

Redacted

No. 73538-1-I

**COURT OF APPEALS
OF THE STATE OF WASHINGTON,
DIVISION ONE**

In re the Guardianship of:

WILLIAM SUTTON

An Alleged Incapacitated Person

ON APPEAL FROM THE SUPERIOR COURT OF THE
STATE OF WASHINGTON FOR WHATCOM COUNTY
#14-4-00523-1

BRIEF OF RESPONDENT

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COURT OF APPEALS
STATE OF WASHINGTON

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INTRODUCTION

This is an appeal concerns the choice between enforcing a durable power of attorney and imposing a guardianship. William “Charlie” Sutton is 66 years old and suffers from moderate Alzheimer’s dementia. Dr. Jody Veltkamp, a Board-certified neuropsychologist, described his condition and the medical care he requires.



(Dr. Veltkamp Report at 9-10; CP 323-324).

On May 11, 2009, before the onset of dementia, Charlie Sutton appointed his son, Ben, to serve as his attorney-in-fact. (Durable Power of Attorney at 1; Exhibit A to Response to Petition for Guardian; CP 49) (Attached as Appendix A). For the next six years, Ben and his wife Chris have cared for Charlie and have found appropriate care facilities as Charlie’s dementia worsened. He now lives in a 24-hour care facility specializing in memory care.

Charlie has two sisters, Appellants Claudia Harris and Cynthia Murders. On December 15, 2014, the sisters filed this guardianship action, alleging that Charlie was being held in the memory care facility against his will and “co-petitioners want to help AIP [Charlie] live in his own home with professional assistance.” (Petition at 2; CP 6). The sisters want to move their brother to a rural area, Maple Falls, Washington – far from medical care – and take him off his medications to use natural remedies.

On May 8, 2015, Whatcom County Superior Court Judge Deborra Garrett denied the sister’s petition and upheld Charlie’s designation of his son.

In this case, Mr. Sutton executed a power of attorney that gave his son certain rights...and there is no question in my mind that Mr. Sutton Junior’s decisions for the care of his father are appropriate decisions and authorized by the power of attorney.

(5/8/15 VRP 4; Appendix D to Opening Brief). Judge Garrett dismissed the sisters’ petition for guardianship and awarded Ben \$2000 in reasonable attorneys’ fees. (Order Dismissing Petition; CP 233-236).

The sisters now appeal. Because the trial court appropriately enforced Charlie’s power of attorney rather than appoint a guardian,

Respondent Ben Sutton respectfully requests the Court to dismiss this appeal and award reasonable attorneys' fees.

I. RESTATEMENT OF ISSUES PRESENTED

The sisters' appeal presents three issues:

A. Under RCW 11.88.005, "liberty and autonomy should be restricted through the guardianship process only to the minimum extent necessary..." RCW 11.88.005. Here, the trial court approved Charlie's use of a durable power of attorney rather than impose a more restrictive, intrusive and expensive guardianship. Did the trial court abuse its discretion in dismissing the guardianship petition?

B. As petitioners, the sisters had to prove the need for a guardianship by clear, cogent and convincing evidence. RCW 11.88.045(3). Both the Guardian Ad Litem and an independent Neuropsychologist concluded that Charlie's current care is necessary and appropriate, and that the sisters' proposed care was potentially dangerous. Did the sisters fail to meet their burden of proof?

C. Under RCW 11.96A.150, the Court of Appeals may "in its discretion, order costs, including reasonable attorneys' fees, to be awarded to any party...from any party to the proceedings." The sisters' appeal for a guardianship has no reasonable basis and has

depleted Charlie's assets for no benefit. Should the Court award Charlie costs and reasonable attorneys' fees on appeal?

II. STATEMENT OF FACTS

A. As Attorney-In-Fact, Ben Sutton Has Protected His Father's Interests And Obtained Appropriate Care

Alzheimer's and dementia have robbed Charlie Sutton of his independence. Although everyone in his family wants a different outcome, Charlie can no longer take care of himself, keep himself safe, or be left unsupervised. The Guardian Ad Litem noted succinctly, "[REDACTED] [REDACTED]." (1/26/15 GAL Report at 4; CP 251).

