

NO. 66853-6-1

COURT OF APPEALS DIVISION ONE
OF THE STATE OF WASHINGTON

ALIXANDRA LIBIN

Appellant,

v.

STATE OF WASHINGTON DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Petitioner on behalf of Spencer Dolder

Respondents,

And

SPENCER DOLDER,

An Incapacitated Person,

And

Cynthia Maxwell

Guardian for Spencer Dolder

2012 JUL 24 PM 1:41
 COURT OF APPEALS DIV. 1
 STATE OF WASHINGTON
 CLERK

ALIXANDRA LIBIN, APPELLANTS REPLY

TABLE OF CONTENTS

I. INTRODUCTION.....1

ARGUMENT

II. APPELLANTS REPLY TO RESPONDENTS INTRODUCTION

A. Did the respondent correctly identify the circumstances which caused the state to file a petition for guardianship on behalf of Spencer Dolder.....6

B. Did the Respondent error in concluding that Alixandra Libin would harm herself or Spencer if Spencer were removed from her home?.....7

C. Does the respondent know the facts about Alixandra Libin’s efforts to petition for guardianship of Spencer Dolder?.....8

III APPELLANTS REPLY TO RESPONDENTS RESTATEMENT OF FACTS

D. Does the Respondent know the basis for the contention in the relationship between Thom Dolder, father of Spencer Dolder and Alixandra Libin, mother of Spencer Dolder?.....9

E. Does the Respondent understand the nature of Thom Dolder’s five year (5) lack of visitation with his son Spencer?.....10

Does the Respondent know the status of the Order of Child Support which stipulates that payment of Child Support is based on need and not on age?.....10

F. Does the Department of Social and Health Services understand the circumstances surrounding the allegations of neglect which include budget cuts enacted by the State of Washington and the behaviors of Thom Dolder in contempt of court orders?.....10

G. Is the Respondent aware of efforts by Alixandra Libin to establish a guardianship for Spencer Dolder in King County, and does the Respondent understand the circumstances which led to relocation to Skagit County.....11

H. Was the Guardian ad Litum actually involved in the acquisition of the medical report and does the Guardian ad Litum actually understand what the medical terminology is saying about Spencer Dolder? What impact did the lack of understanding of medical terminology have on the GAL’s recommendations?.....12

I. Has the Respondent falsely concluded that Alixandra Libin might harm Spencer Dolder if Alixandra Libin were not to be nominated to be Spencer’s guardian?.....13

IV. APPELLANTS REPLY TO RESPONDENTS
RESTATEMENT OF ISSUES

A. Appellants reply to Respondents assertions that Alixandra Libin lacks standing to challenge the Order of Guardianship.....15

B. Appellants reply to Respondents assertion regarding jurisdiction of the Appeal.....17

C. Appellants reply to Respondents assertion that Appellant did not request relief related to Vulnerable Adult Protection Order.....18

D. Appellants reply to Respondents assertion that the Vulnerable Adult Protection Order had expired.....	19
E. Appellants reply to Respondents assertions regarding appropriateness of guardianship for Spencer Dolder.	
1. Support For Determination.....	19
2. GAL duties.....	21
Did the Appellant confuse the submission of the Guardian ad Litum report to the court, with the testimony of a Guardian ad Litum, submitted at trial, in front of a jury?	
3. Spencer Dolder’s right to counsel.....	22
V. CONCLUSION.....	22
VI. RELIEF SOUGHT.....	25

APPENDIX

VII APPENDIX OF RCW’S

RCW 74.34.020 (12)

RCW 74.34.020 (c)

RCW 11.88.045 (b)

VIII APPENDIX OF AMENDMENTS TO THE RECORD

- AMENDMENT A Minute Order “The Court Finds that Thom Dolder did intentionally violate Court Orders.”
- AMENDMENT B Group Health Co Operative “Our records indicate that you (Spencer Dolder) do not have coverage with us at this time.”
- AMENDMENT C Receipt for consultation with Family Law Facilitator regarding Guardianship of Spencer Dolder prior to Spencer Dolder’s eighteenth birthday.
- AMENDMENT D Notes taken by Alixandra Libin while viewing required video on Guardianship, at King County Superior Court, prior to Spencer Dolder’s’ eighteenth birthday
- AMENDMENT E Photocopy of cover sheet for Guardianship Kit purchased by Alixandra Libin at King County Superior Court prior to Spencer Dolder’s eighteenth birthday.

AMENDMENT F Photograph of Spencer Dolder prior to living at Adult Family Home.

AMENDMENT G Photograph of Spencer Dolder living at Adult Family Home. Date of photograph 5-12- 2012.

TABLE OF AUTHORITIES

Guardian ad Litum Report at page 5.....7
Guardian ad Litum Report at page 5.....10
Guardian ad Litum Report at page 5.....14
Guardian ad Litum Report at page 5.....22

STATUTES

RCW 74.34.020 (12).....20
RCW11.88.045.....22
RCW 74.34.(c).....24

I. INTRODUCTION

The appeal of the Guardianship of Spencer Dolder is the result of the failure by the State of Washington to protect Alixandra Libin, the Appellant, and by extension her son Spencer Dolder, from Foreclosure Rescue Fraud, and failure by the State of Washington to provide require medication for Spencer Dolder. The introduction of this Reply Brief will detail the events which precipitated the States Petition to Appoint a Guardian for Spencer Dolder, as well as the actions of Alixandra Libin to Petition to be Appointed the Guardian of Spencer Dolder, prior to the State filing its petition.

The respondent's brief states, "The relationship between Thom Dolder, father of Spencer, and Ms. Libin was strained at best." The fact that the relationship between Thom Dolder and Alixandra Libin was strained is due largely to the behavior of Thom Dolder. Alixandra Libin did address this issue during the guardianship hearing.

rp.; 1-7-2011, p. 6 at line 5

The events which led to the VAPO and to the current guardianship are best described as a state of constant tribulation for Alixandra Libin and Spencer Dolder by extension. Thom Dolder, father of developmentally disabled Spencer Dolder, does himself suffer from learning disabilities. As a result of his comprehension issues, Thom Dolder is unable to understand that he must adhere to the same rules which apply to other people. Thom Dolder has in fact violated three different court orders.

