Law is contrary to Randall Ames' Appeal.

Contrary to requirements for briefs in this Court, Randall fails to provide support in the law for the large majority of his assertions, including failing to properly set out how this Court should carry out its review. Therefore, Stan and Wes set out controlling law below.

a. Law concerning petitions for protective order

Petitions for domestic violence protective orders, such Randall's Petition for Order for Protection currently at issue, are created and governed by RCW 26.50, specifically including RCW 26.50.030. Thus, Randall's petition is a statutorily created original action, with procedures different from those controlling conventional civil cases under the Civil Court Rules. As briefly described in the discussion below concerning Randall's asserted errors 1 and 2, Randall is completely in error concerning proceedings under RCW 26.50.

i. Randall's petition is an original action, not a motion.

The fact that Randall's petition is an original action directly establishes that civil court rules governing motion practice schedules have no application at all. Specifically, Stevens County LCR 6 cited by Randall

(see, e.g., AB at p.11, Error No. 1) does not, and cannot, apply in any way to any filing deadline for an opposition to an RCW 26.50.030 petition for protection, because LCR 6 applies only to motion practice.

Indeed, there is no schedule or deadline set for filing any document opposing a petition for an order for protection. Therefore, there was no bar on the trial court considering the opposition documents submitted by Wes and/or Stan, so the trial court did not err in considering Wes' opposition, and Randall's objection is clearly baseless.

ii. Evidence Rule 1101(c)(4) applies

Importantly, as set out in ER 1101(c)(4), except for inapplicable specified narrow exceptions, the evidence rules do not apply in RCW 26.50 proceedings. Thus, for example, a court may consider hearsay which would be barred in usual civil case proceedings. Also, as expressly provided in ER 1101(c)(4), the judge may "consider information from a criminal or civil database".

As a result, Randall's complaint that Commissioner Nielson considered information from other cases (**AB at p.8, ¶ 6**), is baseless, because the statute and rule allowed the Commissioner to do exactly that, and the Commissioner's statements in open court concerning prior cases gave notice to all Parties of the Court's use of database information.

In addition, because of ER 1101(c)(4), the trial court should properly have considered all information provided in Stan's Objection filed the morning of the hearing and provided to Randall via email. Stan did not continue his objection to the exclusion of his opposition document because the Commissioner reached a valid and proper conclusion based on other information available to the court.

b. Standard of Review on Appeal

The well-established standard of review for grant or denial of a petition for a protective order is abuse of discretion. For example, Division 1 has stated:

A trial court's decision to grant a protection order is a matter of judicial discretion. "Where the decision or order of the trial court is a matter of discretion, it will not be disturbed on review except on a clear showing of abuse of discretion, that is, discretion manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons."

In re T.W.J., 367 P.3d 607, 608, 193 Wn.App. 1 (2016) (quoting *State ex rel. Carroll v. Junker*, 79 Wn.2d 12, 26, 482 P.2d 775 (1971)); see also *Bonbrake v. Lee*, No. 43989-1-II at p.5 (2014) (unpublished case cited under GR 14.1, not binding authority); *Ware v. Nelson*, No. 69738-2-I at pp. 2-3 (2014) (unpublished case cited under GR 14.1, not binding authority).

Therefore, the review in this case should be under the abuse of discretion standard.

Even though Randall has cited some cases providing a standard formulation for the abuse of discretion standard, a clearer, and likely more workable, statement may be taken from one of many decisions expressing a “reasonable person” or “reasonable judge” standard. For example, *State v. Rodriguez*, expresses the abuse of discretion standard as “A reviewing court will find abuse of discretion only when ‘no reasonable judge would have reached the same conclusion.’” *State v. Rodriguez*, 45 P.3d 541, 545, 146 Wn.2d 260 (2002) (quoting *State v. Hopson*, 113 Wn.2d 273, 284, 778 P.2d 1014 (1989)).

Thus, this Court need only find that a reasonable judge or reasonable person could have reached the same decision as the trial court judge in the present underlying cases. That standard is amply met here.

Furthermore, it is also well-established that it is the role of the trial court, not the appellate court, to make credibility determinations. This has been clearly stated many times, for example in *State v. Robinson* the court stated “[t]his court does not review on appeal credibility determinations.” *State v. Robinson*, 189 Wn.App. 877, 896, 359 P.3d 874 (2015). Similarly, in *Cordero* the court stated, “[a]s always, credibility determinations are for the trial court and not the appellate court.” *In re Estate of Cordero*, 113 P.3d 16, 18, 127 Wn. App. 783 (2005) (citing *In re Marriage of Stern*, 68 Wn.App. 922, 929, 846 P.2d 1387 (1993)).

Therefore, any credibility determinations made by the trial court between Stan and Wes versus Randall are fully within the judgment of the trial court, and are not an issue for review by this Court.

Further, as is well-established, a trial court's findings of fact are reviewed for substantial evidence. *In re Marriage of Fahey*, 164 Wn. App. 42, 55, 262 P.3d 128 (2011), *review denied*, 173 Wn.2d 1019 (2012).

There is substantial evidence if the record contains sufficient evidence to persuade a fair-minded, rational person of the finding's truth. *Fahey*, 164 Wn. App. at 55. The party challenging a finding bears the burden of showing that it is not supported by the record. *Standing Rock Homeowners Ass'n v. Misich*, 106 Wn. App. 231, 243, 23 P.3d 520 (2001).

Unchallenged findings are verities on appeal. *Standing Rock*, 106 Wn. App. at 238 (citing *State v. Hill*, 123 Wn.2d 641, 644, 870 P.2d 313 (1994)).

Additionally, challenged findings are also binding on appeal if they are supported by substantial evidence. *Standing Rock*, 106 Wn. App. at 243 (citing *In re Contested Election of Schoessler*, 140 Wn.2d 368, 385, 998 P.2d 818 (2000)).

The substantial evidence standard can be met even if there are other reasonable interpretations of the evidence, with a reviewing court stating “[c]onflicting evidence is substantial if that evidence reasonably

substantiates the finding even though there are other reasonable interpretations.” *Sherrell v. Selfors*, 73 Wn. App. 596, 600-01, 871 P.2d 168 (1994) (citing *Fred Hutchinson Cancer Research Ctr. v. Holman*, 107 Wash.2d 693, 713, 732 P.2d 974 (1987)). Thus, an appellate court hearing a case must defer to the trial court's determinations on the persuasiveness of the evidence, witness credibility, and conflicting testimony. *Snyder v. Haynes*, 152 Wn. App. 774, 779, 217 P.3d 787 (2009) (emphasis added). As a result, an appellate court will not disturb a trial court's finding of fact if substantial, though conflicting, evidence supports the finding standards and guidelines set out by the cases cited above further establish the process for review applicable in this case.

2. Randall's Misrepresentations in his Statement of Facts

Randall presented many falsehoods and misleading statements in his supposed Statement of Facts. At the very beginning Randall is deceptive in his assertion concerning tenancy on Stan's and Wes' Farm. Randall was an invitee resident on the Farm under the life estate so long as Rubye Ames was alive and the life estate existed. However, under the life estate, Rubye Ames could not grant Randall any right extending beyond the termination of the life estate at her death, because a life tenant cannot grant greater rights than what the life tenant holds. Therefore, at all

times after Rubye Ames' death on 6/16/2018, Randall and his family were unlawfully on the Farm. **CP at 239 - 240.**

Randall's misleading and false statements are especially prevalent in his Evidence of Domestic Violence section. See, e.g., **AB at 6-8.**

Randall's practice of false and misleading statements is the reason he has lost credibility before multiple judges, including Stevens County Superior Court Judge (now Commissioner) Allen Neilson, Stevens County District Court Judge Gina Tveit, and Spokane County Superior Court Judges Timothy Fennessy, Michael Price, and John O. Cooney. Court of Appeals Commissioner Wasson (from hearings in this appeal and in appeal 364381) may also have developed an informed understanding of Randall's checkered history. Randall may believe he can succeed with falsehoods in the current appeal because this Court does not yet have experience in dealing with him. Randall's false and misleading statements in his Statement of Facts include:

a) Randall lied in claiming Wes threatened to use his firearm against Randall Ames and his children. This never happened, and Randall provides no support beyond his own false declaration.

b) Randall was at best misleading in asserting "Pet chickens could be harmed and/or suffer loss of care". The chickens were completely free range, i.e., not pets, and had only intermittent care until Wes began

providing regular care. In addition, the fate of such free range chickens has no relevance in a RCW 26.50 petition proceeding. This assertion demonstrates Randall's desperation to sweep in anything which he believes might in some way help him. With this strange assertion, Randall completely fails.

c) c) Randall claimed he could not protect pets or property due to Wes' supposed repeated threats of lethal violence. This assertion is entirely false. Wes logged many visits to the Farm by Randall, most while Wes was not present, a few in which Randall was present when Wes arrived, and one in which Randall arrived while Wes was present.

d) Randall claimed that on 7/27/2018, Wes threatened Randall's life by reaching behind him as if to draw a concealed weapon. Again, this assertion is entirely false; it never happened.

e) Randall Ames also falsely claimed Wes waited in ambush beside 'Randall Ames' driveway, and then quickly drawing his rifle from its scabbard at a range of about 15 feet when Randall discovered his ambush. If Wes had been waiting in ambush, certainly Wes would have had a gun out and ready to fire – which Randall admits was not the case. Further, if it were an ambush, where was the attack – after all, attack is the purpose of an ambush. Like Randall's preceding claims, this one is completely false. Randall is simply making up tales to try to make Wes (and Stan)

look dangerous. Further, it is Stan's and Wes' farm, and Stan's and Wes' property and driveway, NOT Randall's.

f) Randall falsely asserted that Wes and Stan routinely engage in actions that would make them ineligible to possess a firearm under RCW 9.41.040. Of course, Randall provides no evidence beyond his own wild claims, which is because there is no basis in fact. Reading the text of RCW 9.41.040 makes it clear this statute does not apply to Wes or Stan.

g) Randall claims Wes used his vehicle to block Randall Ames' vehicle in a barnyard for approximately 40 minutes. This is yet another unreserved lie. Randall's departure was not blocked in any way. Randall had his van parked next to a barn when Wes arrived, apparently removing property from the upper level of the barn. As Wes began observing Randall in that location, Wes observed Randall scurry out of the barn, slam the rear doors closed on his van, and jump into his van. At that point Wes drove to a position about 150 - 200 feet away, from where he could observe Randall's activities without having to interact with Randall. Randall sat in his van for a long period. As dusk deepened, Randall turned his van around, shining his headlights at Wes, apparently to blind Wes. After an additional about 30 minutes, Randall drove away unimpeded. At no time was Randall's departure prevented or even interfered with in any

way by Wes. Wes logged this encounter with Randall immediately afterward. Randall is simply lying again.

h) In this claim, Randall dredges up a 3-year old incident in which Randall provoked trouble with harassment by himself and his three older children against Stan, Wes, and Merita Dysart during Stan's and Wes' court-authorized visit to their Farm. Even with that, Randall makes a number of assertions which are false and/or misleading. Without wasting space in this brief to address each detail, the outcomes of the incident were: (i) the court denied Randall's attempt to obtain a protective order against Wes; (ii) after Randall lied sufficiently to have an Assault 4 DV charge brought against Wes, the Stevens County District Court dismissed the charge with prejudice, finding that Wes' actions were de minimis and Randall was acting with improper motives.