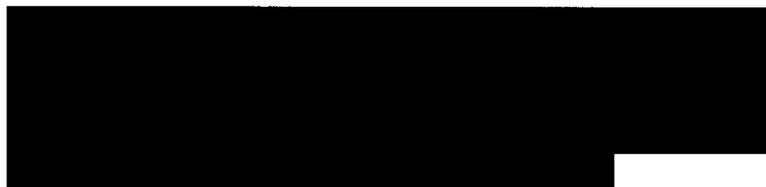
Ben has had to make difficult choices to care for his father. When he appointed Ben as his attorney in fact, Charlie was living in Sultan, Washington, and had begun to have trouble remembering words. "[REDACTED]." (Dr. Veltkamp Report at 2; CP 315-316). Charlie trusted his son, and in the 2009 Durable Power of Attorney, gave him full control over financial and medical decisions. (Durable Power of Attorney ¶ 3; Health Care Directive ¶ 3; Exhibit A to Response to Guardian Petition; CP 49-66).

As Charlie's condition deteriorated, Ben gave his father more help to live independently. In 2010, Ben and his wife Chris moved Charlie to his own home in Ferndale, Washington. (Dr. Veltkamp Report at 2; CP 316). This made caring for him easier, but his memory continued to worsen.



(Dr. Veltkamp Report at 2; CP 316). Ben and Chris managed to keep Charlie in his own house for the next four years.

By 2014, Charlie could no longer live on his own. Ben would check in and discover that his father had turned off the gas valves in his house, and once, the water heater. (Dr. Veltkamp Report at 2; CP 316). To address the memory loss, [REDACTED] [REDACTED]. (Dr. Veltkamp Report at 2; CP 316). This offered some relief, but Charlie resisted taking medication.



professional guardian to manage Charlie's finances and medical care. (Petition for Guardianship; CP 5-14). In declarations filed with the Petition, both sisters challenged the severity of Charlie's dementia. For example, Ms. Harris stated,

At age 55 my father had dementia symptoms similar to Charlie; short term memory loss yet physically able, and remained at home drug-free with my mother until he was hospitalized for cancer, which required follow-up nursing care in a facility for ten days, when he passed away of complications from the cancer in 1991 at age 67. My uncle was (described by Dad) "forgetful", and was home until he died in his late 70's.

(Harris Dec. at 4; CP 18).

Ms. Murders also declared that Charlie's condition does not prevent him from living at home with some extra help.

When we saw [Charlie's] extreme distress over being institutionalized, we spoke to Ben about allowing him to live in the nice home next door to Claudia, which we would equip with all the safety measures a facility would have, perhaps even more because we planned to purchase a tracking device for his safety which they have not done for him at the facility.

(Murders Dec. at 3; CP 28). As for Charlie's compulsive wandering, Ms. Murders states he enjoyed living in Ferndale "and never once got lost when he went on his daily walks." (Murders Dec. at 3; CP 28).

Three days after the GAL Report, counsel for the sisters withdrew. (Notice of Withdrawal; Sub #19; CP____)*. The sisters continued with this case pro se.

On February 2, 2015, Whatcom County Superior Court Judge Deborra Garrett held the first of two hearings on the petition. Ben as attorney-in-fact moved to dismiss the guardianship action, relying on the Guardian ad Litem's report and recommendation. (Motion to Dismiss; CP 39-43). In response, the sisters filed declarations from Charlie's former neighbors, but not from medical experts.

At the hearing, Judge Garrett quickly disregarded the sisters' allegations that Ben had somehow mismanaged his father's finances. The sisters had filed a complaint with Adult Protective Services, and the investigator found no evidence of wrongdoing. As the Court ruled,

I've not seen evidence of financial exploitation. There is an assertion that there has been financial exploitation, but I don't, I've not been given of financial exploitation and simply the concerns that the petitioners have. And while those are valid concerns, the Court is not permitted to act on those concerns, there has to be evidence. And I think the fact that Adult Protective Services investigated this situation and did not find grounds to proceed is overpowering evidence for the Court here.