The first court order which Thom Dolder violated had to do with the business he jointly owned with Alixandra Libin before their divorce. See VIII Appendix, Amendment A of Amendments to the Record.

The second court order which Thom Dolder violated had to do with Spencer Dolder's court ordered medical coverage, which Thom Dolder failed to maintain. Cancellation of Spencer Dolder's court ordered medical coverage was the underlying cause of injuries to Spencer. See VIII Appendix, Amendment B of Amendments to the Record.

The third court order which Thom Dolder, willfully violated occurred during the course of the divorce procedure, and related to the family home in Seattle. Thom Dolder did not make the court ordered house payments during the period prior to transfer of title, causing the original lender to begin foreclosure proceedings. Thom Dolder also failed to execute a Quick Claim Deed in the allotted time. These actions caused the lender which Alixandra Libin had secured to refinance the family home to withdraw. These actions subsequently led to foreclosure and to Foreclosure Rescue Fraud. Alixandra Libin did address this matter in court, rp.; 2-18-2011, p.7, at line16.

Alixandra Libin spent the next several years engaging every legal and financial resource available, to prevent the loss of the Seattle home, which she had hoped to retain as a life long home for Spencer.

Ultimately this long struggle ended abruptly, with the house being sold, and a chaotic forced relocation. Due to circumstances

related to the sale of the home, Alixandra Libin was not in control of her own moving process. Life for Alixandra and Spencer at this time can only be described as extremely disordered, with complete strangers coming into the home and blithely tossing this that and every other thing, randomly into boxes.

Regrettably, these events coincided with the time of Spencer's eighteenth birthday. Alixandra Libin did go to the King County Superior Court and met with the Family Law Facilitator to learn about the guardianship process. See VIII Appendix, Amendment C of Amendments to the Record. Alixandra Libin also viewed the required Video on Guardianship several times taking notes. See VIII Appendix, Amendment D of Amendments to the Record. In addition, Alixandra Libin did purchase the guardianship kit. See VIII Appendix, Amendment E of Amendments to the Record.

For the sake of clarity, the sequence of events is as follows:

1. Thom Dolder filed a Petition for Dissolution 7-30-2003
2. Divorce became final 5-13-2005
3. Thom Dolder failed to make court ordered mortgage payments for May thru August 5-5-2005
4. Lender began foreclosure proceedings 8-12-2005
5. Foreclosure Rescue Fraud perpetrated by financial advisor to Alixandra Libin 9-5-2005
6. House Sold due to Foreclosure Rescue Fraud 5-10-2010
7. Relocation to LaConner Washington. 5-24-2010

The allegation of neglect was in fact a direct result of the aforementioned circumstances which were completely outside the control of Alixandra Libin. The neglect allegation was also related to

budget cuts enacted by the State of Washington. These budget cuts did have a direct impact on the availability of Spencer's required medication. The following is a concise account of the events which placed Alixandra Libin in a position where there was no acceptable option available.

The Allegation of Neglect

The Facts

First Fact Spencer Dolder, secondary to being Hypo Thyroid has Reflux, Dysphasia, and Gastritis. Spencer Dolder does require medication for Reflux. Without this medication, Spencer Dolder does become dehydrated and will require hospitalization.

Second Fact The allegation of neglect is secondary to revenue shortfalls which caused the State of Washington to make cuts to the budget.

THE CIRCUMSTANCES

Circumstances Beyond The Control Of Alixandra Libin

First Circumstance While Spencer Dolder was at school Alixandra Libin went to the pharmacy to pick up the medication required to control Spencer's reflux.

Second Circumstance At the pharmacy, the pharmacist informed Alixandra Libin that approval for the required medication had been denied, by the State of Washington.

Third Circumstance Alixandra Libin then left the pharmacy for her home, since was it almost time for Spencer to be arriving home from

school, on the school bus.

Forth Circumstance Alixandra Libin did planned to return to the pharmacy once Spencer's respite provider arrived. Spencer's respite provider was scheduled to arrive at the same time that the school bus arrived.

Fifth Circumstance Spencer's state mandated respite provider failed to come to work.

Sixth Circumstance Due to Foreclosure Rescue Fraud, the Seattle home of Alixandra Libin and Spencer Dolder had been sold and Alixandra and Spencer were in the process of moving. As a result, Alixandra Libin's vehicle was completely filled with household goods. Therefore, there was no room in the vehicle to seat Spencer.

Seventh Circumstance During the packing, preparation and chaos of suddenly being forced to move, Spencer had gained access to his favorite "toy", which is the telephone. Consequently the telephone was broken.

Double Bind With no respite, no telephone, and no room in the completely fill vehicle to put Spencer, Alixandra Libin was in a double bind. Without the reflux medication Spencer would suffer and require hospitalization. The choice was to allow Spencer to suffer, or dash back to the pharmacy to get the medication.

Alixandra Libin did go to the pharmacy to get the medication and for the reasons stated, could not take Spencer with her. In total Spencer was alone for less than twenty minutes.

Note: If Spencer Dolder had been denied the medication, and then had required hospitalization, the Department of Social and Health Services might have concluded that Alixandra Libin had abused Spencer.

ARGUMENT

II. APPELLANTS REPLY TO RESPONDENTS INTRODUCTION

A. Did the respondent correctly identify the circumstances which caused the state to file a petition for guardianship on behalf of Spencer Dolder?

The Respondent states in the introduction that the Department of Social and Health Services filed a Guardianship Petition for Spencer Dolder on July 21, 2010 in Skagit County Superior Court. The Respondent also states Ms. Libin, the Appellant, was not a party to the guardianship proceeding and that the Appellant, Alixandra Libin did not seek to intervene in the proceeding.