What Randall studiously ignores is the fact that Randall assaulted Stan by knocking him down at the beginning of the problems Stan and Wes have had with Randall, and took a stipulated order of continuance to avoid prosecution. As noted above, Randall also lied to have Stan arrested on Sunday, 9/2/2019, but Stan was released when court next convened (on Tuesday, 9/4/2018) without even a probable cause hearing. This is a very clear example of Randall's vindictive actions toward Stan, as well as Wes.

In short, Randall is extremely vindictive and habitually lies whenever he thinks it will benefit him. Randall's vindictiveness is especially virulent against Stan, although also very strong against Wes.

i) Randall claimed Wes trespassed on the Farm and engaged in a pattern of stalking Randall while he was not on the Farm. First, as discussed elsewhere herein, due to the pre-existing Superior Court order in Case 11-2-00373-4 (**CP at 261; RP at 4, lines 18-21**), Wes could not have been trespassing on his own Farm at any time on or after 7/7/2018.⁴ Second, Randall makes an accusation of 'stalking' without presenting any facts at all. That should not be surprising, because it never happened, just as others of Randall's claims and accusations in his brief never happened.

j) Randall claimed Stan and Wes threatened the use of lethal force on 9/2/2018. In addition to misleadingly describing the events of 9/2/2018, Randall deceptively avoids mentioning that Randall illegally broke into Stan's and Wes' house on Stan's and Wes' Farm earlier that same day, after ripping off locks placed by Wes after Wes found the house abandoned and the back door open and the house abandoned. As

⁴ Stan and Wes believe they had the right to enter and control the Farm immediately after Rubye Ames' death on 6/16/2018, under the original 2012 judgment in Case 11-2-00373-4. Despite that right, Stan and Wes did not assert this right to avoid conflict with Randall. Instead Stan and Wes waited until after the date provided in the Order from Judge Fennessy from November 2017. Randall used that interval to surreptitiously steal large amount of additional property from Stan's and Wes' Farm.

recognized by Commissioner Nielson, Stan and Wes were rightly worried about violence from Randall, and were justified in their defensive actions. See, e.g., **RP at 24-25**.

Randall was in the house illegally, was known to have weapons, and was concealed in the house. The result – Stan and Wes were quite reasonably very wary and defensive, concerned about what Randall might do next after already having twice resorted to burglary on top of his prior thefts.

k) Randall claimed there were many other incidents of Stan's and Wes' threats and actual violence toward Randall and his family, but only cites generally to his own declaration. Without any indication of what Randall might be referring to, Stan and Wes cannot address any specifics. However, quite contrary to Randall's shotgun-style approach to accusation, other incidents of threats or actual violence never occurred from Stan and/or Wes.

If the alleged incidents had actually occurred or had occurred as Randall claimed, the trial court would have, most likely, been justified in issuing protective orders against Stan and Wes. The fact the trial court denied Randall's attempts to obtain the protective orders illustrates just how unbelievable Randall's claims and accusations are to anyone familiar with Randall's propensity for falsehoods. In fact, Commissioner Nielson

chastised Randall for being where he should not have been and confirmed Stan's and Wes's actions were fully justified as self-defense.

Commissioner Nielson was well-acquainted with Randall's fundamental lack of honesty and self-serving embellishments, having heard him testify on the stand for a long period of time during the trial in Case 11-2-00373-4, and reading numerous declarations from Randall in the same case.

Conversely, Commissioner Nielson was equally acquainted with Stan's and Wes' consistent honesty.⁵

As a result, the trial court clearly viewed Randall as having little or no credibility, and acted accordingly. Stan and Wes trust this Court will also be able to recognize Randall's duplicitous words and actions, both from the record and from Randall's words before the Court of Appeals in this appeal and in Appeal 364381.

3. Application of Law to Present Facts

In view of the standard of review as abuse of discretion, and Court of Appeals acceptance of trial court finding as set out herein, the facts show

⁵ Notably, Commissioner Nielson would certainly not have been biased in favor of Stan and/or Wes. Stan and Wes twice appealed then Judge Nielson's decisions which he made as judge before retirement in Case 11-2-00373-4. Stan and Wes obtained partial reversal in the second appeal. As a result, if there were any bias on the part of Commissioner Nielson, it would have been much more likely to have been directed against Stan and Wes rather than in their favor.

there was no abuse of discretion by the trial court in denying Randall's attempts to obtain protective orders against Wes and Stan.

a. Randall has failed to show any abuse of discretion.

Despite his misleading efforts, in addition to his fundamental errors of law, Randall has failed to show any abuse of discretion, and has therefore failed to show any basis for reversing the decisions of the trial court.

Addressing each of Randall's laundry list of purported errors in order:

Asserted errors 1 and 2: Randall asserts error in considering Wesley Ames' document filed in opposition alleging it was untimely and never served.

As the initial important point, as discussed above, Randall's petition is an original action, not a motion, so the civil court rules governing motion practice schedules simply do not apply. Therefore Randall's citation of Stevens County LCR 6 (see, e.g., AB at p.11, Error No. 1) is completely inapplicable because it does not, and cannot, apply in any way to any filing deadline for an opposition to an RCW 26.50.030 petition.

The additional key points here are that Randall did receive the opposition document, did have opportunity to review it, and did not request any continuation to give him more time for review. In addition, very importantly, there is no time specified in RCW 26.50 as a deadline for submitting a response to a RCW 26.50.030 petition. Therefore, the

trial court could properly consider Wes' opposition filing, and could and should have also considered Stan's opposition filing.

Obviously, petitions, such as Randall's, are statutory creations, not ordinary civil actions, and have statutory procedures which differ from the procedures under the Civil Court Rules applicable to ordinary civil case. For example, in ordinary civil cases, the defendant has at least 20 days following service within which to respond, while in RCW 26.50 petitions, the respondent has no more than 14 days before the hearing, and may have as little as 5 court days. In addition, RCW 26.50 makes no mention of an opposition filing and therefore no date by which an opposition must be filed. The intent of the legislation in enacting RCW 26.50 appears to be to provide a rapid remedy in exigent circumstances.

Together with the inapplicability of evidence rules in accordance with ER 1101(c)(4), the implication is that RCW 26.50 petitions are intended to proceed quickly, with a minimum of formality, which implies a high degree of discretion is vested in the court to carry out the purposes of the statute while maintaining fairness and due process. The fact that ER 1101(c)(4) makes other evidence rules inapplicable to RCW 26.050 petitions and allows the trial court to consult civil and criminal databases concerning other cases also demonstrates a legislative intent to ensure the trial court has the maximum amount of information available to enable it

to justly determine whether protection is, or is not, needed for the petitioner. Quite clearly, the legislature did not intend for either the petitioner or the respondent to use procedural tricks to hide information from the trial court, as Randall tried and continues to try to do in this case.

In view of the compressed schedule required by statute for prompt hearing, the schedule in the trial court in this case was extremely condensed. That is, Stan had only the statutory minimum of 5 court days from service of the petition until the hearing, and Wes had less than the statutory minimum, having only 4 court days from service until the hearing. See RCW 26.50.050. Due to the fact Randall was actively concealing his physical address, Wes chose the only route available to ensure Randall received the opposition in timely manner, that is, by sending the document via email to the known and long used email address for Randall. **RP at p.12, lines 10-18.** It is, in fact, the email address Randall and Wes had used for mutually agreed email service in prior cases and is the email address currently used for filings through the eFile portal for this appeal and under court order in Case 18-2-00309-33. Randall did not deny receiving Wes' response in opposition. Randall asserts, without support, he was prejudiced, but no prejudice to Randall is discernable.

In exercising its discretion, the trial court clearly determined that the steps taken by Wes to ensure Randall received Wes' opposition were

sufficient, consistent with the purposes and statutory timeline for RCW 26.50 petitions. Therefore, Commissioner Nielson properly considered Wes's opposition filing.

A similar approach was followed by Division 2 in *Lariva v. Lariva*, No. 49868-5-II, (April 24, 2018) (unpublished opinion cited under GR 14.1, non-binding authority). In that case, the Respondent filed a declaration the day before the hearing, and the court considered the declaration. *Lariva* at 3 & fn.2.

Thus, the trial court in the present case was fully justified, in connection with a RCW 26.50 petition, to accept and consider Wes's opposition document. Indeed, in this context the trial court would have also been justified in accepting and considering the opposition document from Stan, though it did not. The trial court's refusal to consider Stan's opposition filing was only partially ameliorated because Stan was allowed only 5 minutes to present his oral arguments.⁶ Again, this error was not further contested because the Commissioner properly considered other information which supported the ruling properly made.

Thus, the trial court did not commit error by considering Wes' opposition filing. Randall is wrong, and should not be allowed to obtain

⁶ The trial court allowed 10 minutes of oral argument per side, despite the fact that respondents' side actually consisted of two separate cases.

unjust advantage and an unjust result by wrongly constraining the information before the Court to only what Randall wanted to present.

Asserted error 3: Randall asserts the trial court erred by denying Randall's two petitions for orders of protection.