* Respondent has filed a supplemental designation of clerk's papers and CP cites do not yet exist for these documents. The brief cites to the sub number to identify the document.

(2/27/15 VRP 26-27; Appendix C to Opening Brief). The Guardian Ad Litem's Report confirmed that the APS investigator "[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]." (1/26/15 GAL Report at 4; CP 252).

Next, the Court found no competent medical evidence that Charlie's care was inadequate.

What I do have in front of me is a report from a treating physician who indicates that the medication regimen is appropriate. I know that Alzheimer's patients generally do better in facilities that are equipped and certified to care for Alzheimer's patients and I know that the facility where Mr. Sutton is living is such a facility.

(2/27/15 VRP 27). Rather than dismiss the petition, however, Judge Garrett ordered Charlie evaluated by a neuropsychologist. (Order for Neuropsychological Evaluation; CP 144-146) ("an Order Dismissing Guardianship will be entered if the neuropsychologist does not identify any significant problems or issues").

On March 31, 2015, Charlie met with neuropsychologist Dr. Jody Veltkamp. (Dr. Veltkamp Report; CP 313-325). Her evaluation confirmed that Charlie had severe cognitive deterioration that made independent living impossible. "[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]" (Dr. Veltkamp Report at 8).

Dr. Veltkamp also reinforced the need for antipsychotic medication.

[REDACTED]

(Dr. Veltkamp Report at 8-9; CP 322-323). The neuropsychologist affirmed that Ben had placed his father in the most appropriate care facility. (Dr. Veltkamp Report at 9) ("[REDACTED]
[REDACTED]").

In response to this Report and the sisters' continuing complaints, the Guardian ad Litem filed a supplemental report that rejected all of the sisters' unsupported allegations. First, the Guardian ad Litem underscored Dr. Veltkamp's opinion that Charlie was receiving the best care possible.

[REDACTED]

(4/2/15 Supp. GAL Report at 1; CP 310) (emphasis added).

Second, Charlie's doctors had prescribed the right medicine at the correct dosages.

[REDACTED]

(4/2/15 Supp. GAL Report at 1; CP 310) (emphasis added).

Third, the Guardian ad Litem reaffirmed his conclusion that a guardianship was unnecessary, given Ben's work as attorney-in-fact.

[REDACTED]

(4/2/15 Supp. GAL Report at 1; CP 310).

On May 8, 2015, Judge Garrett held the second hearing on the motion to dismiss the sisters' guardianship petition. The court accepted the neuropsychologist's report and conclusions, and then ruled that Charlie's Durable Power of Attorney adequately protected him. There was no need for a professional guardian.

Part of the system of rights we have in this country is that the Court will not intervene simply because the Court thinks that the conditions aren't optimum. In this case Mr. Sutton executed a power of attorney that gave his son certain rights, I've not seen the power of attorney, but there is no question that it exists, and there is no question in my mind that Mr. Sutton Junior's decisions for the care of his father are appropriate decisions and authorized by the power of attorney.

(5/8/15 VRP 4; Appendix D to Opening Brief). The court dismissed the sisters' petition and awarded Charlie \$2000 in reasonable attorneys' fees. (Order Dismissing Petition; CP 233-236).

The sisters now appeal.

ARGUMENT

III. STANDARD OF REVIEW

This Court reviews the trial court's rulings for an abuse of discretion.

When a superior court applies guardianship law to a particular case and orders a fee allowance, we review the superior court's order for an abuse of discretion. We also review an award of attorney fees under RCW 11.96A.150 for abuse of discretion.

In re Guardianship of Lamb, 173 Wn.2d 173, 184, 265 P.3d 876 (2011) (citations omitted). This Court reviews the trial court's rulings on discovery for an abuse of discretion.

If the correct legal standard was applied, we generally review a trial court's denial of a motion to compel for an abuse of discretion. This is because the trial court is better positioned than another to decide discovery issues.

Thomson v. Doe, 189 Wn. App. 45, 356 P.3d 727 (2015) (citations omitted).