These statements do reflect that the Respondent is unaware of the circumstances which brought the Appellant, Alixandra Libin and her son Spencer Dolder, to Skagit County or the events which coincided with the relocation. As detailed in the Introduction at pages 3 thru 6, both the allegation of neglect and the efforts of Alixandra Libin to Petition to be Appointed as Spencer's guardian did take place in King County. Due to the fact that Alixandra Libin had taken the preliminary steps to initiate the guardianship process, Alixandra Libin, is in fact a party to the guardianship proceeding.

Alixandra Libin did in fact seek to intervene during the guardianship proceeding. During the guardianship hearing, at Skagit

County Superior Court, rp.; 1-7-2011, p. 19 at line 4. Alixandra Libin did object. However, the court did not address Alixandra Libin's objection.

B. Did the Respondent error in concluding that Alixandra Libin would harm herself or Spencer if Spencer were removed from her home?

The Respondent also states that the Vulnerable Adult Protection Order requested supervised contact between Alixandra Libin and her son Spencer Dolder based on concerns reported to the Guardian ad Litem that Ms. Libin would harm herself or Spencer if Spencer were to be removed from her home.

Actual events dispute this concern, which is a fact that is known to the Respondent. As stated by Sarah Reyes from the Attorney General's office in open court rp.; 12-10-2010, p. 4 at line 18, "he has been transitioned into an adult family home and it went smoothly, with Ms. Libin helping with medication and all these different things yesterday." Emphasis Added.

The fact, is that Guardian ad Litum, repeated allegations made by Thom Dolder, father of Spencer Dolder, who had not seen Spencer in five (5) years. Gal Report at page 5. The Appellant, Alixandra Libin, mother of Spencer, is not aware of any effort having been made by the Guardian ad Litum to verify the reiterated information, insinuated by Thom Dolder, in any way. Using reiterating allegations, from a questionable source, more than five years out of touch, as the basis for a Vulnerable Adult Protection Order, without independent verification of the questionable information, is at best it irresponsible.

In addition, only passing consideration has been given to the letters of support from professionals regarding the care Spencer received from his mother, or other easily verifiable information.

The fact is that Alixandra Libin had faithfully and successfully cared for her medically complex son Spencer, for eighteen years. The notion that Alixandra Libin would harm the person she has devoted her life, love, and passion to, and whom she had also on more than one occasion nursed back to health from the edge of death, is not just counter intuitive and illogical, it is egregiously fallacious.

C. Does the respondent know the facts about Alixandra Libin's efforts to petition for guardianship of Spencer Dolder?

The Respondent contends that Alixandra Libin lacks standing to seek review of the guardianship order. As stated above, and in the Introduction at page 3, Alixandra Libin had initiated the guardianship process. Forced relocation, a circumstance completely beyond the control of Alixandra Libin, interrupted the process. The state filed its petition, during the time when Alixandra Libin was getting herself and Spencer resettled in LaConner.

The Respondent also contends that appeal of the guardianship order is untimely and should be dismissed.

Alixandra Libin is a ProSe Appellant having been wholly unsuccessful in every effort to secure legal counsel. The fact that Alixandra Libin did try to find legal assistance is well known to the court. rp.; 1-7-2011, p.5, at line 24, rp.; 2-18-2011, p. 5 at line 16, rp.; 2-18-2011, p. 6 at line 11.

Given that there was a court date following the appointment of the guardian, Alixandra Libin who did not have the benefit of legal guidance, logically filed an appeal after the final court date.

III APPELLANTS REPLY TO RESPONDENTS RESTATEMENT OF FACTS

D. Does the Respondent know the basis for the contention in the relationship between Thom Dolder, father of Spencer Dolder and Alixandra Libin, mother of Spencer Dolder?

The Respondent states, "The relationship between Thom Dolder, father of Spencer, and Ms. Libin was strained at best."

This statement is correct. The relationship between Thom Dolder and Alixandra Libin was in fact strained, due largely to the actions of Thom Dolder, who violated court orders and harassed Alixandra Libin using CPS. rp.; 1-7-2011, p. 6 at line 5. Introduction at pages 2 and 3.

E. Does the Respondent understand the nature of Thom Dolder's five year (5) lack of visitation with his son Spencer?

Does the Respondent know the status of the Order of Child Support which stipulates that payment of Child Support is based on need and not on age?

The Respondent also states, "The father did not have regular visitation in the five years prior to the guardianship proceedings, although he paid child support to Ms. Libin in the amount of \$1000 per month, continuing past Mr. Dolder's eighteenth birthday."

The information here is fundamentally correct. However, there are misrepresentations and omissions. The fact is, Thom Dolder chose not to have regular visitation with Spencer. GAL report at page 5.

The issue of visitation is in fact separate from child support. In the case of Spencer, child support is based on need and not on age. The order of child support states, “The parties understand that due to the child’s health condition and disabilities the child shall remain dependent upon both parents for support during his entire lifetime. Support shall continue as long as the child remains dependent upon the parents and remains in the mother’s primary care and residence.” Emphasis Added.

The fact that Thom Dolder was required to pay child support for Spencer whom he had abandoned is the motivation behind his harassment of Alixandra Libin. rp.; 1-7-2011, p. 6 at line 5. Not only did Thom Dolder violate court orders on three separate occasions, he also made numerous unfounded reports to CPS.

F. Does the Department of Social and Health Services understand the circumstances surrounding the allegations of neglect, which include budget cuts enacted by the State of Washington, and the behaviors of Thom Dolder in contempt of court orders?

The Respondent states, “The Department of Social and Health Services, determined that Ms. Libin had neglected Spencer by leaving him unattended at his home while she went out to run errands, despite the fact that he needed continuous care.” Emphasis Added.

This statement is a gross simplification of facts and events. The fact is that the neglect allegation was a single occurrence, Emphasis Added, which would not have happened if the State of Washington had not denied approval for Spencer’s medication, and his state mandated

respite provider had not failed to come to work, and Alixandra Libin and Spencer had not been the victims of Foreclosure Rescue Fraud. For a complete review on these events, see the Introduction at pages 3 thru 6.