This is the central crux of the trial court's exercise of discretion. In its exercise of its discretion and using the information before it and its determination of the credibility of each party, the trial court found no basis for Randall's petitions. **RP at 25.** This is exactly the type of situation properly governed by this Court's deference to the trial court's exercise of discretion and its consistent refusal to second guess the trial court's credibility determinations. As discussed above, there is a high bar to reversing such decisions, requiring that no reasonable judge would make the decision, or similarly that the decision is manifestly unreasonable or based on untenable grounds.

Randall utterly fails to show how the trial court's decision is untenable or why no reasonable judge could make the decision, he simply disagrees with the trial court decision. On that basis alone, he asks this Court to break from established law and reverse the trial court decision. In attempting to argue for reversal, Randall is improperly asking this Court to reevaluate the credibility of the parties and re-weigh the evidence.

It is noteworthy that, without acknowledgment, Randall takes advantage of ER 1101(c)(4) by presenting hearsay information. If Randall were actually concerned with consistency in restricting the information for the trial court to consider, he would not have submitted otherwise inadmissible information. Randall again reveals that he is not interested in a just result, instead he seeks every conceivable advantage in order to obtain a fundamentally unjust result in Randall's favor.

The trial court had ample bases supporting its decision. For example, the trial court was presented with information showing Randall's bad actions and lack of truthfulness.

The trial court was also presented with information which showed that Randall's claim of fear of harm from Stan and/or Wes was not genuine.

As discussed above, the standard for the trial court's findings, if contested, is substantial evidence, and the finding will not be disturbed even if there is contradictory information or if another interpretation is possible.

Asserted error 4: Randall asserted the trial court erred by finding Wes and Stan had a right to be on the Ames Farm on September 2, 2018.

Randall's assertion is blatantly false due to a directly contrary court order granting Stan and Wes "full access" to the Farm no later than 21

days following termination of the life estate upon the death of Rubye Ames. Because Rubye Ames died on 6/16/2019, Stan and Wes had the right of full access to their farm on and at all times after 7/7/2018. **CP at p. 261, lines 1-2 (Fennessy Order)**. Therefore, under the preexisting valid order, Stan and Wes were not and could not have been trespassing at any time on or after 7/7/2018, specifically including on 9/2/2018.

Therefore, Randall's many statements in writing and orally to Sheriff's deputies were plainly false, deliberately made despite Randall's knowledge that Stan's and Wes' presence on their Farm could not be trespassing. Randall's false claims of trespassing is most likely one of the additional reasons why the trial court discounted Randall's credibility.

Asserted error 5: Randall asserted the trial court erred by denying Randall's petition for personal belongings.

Contrary to Randall's assertion, Randall expressly waived any claim on this matter in the trial court proceedings. **RP at 5, lines 6-9 and line 21 to p.6, line 1**. By his own direct and unequivocal representation to the trial court, Randall asserted the issue of his alleged personal property was not even before the court.

As a result, Respondents' respectfully submit there is no conceivable basis for Randall's asserted error 5, due to his own express representations to the trial court.

However, even if there had not been Randall's direct representation the issue of personal property was not before the court, the trial court had discretion to fashion its remedy appropriately. The purpose and basic remedy in RCW 26.50 petitions is to provide protection for actual victims. In this case, the trial court rightly determined there was no need for a protective order to protect Randall's person. As a result, there were no circumstances which called for the trial court to resolve property issues in an expedited proceeding in which no protective order for the person was warranted.

Indeed, if the trial court had made an order concerning personal property, it would have been unnecessarily intruding into the ruling in the earlier-filed unlawful detainer case, of which the trial court was fully aware. **RP at 4, lines 8-10.**

Therefore, the trial court proceeded properly on this matter, so that Randall's assertion of error is without basis, and Randall's baseless assertion of this purported error should be found sanctionable.

Asserted error 6: Randall asserted the trial court erred by finding Stan and Wes acted in self defense.

The Court's finding concerning Stan and Wes acting in self defense is a matter properly left to the discretion of the trial court, exercising its

credibility determinations, and will not be disturbed so long as the finding is supported by substantial evidence.

The trial court quite properly gave credence to Stan's description of Randall's highly aggressive actions against Stan and the report of Randall's confirmation on 9/2/2018 he was armed with a Glock pistol which he raised towards Stan, which resulted in Stan's actions in self-defense. Randall quite incorrectly characterizes Stan's defensive response as threats against him and/or his family.

The trial court also properly gave credence to the reports of Randall's aggressive conduct, including even assault, toward Stan, Randall's confrontational conduct toward Wes, Randall's violent conduct toward Merita Dysart, and Randall directing violent conduct by his son toward Merita Dysart's daughter, Delina Dysart. **CP 277-292, 296-315.**

The trial court also properly interpreted Randall's actions in view of the fact Stan and Wes had full authority under prior court order to have full access to their Farm, and the fact that Randall should not have been on the Farm at all at that time. **CP at 259, 261 Fennessy Order.**

The preceding facts clearly constitute substantial evidence supporting the trial court's finding that Stan and Wes acted in self defense in situations where Stan and Wes quite reasonably felt threatened by Randall.

Asserted error 7: Randall asserted the trial court erred by finding there would be no conflict in the future.

Stan and Wes do not believe Commissioner Nielson's statement in this regard even qualifies as a finding of fact. However, Stan and Wes will address the matter, just in case this Court deems it a finding.

Randall's assertion is certainly in error because the records clearly show that Commissioner Nielson's statements in the trial court concerning future conflict between Randall and Stan or Wes did not constitute a finding. Rather, Commissioner Nielson expressed an expectation and hope, stating that it was for another court to deal with if a problem arose. See **RP at 25-26**. Indeed, as described below, no problems have arisen, and there has been no contact outside a courthouse since Randall was barred from returning to Stan's and Wes' farm on 10/12/2018 under the Writ of Restitution. In fact, even before the Writ of Restitution, the only times conflict ever occurred was when Randall initiated conflict while on Stan's and Wes's farm, either while Randall was an invitee, or when Randall was a trespasser and should never have been on our farm at all.

In addition, Randall clearly does not actually believe there is any need for protective orders because of his subsequent conduct, including his dilatory conduct in this appeal, as well as his request for inspection in Case 18-2-00309-33. See discussion in Sub-section e below.

However, even if Commissioner Nielson's statements about future conflict were to be deemed a finding, it is supported by substantial evidence. See, e.g., **CP at 229-230**.

Asserted error 8: Randall asserted the trial court erred by drafting and signing a denial order before the hearing on the matter.

This asserted error appears to represent only Randall's petulance, having no basis in fact or law.

As discussed above, Randall did not raise this objection before the trial court (**see RP entirety**), and therefore this Court should not consider the purported error for the first time on appeal. The appellate courts in this state consistently hold that they will not review claims raised for the first time on appeal unless the party claiming the error can show the presence of an exception to that rule. See, e.g., *State v. Robinson*, 171 Wn.2d 292, 304, 253 P.3d 84 (2011); see also RAP 2.5(a), which reads:

The appellate court may refuse to review any claim of error which was not raised in the trial court. However, a party may raise the following claimed errors for the first time in the appellate court: (1) lack of trial court jurisdiction, (2) failure to establish facts upon which relief can be granted, and (3) manifest error affecting a constitutional right.

RAP 2.5(a).

In addition, there is no statute, rule, or practice of court which bars a judge or commissioner from pre-drafting and/or pre-signing an order. It is

commonly recognized that when there are pleadings on which a decision can be based, a judge or commissioner will frequently have made a tentative decision prior to the hearing, such that the hearing is only an opportunity for the parties to either change or solidify the tentative decision, rather than providing a first impression on the matter. For efficiency or any other reason, there is nothing wrong in pre-drafting all or part of an order. Therefore, whether or not Commissioner Nielson did or did not prepare and/or sign an order prior to the hearing, there is no error.

Further, as described in the Declaration of Wesley Ames and Declaration of Stan R. Ames, Commissioner Nielson was observed writing during the hearing, and may well have prepared and/or signed the orders during the hearing. The denial orders are form orders, with a very limited amount of handwriting by the Commissioner (**CP at 94-96 and 190-192**), which would have required very little time. Randall's assertion Commissioner Nielson had no time to write anything during the hearing is entirely false. The record is completely silent on the question of exactly when the Commissioner prepared and/or signed the orders.

In any event, Randall's purported error 8 is not properly before this Court, is not based on any legal authority, and is factually unsupported. Therefore, it can provide no basis for reversing the trial court decision.

e. Randall's Misrepresentations Concerning his Alleged Fear

An often repeated premise underlying Randall's petitions against Stan and Wes was his purported fear of deadly harm from Stan and Wes. Quite to the contrary, however, Randall's own conduct demonstrates that his fear does not exist, that his allegations of fear were made up in a cynical ploy to try to obtain issuance of protective orders against Stan and Wes, with Randall has staged several instances where he claimed some assault.

For example, on 7/9/2019, Randall came up to Stan's vehicle while Stan was in his vehicle, and attempted to break in, beating on the driver's door window and attempting to yank the drivers' door open. Failing in that attempt, he rushed around the pickup, and attempted to yank open the passenger door. **CP at 283-284.**

On or about July 27, 2018, Wes drove to the Farm to check status, and discovered Randall and one of his sons loading firewood logs on Randall's truck to haul away. Wes stopped about 100 feet away and got out of his pickup to take pictures to document Randall's theft of logs. As Wes was taking the picture, Randall jumped off the skidder he was using to load the logs, rushed over close to Wes and appeared to take pictures of Wes. Randall then went over to Wes' pickup, circled closely around it, taking pictures or recording as he went. **CP at 230, 339-341.** Randall's aggressive approach and provocative behavior with Wes and Wes' pickup demonstrate Randall had no fear of any harm from Wes; in fact, Randall

was clearly trying to provoke a confrontation, but Wes did not take the bait.

Likewise, Randall's extremely dilatory actions in these appeal proceedings strongly indicate Randall's fear does not exist. If Randall actually had the fear he claims, he would certainly have chosen to push this appeal as quickly as possible. However, in dramatic contrast to pushing for quick appeal consideration, Randall delayed at every turn, even being sanctioned twice for his delays. The first time he was sanctioned for extended delays in perfecting the record and filing his initial brief (**Clerks Letter dated 7/11/2019**), and the second time he was sanctioned for extended delay in providing Stand and Wes with a copy of the Verbatim Report of Proceedings. **Commissioner's Ruling dated 9/26/2019; see also Clerk's Letters dated 4/11/2019 and 4/19/2019 (threats of sanctions), and Clerk's Letter dated 6/26/2019 (threat of dismissal)**. Randall's extensive delays are very much inconsistent with a person who is in fear and needs protection.