IV. THE TRIAL COURT APPROPRIATELY UPHELD THE POWER OF ATTORNEY OVER A GUARDIANSHIP

A. The Power of Attorney Is Less Restrictive And Intrusive Than A Guardianship

By appointing his son attorney-in-fact, Charlie Sutton chose who would make financial and medical decisions for him if he could not. RCW 11.94.010. The relationship is similar to principal and agent, except that a durable power of attorney allows the agent to make health care decisions when the principal is incapacitated or incompetent. RCW 11.94.010(3)(a).

In contrast, the courts impose guardianships based on statutory and equitable principles.

Courts have long been concerned with preserving the ward's estate from undue influence, fraud, and the

ward's own "folly". However, where a guardianship appointment would only result in waste of the ward's estate, courts have found the appointment unnecessary.

Guardianship of Lamb, 173 Wn.2d at 184 (citations omitted). It is a much more expensive and intrusive process for the incapacitated person, essentially naming them wards of the court.

For this reason, the Legislature and Washington courts impose guardianships only when a less intrusive alternative fails.

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; RCW 11.88.010 ("only such specific limitations and restrictions on an incapacitated person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance").

B. Unrebutted Facts Support The Trial Court's Ruling

The trial court appropriately followed the recommendations from Charlie's treating physician and caregivers, as well as the Guardian ad Litem and evaluating neuropsychologist. Charlie's

attorney-in-fact, Ben, has at every stage kept his father safe and in an appropriate home. Because of advancing Alzheimer's, Charlie cannot live in a non-secure environment. This is not the product of overmedication, but rather the symptom of a merciless disease.

In their opening brief, the sisters do not mention, let alone rebut, the compelling evidence of Charlie's incapacity. The brief's statement of facts contains no citations to the record. (Opening Brief at 3-6). Particularly egregious are the unsupported "substantive facts". Not only do the sisters have no evidence to support these allegations; specific reports in the record prove they are unfounded. Respondent Ben Sutton respectfully requests the Court to disregard all factual assertions in the Opening Brief that are unsupported and untrue.

The trial court did not abuse its discretion here. Based on competent, unrebutted evidence, Judge Garrett found that Charlie did not need a Guardian – he has his son.

V. THE SISTERS FAILED TO SUBMIT CLEAR COGENT AND CONVINCING EVIDENCE

Rather than address the evidence in support of Judge Garrett's ruling, the sisters challenge various discretionary rulings on evidence and discovery. But the sisters have the burden to provide

clear, cogent, and convincing evidence supporting a guardianship *when they filed the petition*. RCW 11.88.045(3). Because no evidence exists here, the trial court appropriately dismissed their petition.

The sisters raise four objections to the trial court's evaluation of the evidence. First, they claim "the medicine administered to AIP Sutton posed a dangerous risk to his health and safety and subject to black box medical warnings." (Opening Brief at 7). There is no admissible or competent medical testimony supporting the sisters' claims. Furthermore, both Charlie's treating physician and the neuropsychologist have approved the medications, noting that the benefits outweigh the side effects. Finally, the sisters' proposed alternative – natural remedies – poses a much greater danger.



(1/26/15 GAL Report at 4; CP 252) (emphasis added).

The trial court did not abuse its discretion by refusing to follow the sisters' advice on proper medications.

Second, the sisters claim that the trial court improperly rejected their assertion that the neuropsychologist was biased and incompetent. (Opening Brief at 8). They provide no evidence supporting this strong allegation, and their argument is unpersuasive. As the trial court proceedings progressed, the sisters filed increasingly long and unfocused pleadings that contained no admissible evidence or support. The trial court weighed the sisters' criticism of Dr. Veltkamp, but found it unjustified. As the Opening Brief illustrates, there is no evidence of bias or incompetence. Dr. Veltkamp simply provided an opinion contrary to the sisters'.

Third, the sisters claim that Ben Sutton as attorney-in-fact cannot require Charlie to take medicine. (Opening Brief at 10). But the sisters cite to the statute governing involuntary commitment – which is not at issue here. Charlie chose Ben to make these choices because he trusts his son's judgment. Even now, Charlie acknowledged to the Guardian ad Litem that he prefers "[REDACTED]
[REDACTED]
[REDACTED]" (1/26/15 GAL Report at 5-6; CP 255-256). The trial court did not err by upholding Ben's right to make medical decisions for his father.