G. Is the Respondent aware of efforts by Alixandra Libin to establish a guardianship for Spencer Dolder in King County, and does the Respondent understand the circumstances which led to relocation to Skagit County?

The Respondent further states, “The Department subsequently filed a guardianship petition on behalf of Mr. Dolder pursuant to RCW 74.34.067(5) in King County Superior Court on June 8 2010. Ms. Libin relocated herself and Mr. Dolder to Skagit County shortly thereafter.

This statement is not accurate. Relocation to Skagit County occurred on May 20th 2010 after losing the family home in Seattle due to Foreclosure Rescue Fraud, which was secondary to the actions of Thom Dolder, in violation of court orders, Introduction, pages 1 thru 3.

In addition, it should be noted that the Attorney General’s office failed to protect Alixandra Libin, and by extension Spencer Dolder, from Foreclosure Rescue Fraud. In a rush to judgment, followed by a vault to action, and without properly investigating the financially motivated allegations, the Attorney Generals office has, whether by intention or not, punished the victims.

The Respondent structures her statement, to sound as if relocation

to Skagit County, was done in avoidance of establishing a guardianship. Appendix VIII, Amendment C, D, and E, Amendments to the Record, stand in contrast to such a notion.

In addition Alixandra Libin did start the process of petitioning for guardianship in King County. Introduction at pages 1 and 3. However, this process was interrupted by the sudden loss of the family home in Seattle, and forced relocation to Skagit County.

H. Was the Guardian ad Litum actually involved in the acquisition of the medical report and does the GAL actually understand what the medical terminology is saying about Spencer Dolder? What impact did the lack of understanding of medical terminology have on the GAL's recommendations?

With regards to the Guardian ad Litum, the Respondent states, "Mr. Yates completed his investigation for the court, contacting Spencer's current medical doctor, Mr. Dolder's parents and Spencer's Division of Developmental Disabilities Caseworker."

Mr. Yates did complete his investigation with input from the aforementioned. However, the only interaction Mr. Yates had with Spencer's doctor or medical team, was to write a letter regarding the necessity of a medical examination, for the purposes of establishing a guardianship.

Mr. Yates did inform Alixandra Libin that she had to take Spencer to see his doctor, and get the medical forms filled out and signed. Mr. Yates did impose a deadline for getting the form filled out

and signed. The imposed urgency did mean that Spencer was not seen by his regular doctor, and that Alixandra Libin did not get to discuss the matter with any of Spencer's regular medical team members.

If Mr. Yates had actually talked with Spencer's medical team, he might have discovered the exact significance of Hypo Thyroidism, and Hypo Para Thyroidism, and the impact that Hypo Para Thyroidism has on blood calcium levels and bone calcification. A basic knowledge of these medical issues, would likely have led to a concise and accurate assessment of inferences made by Thom Dolder regarding "harming Spencer". Emphasis Added.

I. Has the Respondent falsely concluded that Alixandra Libin might harm Spencer Dolder if Alixandra Libin were not to be nominated to be Spencer's guardian?

The Respondent states, "Just prior to filing the Guardian ad Litem report, the State, on behalf of Mr. Dolder, requested that a Protection Order be issues under a separate cause number to protect Mr. Dolder from Ms. Libin in the event she had a severe reaction to the Guardian Ad Litum report which would recommend against Ms. Libin serving as Guardian."

As previously addressed in the Reply to Respondents Introduction, the actual events dispute this concern. This is a fact that is known to the Respondent. As stated by Sarah Reyes from the Attorney General's office in open court rp.; 12-10-2010, p. 4 at line 18, "he has been transitioned into an adult family home and it went smoothly, with Ms. Libin helping with medication and all these different things yesterday." Emphasis Added.

The source of repeated concerns about Alixandra Libin harming Spencer are patently unfounded. The source of the idea that Alixandra Libin would harm Spencer has not been identified.

However, as stipulated in the Order of Child Support, Thom Dolder would benefit, and has benefited financially, by the removal of Spencer Dolder from the care of Alixandra Libin, his mother.

In addition, no consideration has been given to easily verifiable information which does stand in contradiction to the respondent's absurd assertion. The fact is that Alixandra Libin had faithfully and successfully cared for her medically complex son Spencer, for eighteen years. While in the care of his mother, Spencer exceeded the expectations of doctors and therapists. The notion that Alixandra Libin would undo years of hard work is ridiculous.

The fact is, the court allowed a guardian to be appointed, based on a Guardian ad Litum Report, which referenced questionable information. The Guardian ad Litum repeated allegations made by Thom Dolder, father of Spencer Dolder, who had not seen Spencer in five (5) years. Gal Report at page 5. The fact is, that the Guardian ad Litum based his recommendation on a questionable source, five years out of touch, and did not seek to verify this information in any way. This is not only improper, it is a disservice to Spencer, and it is damaging. See VIII Appendix, Amendment G, Amendments to the Record.

IV. APPELLANTS REPLY TO RESPONDENTS RESTATEMENT OF ISSUES

A. Ms. Libin lacks any standing to challenge the Order on Guardianship.

Alixandra Libin who is the mother and lifelong, until 12-9-10, care provider of Spencer Dolder, had started the process of Petitioning to be Appointed as Guardian of Spencer Dolder, Introduction at pages 1 and 2, prior to forced relocation to Skagit County.

In early February of 2010, prior to Spencer's eighteenth birthday, Alixandra Libin did go to the King County Superior Court and met with the Family Law Facilitator regarding the guardianship process. VIII Appendix, Amendment C of the Amendment to the Record, is a copy of the receipt for consultation with the Family Law Facilitator. Notes from viewing the required Guardianship Video, are presented in VIII Appendix, Amendment D of the Amendment to the Record.

Alixandra Libin also did purchase the Guardianship Kit containing the application forms and all of the other related forms required to perform the job of guardian. Photocopy of the cover page of the Guardianship Kit, is presented in VIII Appendix, Amendment E of the Amendment to the Record.