Even more clearly, any reasonable person in actual fear would certainly have proceeded much more quickly at every step than Randall has done. Thus, if Randall were in actual fear, Randall would reasonably have filed Notice of Appeal quickly, i.e., within about one week (by 10/25/2018), filed his Statement of Arrangements and Designation of

Clerks Papers within two weeks (14 days) of filing the Notice of Appeal (by 11/8/2018), ensured the Verbatim Report of Proceedings was filed at least by the 60-day deadline (by 1/7/2019), and then filed his initial brief within at most about 30 days of the filing of the Verbatim Report (by 2/6/2019).

A reasonable person with actual fear certainly would have provided the Verbatim Report to Respondents together with his initial brief, rather than delaying, as Randall did, for two months. Randall's extended delay and refusal to provide the Verbatim Report even after Stan and Wes requested it required Stan and Wes to file a motion to force Randall to comply with his obligation to provide the Verbatim Report.

Assuming Respondents then filed their brief in response by the 30-day deadline (by 3/8/2019), Randall should reasonably have filed his Reply within two weeks (14-days) after Respondents' brief (by 3/29/2019). Thus, for a reasonable appellant having actual fear (such as Randall claims), all briefs should have been filed at least about seven months sooner than will actually occur in this appeal. Therefore, as compared to a reasonable person in actual fear, Randall has delayed decision on this appeal by at least about seven months. This extensive delay shows Randall's claim of fear is nothing more than a cynical ruse intended to frustrate Stan's and Wes's ability to move on with their lives.

It is also quite notable that it has now been more than a year since the Writ of Restitution issued keeping Randall off Respondents' Farm, and Randall appears to be living in Idaho. See, e.g., **Cover page of AB**. In that time, not only has Randall experienced no harm or even threat of harm, but he has also not experienced in-person interaction with Stan or Wes outside of a courthouse or in document production demanded by Randall. This lack of contact is exactly what Commissioner Nielson contemplated at the time he denied Randall's petitions. **RP at 24-25**.

In short, no justifiable need for protective orders existed when Commissioner Nielson denied Randall's petitions on 10/18/2018, and there is certainly no justification for protective orders now.

Clearly, Randall is not pursuing this appeal for any proper purposes, but rather continues with this appeal merely to harass Stan and Wes with useless litigation, while wasting a great deal of this Court's and Respondents' time.

E. Conclusion

As discussed above, Appellant's appeal is factually and legally baseless, and is clearly presented for improper purposes. The trial court viewed the evidence, made its credibility judgments, and determined grant of the orders for protection sought by Randall was not warranted under the facts of the cases.

In addition, in view of the complete lack of support for Randall's appeal, Stan and Wes request sanctions against Randall by separate motion under RAP 18.9(a) for filing a frivolous appeal.

Because Randall has not shown any abuse of discretion, the judgment of the trial court should be affirmed.

Dated November 12, 2019

Respectfully submitted,



Stan R. Ames

Respondent/Respondent Pro se



Wesley B. Ames

Respondent/Respondent, Pro se

Declaration of Wesley B. Ames

I, Wesley B. Ames, am a respondent in Case No. 364640, and am competent to testify to the matters set forth herein.

1. As of the date of this Respondents' Brief, Wesley Ames has not received payment of the sanction imposed against Randall Ames in the Commissioner's Ruling dated 9/26/2019.
2. During the hearing on 10/18/2018, I observed Commissioner Nielson writing during the hearing.

I declare under penalty of perjury under the laws of the State of Washington the foregoing is true and correct.

Signed on November 12, 2019 at Valley, Washington.



Wesley B Ames

Declaration of Stanley R. Ames

I, Stanley R. Ames, am a respondent in Case No. 364640, and am competent to testify to the matters set forth herein.

1. As of the date of filing of Respondents' Brief, Stanley Ames has not received payment of the sanction imposed against Randall Ames in the Commissioner's Ruling dated 9/26/2019.
2. During the hearing on 10/18/2018, I observed Commissioner Nielson writing during the hearing.

I declare under penalty of perjury under the laws of the State of Washington the foregoing is true and correct.

Signed on November 12, 2019 at Beaverton, Oregon.


Stan R. Ames

November 12, 2019 - 4:24 PM

Transmittal Information

Filed with Court: Court of Appeals Division III
Appellate Court Case Number: 36464-0
Appellate Court Case Title: Randall Shawn Ames v. Stanley Roy Ames
Superior Court Case Number: 18-2-00469-0

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Attachment 1

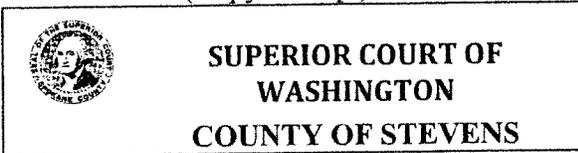
Attachment 1

ORIGINAL

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(Copy Receipt)

(Clerk's Date Stamp)



In re the Guardianship of:

RUBY AMES,

An Incapacitated Person

CASE NO. 17-4-00048-1

TRIAL Order Appointing

- Limited Guardian of Person
 - Full Guardian of Person and/or
 - Limited Guardian of Estate
 - Full Guardian of Estate
- (ORAPGD)**

- Clerk's Action Required
- Judgment Summary, filed separately

Guardianship Summary

Due Dates

Date Guardian Appointed:	06/01/18
Date Letters of Guardianship Expire:	10/01/19
Date of Next Review:	<i>not later than 09/04/18</i>
Due Date of Bond:	_____
Due Date for Receipt(s) of Funds in Blocked Account(s):	_____
Restricted Account Agreements Required:	_____
Due Date for Initial Personal Care Plan and Inventory:	09/01/18
Due Date for Report and Accounting (GE):	09/01/19
Due Date for Periodic Personal Care Plan (GP):	09/01/19
Due Date for Filing Fee:	_____

The clerk shall notify the auditor of loss of voting rights: Yes No

ORIGINAL

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The Court considered ~~the testimony of witnesses,~~ including Rubye Ames; oral arguments; written report of the Guardian ad Litem and the Medical/Psychological/ARNP Report; ~~the testimony of witnesses,~~ remarks of counsel; and the ^{readings and} documents filed herein. In ruling herein, the court relied most on the testimony of Dr. T. Boone, Dr. W. Scott Mabee, the Guardian ad Litem and ~~the~~ Rubye Ames. Based on the above, the Court makes the following:

I. Findings of Fact

1.1 Notices

All notices required by law have been given and proof of service as required by statute is on file.

1.2 Jurisdiction

The jurisdictional facts set forth in the petition are true and correct, and the Court has jurisdiction over the person and/or estate of the Alleged Incapacitated Person.

1.3 Guardian ad Litem

The Guardian ad Litem appointed by the Court has filed a report with the Court. The report is complete and complies with all requirements of RCW 11.88.090.

1.4 Alternative Arrangements Made By the Alleged Incapacitated Person

- The Alleged Incapacitated Person made alternative arrangements for assistance, but such arrangements are inadequate in the following respects: **more oversight is necessary with respect to financial matters, visitation with family members, estate planning needs, notice to family members and other duties proscribed herein.**
- RANDALL AMES, as Agent for Rubye Ames is revoked. He has been acting in a fiduciary capacity for the Alleged Incapacitated Person and should NOT continue to do so for the following reasons: **The appointment of a Certified Professional Guardian (CPG) has been appointed and Arleta Parr, as Agent under a Durable Power of Attorney for Healthcare and Financial matters, circa 2012, is nominated as an Agent under RCW 11.125, et. seq.¹ This**

¹ RCW 11.125.080 Guardian of principal's estate or person

...

Court finds the Arleta Parr will only act at the supervision and direction of the Certified Professional Guardian appointed herein. The scope of the Agent Arleta Parr is to be determined by the guardian in terms of how she wishes to interact with Ms. Parr and how the Guardian wishes to accomplish the reporting that is necessary under the guardianship and her duty as a Certified Professional Guardian. The Agent will not act outside the scope of the Guardian's or Court directives.

1.5 Capacity

The Alleged Incapacitated Person, RUBY AMES, is:

- A vulnerable adult as defined in RCW 74.34, et. seq. and,
- incapable of managing her personal affairs.
- incapable of managing her financial affairs.
- The Alleged Incapacitated Person is in need of a full Guardianship over the
 - person estate.
- The Alleged Incapacitated Person is capable of managing some personal and/or financial affairs, but is in need of the protection and assistance of a limited Guardian of the person estate in the areas as follows:
_____.

1.6 Guardian

The proposed Certified Professional Guardian or Non-Professional Guardian is qualified to act as Guardian of the Person and/or Estate of the Incapacitated Person. The Proposed Guardian's address, phone numbers and email address are as follows:

Address: PO Box 10225
Phone No(s): Business 509-863-4121
Email: kcooley@veritasguard.com

I have attended the following training: Administrative Office of the Courts On-Line Training and/or Spokane County Guardian Training, verification(s) previously filed.

(2) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of of all of the principal's property, the power of attorney is terminated and the agent's authority does not continue unless continued by the court. (emphasis added)

(3) If, after a principal executes a power of attorney, a court appoints a guardian of the principal's estate or other fiduciary charged with the management of some but not all of the principal's property, the power of attorney shall not terminate or be modified, except to the extent ordered by the court. (emphasis added)

1.7 Guardian ad Litem Fees and Costs

The Guardian ad Litem was appointed at county expense estate expense and shall submit a motion for payment of fees and costs pursuant to the local rules.

The Guardian ad Litem has requested a fee of \$ 19232.50 for services rendered and reimbursement of \$ 477.76 for costs incurred while acting as Guardian ad Litem.

It appears that there are or will be resources in the estate to pay Guardian ad Litem Fees without creating substantial hardship. Fees in the amount of \$ _____ and costs in the amount of \$ _____ are reasonable and should be paid as follows:

\$ _____ by the Guardian from the guardianship estate and/or
 \$ _____ by _____ for the following reason(s): _____.

\$ _____ by STEVENS County - See section 3.17

1.8 Bond

The assets of the Alleged Incapacitated Person:

- are unknown, and bond shall be reviewed at review of inventory.
- total less than three thousand dollars (\$3,000) and no bond is required.
- exceed three thousand dollars (\$3,000), and a bond is required.
- exceed three thousand dollars (\$3,000) and should be placed in a blocked account with an insured financial institution or bonded, unless the guardian is a bank or trust company.
- are to be held by a nonprofit corporation authorized to act as Guardian, and the Court waives any bond requirement.

1.9 Right to Vote

The Alleged Incapacitated Person is is not capable of exercising the right to vote.

II. CONCLUSIONS OF LAW

Based upon the above findings of fact, the court makes the following conclusions of law:

2.1 Incapacitated Person

RUBY AMES is an Incapacitated Person within the meaning of RCW Chapter 11.88, and a:

- Full Limited Guardian of the Person, and/or
 Full Limited Guardian of the Estate should be appointed.

2.2 Guardian

KATHERINE COOLEY is a fit and proper person as required by RCW 11.88.020 to be appointed as a guardian.

2.3 Powers and Limitations of the Guardian

The powers and limitations of the Guardian should be as follows:
As provided by statute AND described herein.

2.4 Limitations and Restrictions Placed on the Incapacitated Person

The limitations and restrictions placed on the Incapacitated Person should be as follows:

- The right to vote is revoked.
 The right to marry or divorce is revoked.
 The right to make or revoke a will is revoked. See Section 3.25
 The right to enter into a contract is revoked.
 The right to buy, sell, own, mortgage, or lease property is revoked.
 The right to possess a license to drive is revoked.
 The right to consent to or refuse medical treatment is revoked.
 The right to decide who shall provide care and assistance is revoked.
 The right to make decisions regarding social aspects of your life is revoked.
 Other: **As of May 18, 2018, Rubye Ames should not sign any further legal documents or binding contracts without advance direction from the Court. Any documents that are requested to be signed will be given to the Guardian for review and presentment to the Court. The costs of the Guardian's time to present said documents or contracts will be at the cost of the requestor or as the Court deems appropriate.**

Other than what is proscribed herein with respect to Arleta Parr, the Guardian will not delegate any duties required of a Guardian to family members of Rubye Ames.

The Guardian will coordinate with Arleta Parr to establish an appropriate budget and payment by Rubye Ames for food, utilities, auto expenses, insurance, cable television, and other expenses or payments the Guardian sees as necessary. Arleta Parr will provide any and all documentation needed to the Guardian to ensure the Guardian has the information to make that decision. The Guardian is the final decision maker with respect to this issue. Any concerns by any other family members will be brought to the court at their own expense.

Arleta Parr will help the guardian establish one single bank account for Rubye Ames combining all other accounts into one account. Arleta Parr will account to the Guardian quarterly, beginning with an account balance as of June 1, 2018 and a quarterly reporting thereafter with the first due on October 1, 2018 to the Guardian, or more frequently if the Guardian wishes.

The Guardian and Arleta Parr will work on the required Inventory and due per the due dates on page 1 of this Order.

III. ORDER

The court orders:

3.1 Prior Power of Attorney

Any Power of Attorney of any kind previously executed by the Incapacitated Person:

is not canceled except for the provision appointing or nominating Randall Ames is revoked. The nominations of guardian are revoked because the Court has appointed a Certified Professional Guardian after a trial on the merits.

is canceled in its entirety.

is canceled in its entirety except for those provisions pertaining to health care.

3.2 Appointment of Guardian

KATHERINE COOLEY is appointed as:

Full Limited Guardian of the Person and/or

Full Limited Guardian of the Estate of Rubye Ames, and the powers and limitations of the Guardian and the limitations and restrictions placed on the Incapacitated Person shall be as set forth in paragraphs 2.3 and 2.4 of the Conclusions of Law.

ORDER APPOINT GDN OF PERSON/ESTATE

(ORAPGD) SPO GDN 02.0101 (4/2017)

Page 7 of 15

3.3 Letters of Guardianship/Limited Guardianship

The Clerk of the Court shall issue letters of:

- Full Limited Guardianship of the Person and/or
 Full Limited Guardianship of the Estate to Safe Haven Guardianship Agency

upon the filing of an oath, the bond as forth in 3.4 below, and Designation of and Consent by In-State (Resident) Agent because the guardian resides outside the State of Washington.

Date letters expire: **10/01/19**

- Guardian must complete and file proof of completion of Mandatory Guardian Training or obtain an order waiving training.

3.4 Guardianship Bond and Security

- Guardianship bond in the amount of \$ 10,000.00 ~~is~~ *is presently in place for MS. Cooley as a CPA.*
 Bond is waived.
 Bond shall be reviewed at review of inventory.
 The Guardian shall have access to the following accounts:

All financial institution accounts with Rubye Ames name, Social Security Administration account, trust accounts, IOLTA accounts, or other accounts held for the benefit of Rubye Ames.

If bond is waived, the Guardian is required to report to the Court if the total assets of the Incapacitated Person reaches or exceeds Three Thousand Dollars. Pursuant to RCW 11.88.100, the Guardian of the Estate shall file a yearly statement showing the monthly income of the Incapacitated Person if said monthly income, excluding moneys from state or federal benefits, is over the sum of Five Hundred Dollars per month for any three consecutive months.

3.5 Report of Substantial Change in Income or Assets

Within 30 days of any substantial change in the Estate's income or assets, the Guardian of the Estate shall report to the Court and schedule a hearing. The purpose of the hearing will be for the Court to consider changing the bond or making other provision in accordance with RCW 11.88.100.

3.13 Duration of Guardianship

This Guardianship shall continue in effect:

- until (date) _____; OR
- until terminated pursuant to RCW 11.88.140;
- until further order of the court. The necessity for the Guardianship to continue shall be periodically reviewed.

3.14 Discharge/Retention of Guardian ad Litem

The Guardian ad Litem is discharged in this case. **However, to the extent there is a need for a guardian ad litem to seek to direct further litigation or settlements of any matters currently pending, the Court directs Lisa A. Malpass will be presented for consideration and the Court will determine whether under her license, her willingness, and her experience in this case if she can serve that position or not.**

3.15 Notice of Right to Receive Pleadings

The following persons are in the categories of persons described in RCW 11.88.090(5)(d). The Guardian shall notify them of their right to file with the Court and serve upon the Guardian, or the Guardian's attorney, a request to receive copies of pleadings filed by the Guardian with respect to the Guardianship:

Wes Ames	Stan Ames
Merita Dysart	Arleta Parr
Randall Ames	

3.16 Guardian Fees – KATHERINE COOLEY

DSHS cases: The Guardian is allowed such fees and costs as permitted by the Washington Administrative Code in the amount of **\$235.00** per month as a deduction from the Incapacitated Person's participation in the DSHS cost of care if RUBY AMES is a Medicaid client. Such fees are subject to Court review and approval. This deduction is approved for the initial 12 month reporting period and **90 days** thereafter, from the date of this order to 8/24/19. The Guardian may petition for fees in excess of the above amount only on notice to the appropriate DSHS Regional Administrator per WAC 182-513 et seq.; OR

- Non-DSHS cases: The Guardian shall petition the Court for affirmation of fees at a cost of \$90.00 per hour that directly involve the guardian's client and \$35.00 per hour for shopping or travel for a client. Arleta Parr will ensure the Guardian is reimbursed and paid for services rendered. The court will review the payments at the annual accounting. The guardian will provide Arleta Parr invoices and detail associated with the amounts requested each month.

3.17 Guardian ad Litem Fee – LISA A. MALPASS

- Fees and costs in the amount of \$19,710.26 are approved as reasonable.
- The Guardian ad Litem fees and costs shall be paid by -7693 ee.
- STEVENS County \$70.00 X 109.90 = \$7693 ee.
- The guardian from the guardianship estate assets, above \$3000 in estate assets. Upon proper motion,
- Other source(s) as follows: _____
- The Guardian ad Litem, _____ the Court may
is awarded judgment in the amount of \$ _____ readdress
guardianship estate of _____ this issue.

3.18 Legal Fees – CHRIS MONTGOMERY - to be determined as no application was received.

The legal fees and costs of _____ are approved as reasonable in the amount of \$ _____, and shall be paid from the:

- Guardianship estate assets OR
- Other source(s) as follows: _____

3.19 Guardian's Report

The Guardian's report shall cover the:

- 12 (twelve)-month 24 (twenty-four)-month 36 (thirty-six)-month period following the appointment. The Guardian's report is due within 90 days of the end of the reporting period and shall comply with the requirements of RCW 11.92.040(2) 11.92.043(2).

3.20 Court Monitoring

The guardian shall cooperate with the Superior Court Guardianship Monitoring Program by providing to the program's designee access to the incapacitated person for in-home visits and access to any information, available to the guardian, including medical records, relating to the incapacitated person.

3.21 Reimbursement of Fees to STEVENS County N/A

STEVENS County Superior Court is granted judgment against the guardianship estate of _____ in the amount of \$ _____ as reimbursement for:

- fees advanced by the county as payment for Guardian ad Litem services and/or
- filing fee previously waived.

3.22 VISITATION: Per the wish of Rubye Ames during trial and the Court's observation and testimony, the Court Orders the Guardian to work with Randall Ames or Darlene Ames for visitation with Rubye Ames and her other children (Wes Ames, Stan Ames, Merita Dysart, Arleta Parr), grandchildren and great grandchildren. To the extent possible it should be accomplished in Rubye's home. To the extent it is not possible, it should be scheduled outside of Rubye Ames' home and at a location without cost or expense to Rubye Ames. Those visits will occur without supervision but with coordination through the guardian. The guardian will be the communication link between Randall Ames or Darlene Ames about the visitation. Specifically, the guardian will coordinate visitation and the period of travel combined to take no more than two (2) hours in duration due to the fragility of Ms. Ames. The visitation will be no more than three (3) visiting days in any calendaring week (the beginning of the week is Monday. The last day of the week is Sunday.) The Guardian will have the authority to expand visitation to other family members of Rubye Ames at the Guardian's discretion.

3.23 RESTRAINT: The children of Rubye Ames are advised they should NOT have any discussion about any litigation or any issues that would later be brought up in litigation. This Court directs all children (Wesley Ames, Stan Ames, Merita Dysart, Arleta Parr, and Randall Ames) if there is a mention of litigation comments made during visitation as part of a litigation proceeding in Federal Court or any other court, I would direct a sanction be imposed on the violator. If the Guardian is a witness to any violation, then I direct the guardian to bring the concern to the court and the court will consider a vulnerable adult

protection order against said violator. The same restraint would apply to any grandchild or great grandchild in direct lineage to Rubye Ames children identified above.