As stated in the Introduction, on pages 2 and 3, the Attorney General's office failed to protect Alixandra Libin, and by extension Spencer Dolder, from Foreclosure Rescue Fraud. This resulted in a chaotic forced relocation to Skagit County, and interrupted every aspect of normal life. Consequently, filing the Petition for Guardianship was interrupted by the necessities of daily life and caring for Spencer.

Alixandra Libin does have standing to appeal not only because she had started the process to Petition for Guardianship, but also

because she has a pecuniary interest. Alixandra Libin has suffered financial loss and personal harm due to the appointment of the current guardian.

When Spencer turned eighteen years of age Alixandra Libin became a paid parent provider. Alixandra Libin has lost this income.

Alixandra Libin has also suffered personal harm as a result of the mental anguish she has experienced as she watches Spencer deteriorate and lose skills he once had. When not in school Spencer's time is spent sitting in a chair in the Adult Family Home where he lives with three elderly women and a woman in her mid thirties. The only activity at the Adult Family Home is watching television. Spencer has never shown any interest in watching television.

Spencer is board and showing signs of extreme distress. He now engages in a disturbing self stimulating behavior. Spencer places his hand underneath the large plastic bib which he is required to wear, and stuffs a large amount of the plastic material into his mouth, and then rubs the roof of his mouth with his thumb. See Amendment G.

Spencer no longer has access to the physical therapy and recreational activities he once enjoyed. See Amendment F. As a result his muscles have atrophied.

Alixandra Libin is personally harmed by the adversarial position taken by the current guardian towards Alixandra Libin. The current guardian who does not have first hand experience or information regarding Alixandra Libin, is condescending towards Alixandra Libin and unresponsive to the efforts of Alixandra Libin to help her son Spencer Dolder experience as much of the world as possible.

This behavior is detrimental to the well being of Spencer. Alixandra Libin is the first and best source of information regarding the

many intricacies of caring for Spencer. As a direct result of the stance taken by the current guardian Spencer has suffered. Since the current guardian has been managing Spencer's care he has been hospitalized twice for dehydration.

Alixandra Libin did express concern that this would happen during the guardianship hearing. rp.; 1-7-2011, p. 11 at line 10. No effort was made by the current guardian to contact Alixandra Libin for information on how to avoid dehydration and subsequent hospitalization when Spencer refuses to eat and drink.

Oversight of Spencer's orthotics has not been properly managed. Alixandra Libin expressed concern regarding Spencer's orthotics during the guardianship hearing. rp.; 1-7-2011, p. 6, at line 13.

As a result, of the mismanagement of Spencer's orthotics, progress that had been made to properly align Spencer's feet so that he can bear weight has been lost.

In addition Spencer has had a recurring ear infection which was not treated by the proper medical specialists for nearly two months. This infection was very close to becoming a Cholesteatoma. If a Cholesteatoma had formed, it likely would have caused hearing loss.

Watching the aforementioned calamities is heartbreaking. Alixandra Libin is in fact personally harmed by these events and circumstances.

B. Even if Ms. Libin has standing to appeal the guardianship order, her appeal to the guardianship order is untimely and this court lacks jurisdiction to hear her appeal.

Alixandra Libin did make every effort to secure legal counsel prior to the guardianship hearing. rp.; 1-7-2011, p.5 at line 24. However these efforts were unsuccessful.

In addition at the time of the guardianship hearing there was a VAPO in effect. Alixandra Libin had requested a Fair Hearing to address the false allegations which were the basis for the VAPO.

The false allegations in the VAPO, the pending Fair Hearing, and the chaos of forced relocation, were the reason that Alixandra Libin had not filed a petition for guardianship in Skagit County, prior to the State filing it's petition. Alixandra Libin did state in open court, "I would like to have the Fair Hearing before we proceed with the Guardianship hearing." rp; 1-7-2011, p.5 at line 22.

The court did join the guardianship proceeding to the VAPO. Without benefit of legal counsel, and due to the fact that there were court dates after the appointment of the guardian, Alixandra Libin thought that the process was not finished. Alixandra Libin did filed an appeal after the final court date.

C. Ms. Libin has failed to assign error identify issues or request relief related to the Vulnerable Adult Protection Order Proceedings.

Alixandra Libin requested a Fair Hearing to address the issues in the VAPO. At the time of the guardianship hearing, Alixandra Libin, who through no fault of her own did not have benefit of legal counsel, objected to the Guardianship proceeding, and did state in open court, "I would like to have the Fair Hearing before we proceed with the guardianship hearing." rp.; 1-7-2011. p.5 at line 22.

D. Even if Ms. Libin had identified issues to review in the Vulnerable Adult Protection Order proceedings, appeal at this point would be moot as the Order has expired.

The source of the Allegations in the VAPO is not known, with any degree of certainty, to Alixandra Libin. However, the allegations most likely came from the declarations, collected for the fair hearing, requested by Alixandra Libin. The matter of the fair hearing was addressed by Alixandra Libin in court on rp.; 1-7-2011, p. 5 at line 22.

The information, collected from the declarations related to the Fair Hearing, are the source which formed the basis for the VAPO, and were incorporated into the GAL report.

The decision on who should be the Guardian was based on the GAL Report. Therefore, the VAPO became the basis for the guardianship recommendation and appointment. Consequently, appeal of the Guardianship, does by extension, require a review of the VAPO.

As stated and demonstrated by documents in, VIII Appendix, Amendment to the Record, Alixandra Libin was in the process of petitioning to become the guardian until the process was interrupted by forced relocation.

E. The Guardianship Order was properly entered by the Court upon review by the required Guardian ad Litum and Medical Reports.

1. Substantial Evidence Supported the Determination of Guardianship.

Alixandra Libin did not dispute that a guardianship be established. Alixandra Libin prior to the untimely and forced relocation to Skagit County had been in the process of petitioning to be

appointed as guardian. See, VIII Appendix, Amendments C, D, and E, in Amendments to the Record.

Amendment C, is a receipt for meeting with Family Law Facilitator, Amendment D is a copy of notes taken while viewing the required Video on Guardianship, Amendment E is a copy of title page of Guardianship Kit. Emphasis Added.

On page 16 of the respondents brief the Attorney Generals office states, “Prior to the State filing a guardianship proceeding, Mr. Dolder was without a legal guardian, and was in the sole care of Ms. Libin, who left him unattended while she would go out to run errands.”

As detailed in the Introduction to the Appellants Reply, pages 2 thru 6, the single occurrence, Emphasis Added, of leaving Spencer unattended, was a result of budget cuts enacted by the State of Washington, a respite provider who failed to show up for work, and forced relocation due to Foreclosure Rescue Fraud.

This incident was a single occurrence, Emphasis Added, and hence does not represent a “pattern of behavior,” Emphasis Added, as stipulated by statute 74.34.020 (12), VII Appendix.

It should be noted and perfectly clear in the eyes of the court that the referenced errand was to obtain medication for Spencer, for which the State had withheld approval, due to budget cuts. Without this medication which the State had withheld approval for, Spencer would require hospitalization.

The fact that Alixandra Libin left Spencer to get his medication was not the best course of action to take. However, a suitable option was not available. It should further be noted, that instruction on how to properly resolve the described dilemma, has never been offered.

The fact is, that this was a single incident, and not a “pattern of behavior” as defined by statute. **Emphasis Added** If, even one dose of the required medication had been withheld, it would have caused Spencer to suffer, and would therefore, have been considered abuse. Alixandra Libin was in a double bind through no fault of her own.

2. The Guardian ad Litem appropriately fulfilled his duties.

Did the Appellant confuse the submission of the Guardian ad Litem report to the court, with the testimony of a Guardian ad Litem, submitted at trial, in front of a jury?

The Guardian ad Litem did submit a written report. The Guardian ad Litem also testified at the Guardianship Hearing on 1-7-2011, before the judge. The fact of the matter is that the Trier of fact is the Trier of facts, whether the Trier is a judge or a jury. The facts are the fact irregardless of who hears them.

The appellant’s assignment of error with respect to the GAL report relates to the ambiguous language used by the GAL in his report. The fact of the matter is that the use of non-specific verbiage denied Alixandra Libin the chance to openly address the allegations and therefore was an obstruction to due process.

The fact that the GAL is not a medical expert and did not, to the knowledge of Alixandra Libin, seek clarification from a medical expert as to the relevance and meaning of the medical terminology is in fact reflected in the ambiguous use of language.

The fact that the GAL considered allegations insinuated by Thom Dolder, who is the father of Spencer Dolder, and who had not seen

Spencer in five (5) years prior to speaking with the GAL, and who has repeatedly violated court orders, should in fact be considered by the court as a valid reason to reconsider who should be the guardian of Spencer Dolder. GAL Report at p. 5. Introduction at page 1 thru 3.

3. Mr. Dolder did not require appointment of legal counsel.

The respondents brief states, “The relationship between Thom Dolder, father of Spencer and Ms. Libin was strained at best.”

As detailed in the introduction, the relationship between Thom Dolder and Alixandra Libin was fact strained due to the behavior of Thom Dolder who has repeatedly violated court orders, and used CPS to harass Alixandra Libin. Introduction at page 1 thru 3. Due to the fact that Alixandra Libin and Thom Dolder were not able to work together, they could not represent Spencer’s best interests. Therefore, appointment of counsel for Spencer to assure that his best interests were represented, pursuant to RCW 11.88.045, (b) is and was required.

V. CONCLUSION

The State of Washington failed to protect Alixandra Libin and by extension her son, Spencer Dolder from the predatory activities of individuals who prey on vulnerable people. Foreclosure Rescue Fraud, and the subsequent necessity of forced relocation, did in fact prevent Alixandra Libin from filing her Guardianship Petition prior to the state filing a petition.

As stated by the respondent, Spencer Dolder does require “continuous care”. Emphasis Added. Meticulous attention to the care of Spencer, did leave Alixandra Libin exposed to exploitation by the

person who defrauded Alixandra Libin, and by extension Spencer, out of their Seattle home.

The fact, that the act of defrauding a mother, and by extension her disabled son, out of their home, was not illegal, does represent negligence, on the part of the State of Washington

The fact that the State of Washington denied approval for a medication, without which Spencer Dolder would in fact require hospitalization, is also negligent. The expectation by the State that citizens be culpable, is only valid if the State is also culpable.

Since the appointment of the current guardian Spencer has been hospitalized twice for dehydration. Concern about hydration expressed by Alixandra Libin during the hearing on guardianship. rp.; 1-7-2011, p. 11 at line 10.

Spencer was enrolled in school on December 9, 2010, prior to the VAPO and the guardianship. Subsequent to the VAPO Spencer was taken to an Adult Family Home and the current guardian was appointed. Spencer was not re-enrolled in school until late in October in 2011. Spencer missed nearly a year of school as a result of having a "professional guardian." Emphasis Added.

The unfortunate events which precipitated the State of Washington to establish the current guardianship of Spencer Dolder, are to a large degree a result of the current economic downturn. There are two highly regrettable facts here.

First, the State is now spending far more money to warehouse Spencer Dolder in an Adult Family Home, than was saved by withholding approval for the necessary medication.

Second, a loving and happy family has been destroyed. The fact that Spencer is non-verbal does not render him sub-human. Spencer deserves a better life!

Pursuant to RCW 74.34.020 (c) mental abuse, the guardian has isolated Spencer from friend's family and regular activities.

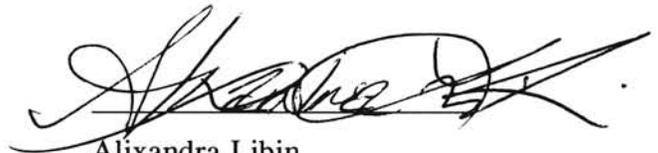
If Spencer could talk he would tell the court that he wants to be returned to his home in La Conner. His behavior since living in the Adult Family Home is speaking volumes. Someone must listen.