3.24 ILLNESS / DEATH NOTIFICATION: if Rubye Ames becomes ill or passes away, Randall or Darlene Ames will notify the Guardian within 12 hours of her passing. The guardian is then directed to notify the remainder of Rubye's children within 12 hours of that notification. All children should be notified in less than 24 hours of Rubye Ames passing.

3.25 ESTATE PLANNING: The authority vests in the Guardian to make any arrangements, files an legal documents or financial documents, estate planning, changes in a Will, a new Will, burial or cremation services and funeral or celebration of life events that are consistent with the faith of Rubye Ames.

3.26 BENEFITS RESEARCH: The Guardian shall research what benefits, insurance benefits, Medicare, Medicaid, or other public benefits that might be available to Rubye to help pay for her expenses.

3.27 REPORTS TO GUARDIAN: See Transcript attached herein and incorporated by reference p.7, lines 1.4 and p.10, lines 5-10 for language.

3.28 LIMITATIONS AND RESTRICTIONS: The limitations and restrictions listed in Conclusions of Law, Section 2.4 are incorporated herein as part of this Order.

Dated: 06/01/2018


Judge/Court Commissioner
TIMOTHY B. FENNESSY

Presented by:

Wesley B. Ames
Signature of Petitioner

4154 Q Deer Creek Road
Address

760-815-4845

Signature of Rubye Ames Counsel

Address

*Telephone/Fax Number

Katherine Cooley
Signature of Guardian

PO BOX 10225
Address

509-869-4121
*Telephone/Fax Number

Lisa Malpass
Signature of Guardian ad Litem

601 W. Riverside, Suite 1900
Address

509-444-3315
*Telephone/Fax Number

WESLEY AMES
Printed Name of Petitioner, pro se

Valley, Washington 99181

wbames@gmail.com

CHRIS MONTGOMERY
Printed Name of Petitioner, pro se

Colville, Washington
City, State, Zip Code

Email Address

KATHERINE COOLEY
Print Name of Guardian CPG#13500

Spokane, WA 99208
City, State, Zip Code

KCOOLEY@VERITASGUARD.COM
Email Address

LISA A. MALPASS WSBA#34057
Print Name of Guardian ad Litem

Spokane, WA 99201
City, State, Zip Code

lam@winstoncashatt.com
Email Address

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF STEVENS

In Re:	}	
Guardianship of Ruby M. Ames	}	No. 17-04-00048-1

HONORABLE TIMOTHY B. FENNESSY
VERBATIM REPORT OF PROCEEDINGS
MAY 18, 2018 - EXCERPT

APPEARANCES:

FOR THE PETITIONER: WESLEY AMES
 Appearing Pro Se

FOR THE RESPONDENT: CHRIS A. MONTGOMERY
 Attorney at Law
 287 E. Astor Avenue
 Colville, Washington 99114

GUARDIAN AD LITEM: LISA MALPASS
 Attorney at Law
 601 W. Riverside Avenue, Ste. 1900
 Spokane, Washington 99201

Amy Wilkins, CSR No. 679, CCR No. 2157
Official Court Reporter
1116 W. Broadway, Department No. 11
509-477-3869
Spokane, Washington 99260

1 FRIDAY, MAY 18, 2018 - EXCERPT -

2 THE COURT: All right. I, in looking at the petition
3 for guardianship, or for appointment of a guardian as a result
4 of this petition based on the evidence that I had presented to
5 me this week, I don't believe that there's any question that
6 Rubye Ames is, in fact, a vulnerable adult and is in need of a
7 guardian. I think that when we began this process, the court
8 was asked by both sides to ignore or address the ongoing
9 complications and problems between two sides of this family
10 that have been going on for at least since 2011. I think I
11 heard all the way back to 2010. And I've attempted to do that
12 to the best of my ability, recognizing that in, I believe it
13 was 2012 -- strike that, 2011, Rubye Ames signed a document
14 appointing Wes Ames as attorney in fact under a durable power
15 of attorney for financial and healthcare decisions and
16 nomination as a guardian, a document that was presented by the
17 defense at Exhibit D-106. Not terribly long after that there
18 was another one signed, I believe the date is 2013, appointing
19 Arleta Parr as attorney in fact and providing a durable power
20 of attorney.

21 It's not clear to the court yet, quite honestly, what
22 actions were taken between 2013 when that was signed and the
23 present under the auspices of the power of attorney, and I
24 don't think I have to determine that. I don't think it makes
25 any difference to me.

1 There is testimony in this case that at times Rubye
2 was more or less competent. There were -- there's testimony
3 that she needed more or less help. There's testimony that in
4 that time frame, she precipitously lost 40 pounds of weight. I
5 don't know what that's from, and I don't know what impact that
6 had on her physical or mental capacity. But the testimony has
7 been presented, and it's recognized by the court that some
8 actions have been taken by Arleta Parr and by Randall Ames in
9 that time frame from the date of the power of attorney under
10 the auspices of the power of attorney. There's no question
11 that that has occurred more often in the most recent time
12 frames. I think Ms. Parr testified within the past year, year
13 and a half, without giving it a bright line. And again, I
14 don't think for purposes of this proceeding a bright line is
15 necessary.

16 In any event, I find that Rubye Ames is in need of a
17 guardian. And I find that the present arrangement with regard
18 to a durable power of attorney, from the testimony provided, is
19 unworkable. And by that I mean it doesn't -- it's not clear to
20 the court that there has been clarity in the actions under the
21 durable power of attorney, and in fact that was made
22 particularly clear when Mr. Montgomery submitted, this
23 afternoon, a pleading asking the court in a supplemental brief
24 to include in the order direction to Arleta Parr to open -- or
25 to have POA included on checks. And again I don't think that's

1 the court's purview. I think that's whatever the person's
2 relationship is with their own bank.

3 So, I find that a guardian is necessary, and I am
4 going to recommend, I'm going to appoint a certified
5 professional guardian. There is a list on the Washington
6 Courts website with a variety of certified professional
7 guardians available. I'm going to recommend to the parties
8 that you consult, find someone who's willing to act in Stevens
9 County in this matter. That guardianship does not require, in
10 my opinion and in this decision, Rubye Ames to move. And it
11 certainly does not require that there be any day-to-day
12 financial activity of the guardian. That is all to be
13 determined by the guardian, in terms of how he or she wishes to
14 interact with Ms. Parr, and how he or she wishes to accomplish
15 the reporting that is necessary under the guardianship.

16 It is my direction that the guardian will work with
17 Randall Ames and Darlene Ames for visitation with Rubye Ames of
18 other family members. And by family members I mean all of her
19 children, all of Rubye's children, as well as all of their
20 children, and any of her great-grandchildren as well. And to
21 the extent that it is possible, that should be accomplished in
22 Rubye's home. To the extent that it is not possible it should
23 be scheduled outside of Rubye's home and at a location without
24 cost or expense.

25 Those visits should occur without supervision but

1 with coordination through the guardian. And that guardian will
2 be the communication link between Randall and Darlene about
3 those -- the visitation. It will be the court's direction to
4 the guardian that the visitations and the period of travel
5 should take no longer than two hours, because it's apparent to
6 the court that Rubye's physical reserves are limited. And
7 there should be no more than three visiting days in any
8 calendar week. I don't want to put some sort of burden on
9 Rubye, but I do want to make it available to her to see those
10 children as well as grandchildren and great-grandchildren, an
11 interest that she expressed not only to the guardian ad litem,
12 as contained in the report, but on the stand here.

13 I will direct that all of her children are advised
14 they should not have any discussion about any litigation or any
15 issues that would later be brought up in litigation. And I
16 will direct that all children be advised should there be a
17 mention of a comment made during visitation as part of a
18 litigation proceeding in front of Judge Rice in the federal
19 court or in front of me in this court, that it would be my
20 request of Judge Rice that that be sanctioned, and it would be
21 my intention in this court that that action be sanctioned. I
22 will also recommend to Judge Rice and direct the parties that
23 if your children violate that order, the sanction will be
24 imposed on Rubye's children. And if any great-grandchildren
25 were to violate that direction, that would likewise be visited

1 on Rubye's child that is the direct lineage of that
2 great-grandchild.

3 I will direct that Mrs. Ames, Rubye Ames, should not
4 sign any further legal documents or binding contracts without
5 advance direction from the court, and I will make that
6 applicable from today, May 18, 2018, moving forward.

7 To the extent that there is a need for a guardian ad
8 litem to seek or to direct further litigation or settlements of
9 any matters currently pending, I would -- I will appoint such a
10 guardian ad litem, and I will consider whether or not Ms.
11 Malpass can, under her license and under her experience in this
12 case, serve that position or not. And I would appreciate input
13 from her as well as from counsel.

14 The guardian will also, the certified guardian that
15 I'm appointing in this case, will be required to make any
16 arrangements, file any legal documents or financial documents,
17 estate planning, if there's going to be a will, a change of
18 will, burial or cremation services as well.

19 Any outside funds that are presently known or held
20 outside of Rubye's bank account with Arleta Parr at the Bank of
21 America shall be transferred, and it would be my
22 recommendation, actually my direction to Arleta Parr, that
23 there be a new bank account opened with all current funds and
24 all future funds, income that would be Rubye's income, be
25 placed into that account.

1 I will authorize Arleta Parr to keep all deposits and
2 expenses that are incurred for the benefit of Rubye Ames with a
3 quarterly update to the guardian, unless the guardian wishes
4 more frequent reporting. And I'm certainly -- there's
5 authorization for the regular tithing that has been established
6 or can be established in the past, as well as any recurring
7 liabilities.

8 I will ask the guardian not to delegate any duties of
9 the guardian to family members. And I will ask the guardian to
10 provide to the court some accounting with which to establish
11 the appropriate payment by Rubye Ames for food, utilities, auto
12 expenses, insurance, cable television, and other expenses or
13 payments that the guardian sees as necessary. Arleta Parr is
14 authorized to provide that information to the guardian so that
15 the guardian has some information from which to make that
16 decision.