In addition, Alixandra Libin has made the care of Spencer Dolder, her son, the top priority in her life. With the goal of providing for his lifelong care, and in accordance with the Order of Child Support, Alixandra Libin did purchase a home in LaConner which has separate living quarters for a live in care provider.

Spencer has a right, the same as any other citizen, to live with his family in a loving home. Alixandra Libin can provide this preferred environment for Spencer.

Concurrent with Least Restrictive Alternatives and Constitutional rights, Spencer deserves a better environment in which live. Spencer deserves a guardian who can provide better oversight and who can better manage the complexities of his care.

I declare, under penalty of perjury, that the foregoing is correct and true to the best of my knowledge.



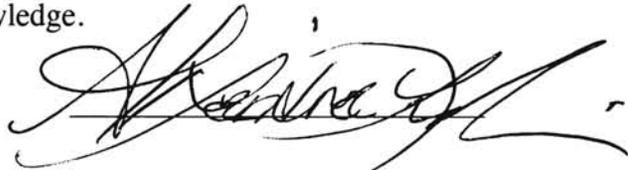
Alixandra Libin
40 Skokomish Way
La Conner, WA. 98257

Relief Sought

The logical person to be the guardian of Spencer Dolder is his mother
Alixandra Libin.

Therefore, I Alixandra Libin petition the Court of Appeals to
return Spencer to his home with his mother and appoint Alixandra Libin,
mother of Spencer Dolder, as guardian of Spencer Dolder.

I declare under penalty of perjury that the foregoing is true and
accurate to the best of my knowledge.

A handwritten signature in black ink, appearing to read 'Alixandra Libin', written over a horizontal line.

Alixandra Libin, Pro Se
Dated this 23rd day of July
At La Conner WA. 98257

VII APPENDIX

74.33.020 (12) RCW 74.34.020 (12) - Definition of Neglect

74.34.020 (12) “Neglect” (a) a pattern of conduct or inaction by a person or entity with a duty of care that fails to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that fails to avoid or prevent physical or mental harm or pain to a vulnerable adult; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult’s health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. Emphasis Added

74.34.020 (C) “Mental Abuse” means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family friends, or regular activity and verbal assault that includes ridicule, intimidating yelling, or swearing. Emphasis Added.

11.88.045 Alleged incapacitated individuals shall have the right to be represented by willing counsel of their choosing at any stage in a guardianship proceeding. The court shall provide counsel to represent any alleged incapacitated person at public expense when either: (i) The individual is unable to afford counsel, or (ii) the expense of counsel would result in substantial hardship to the individual, or (iii) the individual does not have practical access to funds with which to pay counsel. If the individual can afford counsel but lacks practical access to funds with which to pay counsel. If the individual can afford counsel but lacks practical access to funds, the court shall provide counsel and may impose a reimbursement requirement as part of the final order. When in the opinion of the court the rights and interests of an alleged or adjudicated incapacitated person cannot otherwise be adequately

protected and represented, the court on its own motion shall appoint an attorney at any time to represent such a person. Counsel shall be provided as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks shall be presumed by a reviewing court to be inadequate time for consultation and preparation.

(b) Counsel for an alleged incapacitated individual shall act as an advocate for the client and shall not substitute counsel's own judgment for that of the client on the subject of what may be in the client's best interest. Counsel's role shall be distinct from that of the guardian ad litem, who is expected to promote the best interest of the alleged incapacitated individual, rather than the alleged incapacitated individual's expressed preferences. Emphasis Added.

VIII APPENDIX

AMMENDMENTS TO THE RECORD

AMENDMENT A Minute Order "The Court Finds that Thom Dolder did intentionally violate Court Orders"

AMENDMENT B Group Health Co Operative "Our records indicate that you (Spencer Dolder) do not have coverage with us at this time."

- AMENDMENT C Receipt for consultation with Family Law Facilitator regarding Guardianship of Spencer Dolder prior to Spencer Dolder's eighteenth birthday.
- AMENDMENT D Notes taken by Alixandra Libin while viewing required video on Guardianship, at King County Superior Court, prior to Spencer Dolder's eighteenth birthday
- AMENDMENT E Photocopy of cover sheet for Guardianship Kit purchased by Alixandra Libin at King County Superior Court prior to Spencer Dolder's eighteenth birthday.
- AMENDMENT F Photograph of Spencer Dolder prior to living at Adult Family Home.
- AMENDMENT G Photograph of Spencer Dolder living at Adult Family Home. Date of photograph 5-12- 2012.

AMENDMENT

A

This Court Finds:

1. Thomas Wolder intentionally violated the Court order dated October 17, 2003 by willfully Respondent from business known as PMG & by failing to pay Respondent's salary for 3. Two pay periods for a sum of \$2,061.-
2. Whether this violation is contempt under the law is reserved for the Trial Court.
3. The payment of the \$2,061.- is ~~reserved~~ reserved for the Trial Judge.
4. All other relief is denied.

Date:

4/16/04

Hollis
 JUDGE/COURT COMMISSIONER
 APPROVED: **HOLLIS C. HOLMAN**

PRESENTED BY:

[Signature] #6412
 Attorney For: Respondent
 (For the 4/16/04 hearing only)
 Respondent: Rose
 Order on Family Law Motion

[Signature] #14530
 Attorney For: Reti ficer

AMENDMENT

B



Referral Services
P.O. BOX 34589
SEATTLE WA 98124-1589

March 04, 2006

Patient ID : 01330593
Patient DOB : 02/04/92
Reference : 06809698
Group Number :
Group Name :

SPENCER DOLDER
3410 E JOHN ST
SEATTLE WA 98112

Referred by :
FREDERICK D. KASSAB
9800 4th Ave NE
Seattle WA 98115
206-302-1300

Dear Patient:

We are writing to let you know that the service specified below is not covered.