17 In the event Rubye Ames is -- becomes ill or passes
18 away, whoever is living with her -- and I assume that she will
19 continue to live with Randall Ames and his family -- they are
20 directed to notify the guardian within 12 hours of Rubye's
21 passing, and the guardian is directed to notify the remainder
22 of Rubye's children within 12 hours of that notification. So
23 that all children should know, not less than 24 hours -- within
24 not less than 24 hours, of Rubye's passing.

25 I would also ask the guardian to research what

1 benefits, insurance benefits, Medicare/Medicaid, other public
2 benefits that might be available to Rubye to help pay for her
3 expenses, if any, based on what the guardian discovers in this
4 matter.

5 I want to recognize for this process that I have
6 heard from Ms. Malpass, that I heard from Rubye Ames, I heard
7 testimony from each side of the family, and I heard testimony
8 from Dr. Mabee and Dr. Boone. And the testimony that I relied
9 on the most were the testimony of Lisa Malpass, Rubye Ames,
10 Scott Mabee, and Tom Boone. The family members are, as I've
11 heard represented by other counsel in other matters and as I
12 observed in this courtroom, so at odds with one another that,
13 frankly, I don't know where the truth lies.

14 And it is bothersome to sit here and have that
15 question and that wonder, but it's not my job to decide that
16 one side is right and one side is wrong. And it's not my job
17 to determine that in this matter. What I can determine in this
18 matter is that Rubye Ames is interested and deserves to have a
19 relationship in the time that she has left with all of her
20 children, with all of her grandchildren, and with all of her
21 great-grandchildren, if possible.

22 Mr. Wesley Ames, do you have any points of
23 clarification that you would like from the court?

24 MR. AMES: Only one, Your Honor. You had mentioned
25 the children, grandchildren and great-grandchildren. There was

1 also expressed a desire to meet with other relatively close
2 relatives, specifically three nieces. Could those be added?

3 THE COURT: I don't know who they are.

4 MR. AMES: Those were Ruth Yaw, Arlene Hanson and
5 Laweta (phonetic) Medford. Arlene Hanson did testify by
6 telephone.

7 THE COURT: I'm not going to include that in the
8 order. I think that that will be up to the guardian. I will
9 direct that the guardian can evaluate that, and if the guardian
10 has a position in that regard, after having a conversation with
11 those individuals as well as with Rubye, that that could be
12 authorized if there is, in fact, any resistance to making those
13 arrangements. But I'm not inclined to add additional and
14 additional and additional, because as I've already indicated,
15 I'm not certain that Rubye has long. And I'm not certain that
16 we're going to get everybody that wants to visit with her an
17 opportunity to visit with her, and I think it's most important
18 for the direct descendents at this point.

19 MR. AMES: Thank you, Your Honor. Thank you for the
20 clarification.

21 THE COURT: Mr. Montgomery, would you like any points
22 of clarification?

23 MR. MONTGOMERY: Just minorly, Your Honor. I was a
24 little bit confused about the financial part of it. So are you
25 envisioning that Arleta Parr would continue to handle the

1 banking but under the supervision of the guardian?

2 THE COURT: I am.

3 MR. MONTGOMERY: Okay. That's the clarification I
4 wanted.

5 THE COURT: Yes. I'm anticipating that she wouldn't
6 need to change anything except she will have at least quarterly
7 reports to the guardian so that the guardian can monitor and
8 ask appropriate questions about what has happened, why it's
9 happened, and can direct whether it should happen -- should
10 have happened and correct it if it shouldn't.

11 MR. MONTGOMERY: Okay.

12 THE COURT: All right.

13 Ms. Malpass, do you have any points of clarification?

14 MS. MALPASS: Yes, I do. From the time from today
15 until the appointment of a CPG, I would like to know my role
16 with respect to that, for one, on whether or not I will assume
17 the necessity. And then the time frame from the time that
18 somebody is appointed after today, for Ms. Arleta Parr to make
19 sure she's still flowing if she has no supervision on that
20 period of time, if she's okay to continue to pay usual and
21 customary payments, until there is that appointment.

22 And three, the fees and costs associated with the
23 guardian ad litem work. I just need to present that
24 information to the court on whether there is less than \$3,000
25 in assets, which would be county pay, or if it's private pay,

1 how those fees and costs will be apportioned.

2 THE COURT: As it relates to the first, I would
3 expect that your role is to make sure that the parties are able
4 to work together and find a certified professional guardian and
5 to assist them to the extent that they need assistance in
6 drafting an order to reflect the court's decision.

7 I would expect that we'll have, if we cannot reach an
8 agreement, that we should note this matter for presentment on
9 June the 1st.

10 MS. MALPASS: Thank you, Your Honor.

11 THE COURT: Second, yes, I think that Ms. Arleta Parr
12 is, at least from the court's perspective, is entitled to
13 continue making customary and regular payments from the account
14 that she presently has until the court appointment can occur,
15 which I would hope would be not later than June 1st.

16 And as it relates to the guardian ad litem work, I
17 can't -- I don't know the answer to that right now.

18 MS. MALPASS: Sure.

19 THE COURT: I have authorized, my recollection of
20 your most recent order, was up to 90 hours, which included some
21 portion of this week. Not all of it, I recognize that. And I
22 don't know where we are with regard to how close we are to the
23 public pay versus private pay and the appropriate
24 apportionment. I would look to you for some input in that
25 regard, along with an application for an extension of the

1 additional time that you have expended here this week, being of
2 assistance not only to the court but to the parties as well as
3 the supervision that may occur over the next two-week period
4 with regard to drafting the order, presenting the order, and
5 finding a CPG.

6 MS. MALPASS: Thank you.

7 THE COURT: Thank you. Mr. Wes Ames.

8 MR. AMES: I was just contemplating whether there
9 could be provision for -- a provision for a very soon
10 visitation, because this process of appointing the CPG and then
11 getting set up for visitation in view of our mother's, you
12 know, decline, you know, it's going to really be cutting into
13 the opportunities.

14 THE COURT: And I don't disagree with that. But I
15 really resist the idea that I have anything to do with that.
16 So, no, I'm not making any additional provisions. The evidence
17 that was presented here makes it imperative that there be
18 structure in place, because it appears to this court that you,
19 your brother, and your brother and sister can't get along. And
20 it bothers me. And I think it should bother you. So, no, I'm
21 not going to make some artificial provision so that somebody
22 can march back here, one side or the other, and say they did
23 something wrong, Judge, when you weren't looking.

24 Anything further?

25 MR. MONTGOMERY: Nothing from me, Your Honor.

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MS. MALPASS: Do we have a time on June 1st?

THE COURT: Yeah. Let's set that.

All right. We'll set it for 3 o'clock June 1st.

MS. MALPASS: Thank you, Your Honor.

THE COURT: All right. Thank you all.

MS. MALPASS: Thank you.

MR. AMES: Thank you, Your Honor.

THE COURT: I will see you then if not before.

(Proceedings adjourned at 4:17 p.m.)

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C E R T I F I C A T E

I, AMY WILKINS, do hereby certify:
That I am an Official Court Reporter for the Spokane
County Superior Court, sitting in Department No. 11, at
Spokane, Washington;

That the foregoing proceedings were taken on the date and
place as shown on the cover page hereto;

That the foregoing proceedings are a full, true and
accurate transcription of the requested proceedings, duly
transcribed by me or under my direction.

I do further certify that I am not a relative of, employee
of, or counsel for any of said parties, or otherwise interested
in the event of said proceedings.

DATED this 22nd day of May, 2018.

AMY WILKINS, CCR No. 2187
Official Court Reporter
Spokane County, Washington

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF STEVENS

In Re:)
Guardianship of) No. 17-04-00048-1
Ruby M. Ames)

HONORABLE TIMOTHY B. FENNESSY
VERBATIM REPORT OF PROCEEDINGS
MAY 18, 2018 - EXCERPT

APPEARANCES:

FOR THE PETITIONER: WESLEY AMES
Appearing Pro Se

FOR THE RESPONDENT: CHRIS A. MONTGOMERY
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Colville, Washington 99114

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1116 W. Broadway, Department No. 11
509-477-3869
Spokane, Washington 99260

1 FRIDAY, MAY 18, 2018 - EXCERPT -

2 THE COURT: All right. I, in looking at the petition
3 for guardianship, or for appointment of a guardian as a result
4 of this petition based on the evidence that I had presented to
5 me this week, I don't believe that there's any question that
6 Rubye Ames is, in fact, a vulnerable adult and is in need of a
7 guardian. I think that when we began this process, the court
8 was asked by both sides to ignore or address the ongoing
9 complications and problems between two sides of this family
10 that have been going on for at least since 2011. I think I
11 heard all the way back to 2010. And I've attempted to do that
12 to the best of my ability, recognizing that in, I believe it
13 was 2012 -- strike that, 2011, Rubye Ames signed a document
14 appointing Wes Ames as attorney in fact under a durable power
15 of attorney for financial and healthcare decisions and
16 nomination as a guardian, a document that was presented by the
17 defense at Exhibit D-106. Not terribly long after that there
18 was another one signed, I believe the date is 2013, appointing
19 Arleta Parr as attorney in fact and providing a durable power
20 of attorney.

21 It's not clear to the court yet, quite honestly, what
22 actions were taken between 2013 when that was signed and the
23 present under the auspices of the power of attorney, and I
24 don't think I have to determine that. I don't think it makes
25 any difference to me.

1 There is testimony in this case that at times Rubye
2 was more or less competent. There were -- there's testimony
3 that she needed more or less help. There's testimony that in
4 that time frame, she precipitously lost 40 pounds of weight. I
5 don't know what that's from, and I don't know what impact that
6 had on her physical or mental capacity. But the testimony has
7 been presented, and it's recognized by the court that some
8 actions have been taken by Arleta Parr and by Randall Ames in
9 that time frame from the date of the power of attorney under
10 the auspices of the power of attorney. There's no question
11 that that has occurred more often in the most recent time
12 frames. I think Ms. Parr testified within the past year, year
13 and a half, without giving it a bright line. And again, I
14 don't think for purposes of this proceeding a bright line is
15 necessary.

16 In any event, I find that Rubye Ames is in need of a
17 guardian. And I find that the present arrangement with regard
18 to a durable power of attorney, from the testimony provided, is
19 unworkable. And by that I mean it doesn't -- it's not clear to
20 the court that there has been clarity in the actions under the
21 durable power of attorney, and in fact that was made
22 particularly clear when Mr. Montgomery submitted, this
23 afternoon, a pleading asking the court in a supplemental brief
24 to include in the order direction to Arleta Parr to open -- or
25 to have POA included on checks. And again I don't think that's

1 the court's purview. I think that's whatever the person's
2 relationship is with their own bank.