~~Our records indicate that you do not have coverage with us at this time.~~

The details of the request are outlined below:

- Referred by provider: FREDERICK D. KASSAB
- Referred to specialist: CHILDRENS HOSP & REGIONAL MED
- Requested service: OFFICE VISIT, EST
- Requested service will not be covered by Group Health. Has not been a member since 10/1/05.

Please note that the following applies:

- Group Health will not pay for these unauthorized services.
- You will be billed from the specialist for these unauthorized services if you receive services.
- You have a right to appeal this decision. An appeal is a request for us to reconsider our decision. Please refer to the back of this letter for the appeal process information and instruction.

We apologize for any inconvenience. If you have questions regarding this letter, please call 1-888-901-4636 (TTY/TDD 1-800-833-6388 or 711 from 8:00 a.m. to 5:00 p.m., Monday through Friday), or e-mail us at info@ghc.org.

Sincerely,

Your Referral Services Team

cc: CHILDRENS HOSP & REGIONAL MED

1003300

AMENDMENT
C

KING COUNTY SUPERIOR COURT
SEATTLE WA
BARBARA MINER
DIRECTOR & SUPERIOR CT CLERK

Recd. Date: 02/02/2010
Acct. Date: 02/02/2010
Receipt #: 2010-21-00355
Cashier ID: SBG
Time: 09:36 AM

Item	Case Number	Amount
01	--	\$20.00
1508: Fee-80rchange Fac Program		

Total Due: \$20.00
Cash Tendered: \$20.00
Change Due: \$0.00

Paid By: CASH PAYER, UNKNOWN

ESTABLISHING A GUARDIANSHIP

King County Superior Court Facilitators: Instruction # G-1
King County Local Rule 98.20
RCW Title 11, Chapters 88 and 92

It is the intent of the legislature to protect the liberty and autonomy of all people of this state, and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities have unique abilities and needs, and that some people with incapacities cannot exercise their rights or provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through the guardianship process only to the minimum extent necessary to adequately provide for their own health or safety, or to adequately manage their financial affairs. RCW 11.88.005.

A Guardian of three or more incapacitated persons (who are not family), and who charges fees for his or her guardianship services, is deemed to be a "professional guardian," and must meet the certification requirements for professional guardians established by the administrator for the courts. RCW 11.88.008 and 11.88.020

STEP 1: OBTAIN THE FOLLOWING FORMS

- Petition for Guardianship of Person and/or Estate
- Case Assignment Designation and Case Information Cover Sheet
- Order Appointing Guardian ad Litem and Notice of Hearing
- Notice of Guardianship Petition
- Return of Service
- Declaration of Proposed Guardian (Non-Certified or Certified, as appropriate)
- Order Appointing Guardian of Person and/or Estate
- Oath of Guardian
- Designation of Standby Guardian
- Initial Personal Care Plan (if seeking a guardianship of the person)
- Guardianship Inventory (if seeking a guardianship of the estate)

STEP 2: COMPLETE FORMS AND MAKE COPIES

Complete all forms except the Designation of Standby Guardian, Initial Personal Care Plan, and Guardianship Inventory, which can be completed after appointment of the guardian.

- The hearing on your Petition for Guardianship must be held not later than 60 days after the date the Petition is filed with the Clerk. The courtroom clerk will insert the

AMENDMENT
D

Guardianship Video

- fill out forms
- guardian ad Litem ... court will appoint

Dick Sayre:

- Title 11 ... set forth by the state

Jill Solicofeur:

Duties & Responsibilities

- ... overseen by Superior Court
- ... reviews periodically

Two Types of Guardianship

- ... of person
- ... of estate

Oath

- ... Letters Issued by Court
- ... Standby Guardian

Guardianship Video (cont)

Responsibilities

- Care Plan (90 days after Guardianship)
- Periodic Updates
- Interface with Health Care Provider
- Food, Clothing, Health + Medical Care Assistance, Living Arrangement

Guardian of Estate

- Incapacitated
- All Properties of Incapacitated
- Security Bond
- Arrange for control of assets
- Checking account for Incapacitated
- File Papers
- Arrange to Charge fees for services
- Keep Court Informed

Guardianship Video (cont)

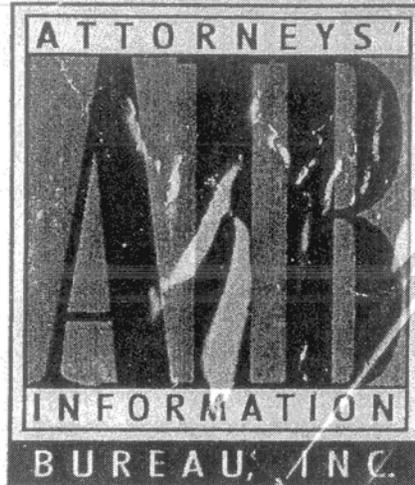
Fiduciary Duty

- separate account for incapacitated person and for payments made by guardian on behalf of incapacitated person
- separate money for self
- * There must be a clean Audit Trail

AMENDMENT
E

Guardianship Kit

(Of a Minor or an Incapacitated Person)

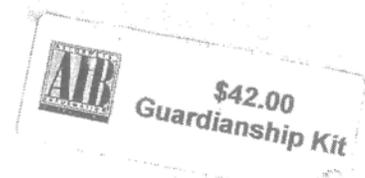


This kit is intended to provide "do-it-yourself" assistance for individuals pursuing a Guardianship for a Minor or an Incapacitated Person, as governed by the Indian Care Welfare Act, 25 USC 1983, et seq., the Revised Code of Washington, Title 11, Chapters 88 and 92, including other specific code titles and chapters referenced in the forms, and Local Rules of Court

Provided by:

Attorneys' Information Bureau, Inc.

Created January 15, 2009
Attorneys' Information Bureau, Inc.
Due to frequent changes in the law, kit should not
Be used more than one year from creation date



AMENDMENT

F



**Spencer before
adult family home**

AMENDMENT
G



**Spencer At
Adult Family Home**