3 So, I find that a guardian is necessary, and I am
4 going to recommend, I'm going to appoint a certified
5 professional guardian. There is a list on the Washington
6 Courts website with a variety of certified professional
7 guardians available. I'm going to recommend to the parties
8 that you consult, find someone who's willing to act in Stevens
9 County in this matter. That guardianship does not require, in
10 my opinion and in this decision, Rubye Ames to move. And it
11 certainly does not require that there be any day-to-day
12 financial activity of the guardian. That is all to be
13 determined by the guardian, in terms of how he or she wishes to
14 interact with Ms. Parr, and how he or she wishes to accomplish
15 the reporting that is necessary under the guardianship.

16 It is my direction that the guardian will work with
17 Randall Ames and Darlene Ames for visitation with Rubye Ames of
18 other family members. And by family members I mean all of her
19 children, all of Rubye's children, as well as all of their
20 children, and any of her great-grandchildren as well. And to
21 the extent that it is possible, that should be accomplished in
22 Rubye's home. To the extent that it is not possible it should
23 be scheduled outside of Rubye's home and at a location without
24 cost or expense.

25 Those visits should occur without supervision but

1 with coordination through the guardian. And that guardian will
2 be the communication link between Randall and Darlene about
3 those -- the visitation. It will be the court's direction to
4 the guardian that the visitations and the period of travel
5 should take no longer than two hours, because it's apparent to
6 the court that Rubye's physical reserves are limited. And
7 there should be no more than three visiting days in any
8 calendar week. I don't want to put some sort of burden on
9 Rubye, but I do want to make it available to her to see those
10 children as well as grandchildren and great-grandchildren, an
11 interest that she expressed not only to the guardian ad litem,
12 as contained in the report, but on the stand here.

13 I will direct that all of her children are advised
14 they should not have any discussion about any litigation or any
15 issues that would later be brought up in litigation. And I
16 will direct that all children be advised should there be a
17 mention of a comment made during visitation as part of a
18 litigation proceeding in front of Judge Rice in the federal
19 court or in front of me in this court, that it would be my
20 request of Judge Rice that that be sanctioned, and it would be
21 my intention in this court that that action be sanctioned. I
22 will also recommend to Judge Rice and direct the parties that
23 if your children violate that order, the sanction will be
24 imposed on Rubye's children. And if any great-grandchildren
25 were to violate that direction, that would likewise be visited

1 on Rubye's child that is the direct lineage of that
2 great-grandchild.

3 I will direct that Mrs. Ames, Rubye Ames, should not
4 sign any further legal documents or binding contracts without
5 advance direction from the court, and I will make that
6 applicable from today, May 18, 2018, moving forward.

7 To the extent that there is a need for a guardian ad
8 litem to seek or to direct further litigation or settlements of
9 any matters currently pending, I would -- I will appoint such a
10 guardian ad litem, and I will consider whether or not Ms.
11 Malpass can, under her license and under her experience in this
12 case, serve that position or not. And I would appreciate input
13 from her as well as from counsel.

14 The guardian will also, the certified guardian that
15 I'm appointing in this case, will be required to make any
16 arrangements, file any legal documents or financial documents,
17 estate planning, if there's going to be a will, a change of
18 will, burial or cremation services as well.

19 Any outside funds that are presently known or held
20 outside of Rubye's bank account with Arleta Parr at the Bank of
21 America shall be transferred, and it would be my
22 recommendation, actually my direction to Arleta Parr, that
23 there be a new bank account opened with all current funds and
24 all future funds, income that would be Rubye's income, be
25 placed into that account.

1 I will authorize Arleta Parr to keep all deposits and
2 expenses that are incurred for the benefit of Rubye Ames with a
3 quarterly update to the guardian, unless the guardian wishes
4 more frequent reporting. And I'm certainly -- there's
5 authorization for the regular tithing that has been established
6 or can be established in the past, as well as any recurring
7 liabilities.

8 I will ask the guardian not to delegate any duties of
9 the guardian to family members. And I will ask the guardian to
10 provide to the court some accounting with which to establish
11 the appropriate payment by Rubye Ames for food, utilities, auto
12 expenses, insurance, cable television, and other expenses or
13 payments that the guardian sees as necessary. Arleta Parr is
14 authorized to provide that information to the guardian so that
15 the guardian has some information from which to make that
16 decision.

17 In the event Rubye Ames is -- becomes ill or passes
18 away, whoever is living with her -- and I assume that she will
19 continue to live with Randall Ames and his family -- they are
20 directed to notify the guardian within 12 hours of Rubye's
21 passing, and the guardian is directed to notify the remainder
22 of Rubye's children within 12 hours of that notification. So
23 that all children should know, not less than 24 hours -- within
24 not less than 24 hours, of Rubye's passing.

25 I would also ask the guardian to research what

1 benefits, insurance benefits, Medicare/Medicaid, other public
2 benefits that might be available to Rubye to help pay for her
3 expenses, if any, based on what the guardian discovers in this
4 matter.

5 I want to recognize for this process that I have
6 heard from Ms. Malpass, that I heard from Rubye Ames, I heard
7 testimony from each side of the family, and I heard testimony
8 from Dr. Mabee and Dr. Boone. And the testimony that I relied
9 on the most were the testimony of Lisa Malpass, Rubye Ames,
10 Scott Mabee, and Tom Boone. The family members are, as I've
11 heard represented by other counsel in other matters and as I
12 observed in this courtroom, so at odds with one another that,
13 frankly, I don't know where the truth lies.

14 And it is bothersome to sit here and have that
15 question and that wonder, but it's not my job to decide that
16 one side is right and one side is wrong. And it's not my job
17 to determine that in this matter. What I can determine in this
18 matter is that Rubye Ames is interested and deserves to have a
19 relationship in the time that she has left with all of her
20 children, with all of her grandchildren, and with all of her
21 great-grandchildren, if possible.

22 Mr. Wesley Ames, do you have any points of
23 clarification that you would like from the court?

24 MR. AMES: Only one, Your Honor. You had mentioned
25 the children, grandchildren and great-grandchildren. There was

1 also expressed a desire to meet with other relatively close
2 relatives, specifically three nieces. Could those be added?

3 THE COURT: I don't know who they are.

4 MR. AMES: Those were Ruth Yaw, Arlene Hanson and
5 Laweta (phonetic) Medford. Arlene Hanson did testify by
6 telephone.

7 THE COURT: I'm not going to include that in the
8 order. I think that that will be up to the guardian. I will
9 direct that the guardian can evaluate that, and if the guardian
10 has a position in that regard, after having a conversation with
11 those individuals as well as with Rubye, that that could be
12 authorized if there is, in fact, any resistance to making those
13 arrangements. But I'm not inclined to add additional and
14 additional and additional, because as I've already indicated,
15 I'm not certain that Rubye has long. And I'm not certain that
16 we're going to get everybody that wants to visit with her an
17 opportunity to visit with her, and I think it's most important
18 for the direct descendents at this point.

19 MR. AMES: Thank you, Your Honor. Thank you for the
20 clarification.

21 THE COURT: Mr. Montgomery, would you like any points
22 of clarification?

23 MR. MONTGOMERY: Just minorly, Your Honor. I was a
24 little bit confused about the financial part of it. So are you
25 envisioning that Arleta Parr would continue to handle the

1 banking but under the supervision of the guardian?

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6 need to change anything except she will have at least quarterly
7 reports to the guardian so that the guardian can monitor and
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10 have happened and correct it if it shouldn't.

11 MR. MONTGOMERY: Okay.

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14 MS. MALPASS: Yes, I do. From the time from today
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4 to work together and find a certified professional guardian and
5 to assist them to the extent that they need assistance in
6 drafting an order to reflect the court's decision.

7 I would expect that we'll have, if we cannot reach an
8 agreement, that we should note this matter for presentment on
9 June the 1st.

10 MS. MALPASS: Thank you, Your Honor.

11 THE COURT: Second, yes, I think that Ms. Arleta Parr
12 is, at least from the court's perspective, is entitled to
13 continue making customary and regular payments from the account
14 that she presently has until the court appointment can occur,
15 which I would hope would be not later than June 1st.

16 And as it relates to the guardian ad litem work, I
17 can't -- I don't know the answer to that right now.

18 MS. MALPASS: Sure.

19 THE COURT: I have authorized, my recollection of
20 your most recent order, was up to 90 hours, which included some
21 portion of this week. Not all of it, I recognize that. And I
22 don't know where we are with regard to how close we are to the
23 public pay versus private pay and the appropriate
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4 with regard to drafting the order, presenting the order, and
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8 MR. AMES: I was just contemplating whether there
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13 the opportunities.

14 THE COURT: And I don't disagree with that. But I
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16 So, no, I'm not making any additional provisions. The evidence
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21 not going to make some artificial provision so that somebody
22 can march back here, one side or the other, and say they did
23 something wrong, Judge, when you weren't looking.

24 Anything further?

25 MR. MONTGOMERY: Nothing from me, Your Honor.

1 MS. MALPASS: Do we have a time on June 1st?
2 THE COURT: Yeah. Let's set that.
3 All right. We'll set it for 3 o'clock June 1st.
4 MS. MALPASS: Thank you, Your Honor.
5 THE COURT: All right. Thank you all.
6 MS. MALPASS: Thank you.
7 MR. AMES: Thank you, Your Honor.
8 THE COURT: I will see you then if not before.
9 (Proceedings adjourned at 4:17 p.m.)

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C E R T I F I C A T E

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That the foregoing proceedings were taken on the date and place as shown on the cover page hereto;

That the foregoing proceedings are a full, true and accurate transcription of the requested proceedings, duly transcribed by me or under my direction.

I do further certify that I am not a relative of, employee of, or counsel for any of said parties, or otherwise interested in the event of said proceedings.

DATED this 22nd day of May, 2018.

AMY WILKINS, CCR No. 2187
Official Court Reporter
Spokane County, Washington

November 12, 2019 - 4:24 PM

Transmittal Information

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Appellate Court Case Title: Randall Shawn Ames v. Stanley Roy Ames
Superior Court Case Number: 18-2-00469-0

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