Fourth, the sisters allege that they have a right to review Charlie's medical and financial records to search for improprieties. (Opening Brief at 11). Once again, the trial court did not abuse its discretion by refusing to order discovery. Charlie chose Ben, not his sisters, to manage his affairs. When the sisters claimed Ben was financially abusing his father, the Adult Protective Services investigator found no exploitation and in fact, praised the arrangement as "visionary". (1/26/15 GAL Report at 4; CP 254). The sisters have no evidence of abuse so they want Charlie's records to search for it. The trial court appropriately refused to grant their requests.

VI. AN AWARD OF REASONABLE ATTORNEYS' FEES IS ESSENTIAL

Under RCW 11.96A.150, this Court has discretion to award reasonable attorneys' fees on appeal. This is a compelling case for an award against the petitioners. Ben Sutton has had to make difficult choices for his father, and this appeal has only made the responsibility heavier. By filing an appeal with no merit, the sisters have forced Ben to pay money out of his father's estate to attorneys, rather than caregivers. And the unfounded allegations in this case have interfered with Charlie's caregivers, blocking their ability to provide the supervision and environment he needs. Ben as attorney-

in-fact deserves an award of reasonable attorneys' fees to compensate his father for defending his wishes.

CONCLUSION

Charlie Sutton suffers from Alzheimer's, and barring a medical breakthrough, his condition will only get worse. In 2009, he wisely chose his son, Ben Sutton, to serve as his attorney-in-fact. This guardianship petition, filed by Charlie's sisters Claudia Harris and Cynthia Murders, illustrates why Charlie chose his son. Contrary to all medical advice and Charlie's best interests, his sisters want to take him out of a safe memory care unit, end his medications, and put him in a private home.

The trial court appropriately denied the sisters' petition and awarded reasonable attorneys' fees. Respondent Ben Sutton respectfully requests this Court to affirm the trial court's rulings and award reasonable attorneys' fees on appeal.

DATED this 23rd day of December, 2015.

BURI FUNSTON MUMFORD, PLLC

By 

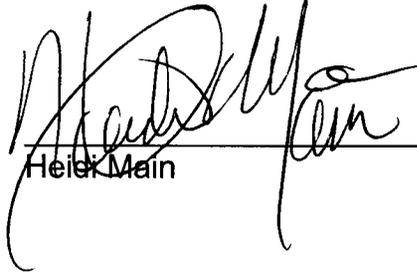
Philip J. Buri, WSBA #17637
1601 F. Street
Bellingham, WA 98225
360/752-1500

DECLARATION OF SERVICE

The undersigned declares under penalty of perjury under the laws of the State of Washington that on the date stated below, I mailed or caused delivery of Brief of Respondent to:

Ernest Saadiq Morris
Law Office of Ernest Saadiq Morris
PO BOX 45637
Seattle, WA 98157-0637

DATED this 23rd day of December, 2015.



Heidi Main

APPENDIX A

Return Address:

Benjamin L. Sutton
704 Vista Drive
Ferdale WA 98248



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11/18/2010 2:00pm \$72.00
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Please print or type information **WASHINGTON STATE RECORDER'S Cover Sheet** (RCW 65.04)

Document Title(s) (or transactions contained therein): (all areas applicable to your document must be filled in)

1. Durable Power of Attorney of William Charles
Sutton 4.

Reference Number(s) of Documents assigned or released:

Additional reference #'s on page _____ of document

Grantor(s) Exactly as name(s) appear on document

1. William Charles Sutton **RECORDED BY**
RAINIER TITLE
2. _____
Additional names on page _____ of document. 658415

Grantee(s) Exactly as name(s) appear on document

1. Benjamin L. Sutton
2. _____
Additional names on page 2 of document.

Legal description (abbreviated: i.e. lot, block, plat or section, township, range)

Additional legal is on page _____ of document.

Assessor's Property Tax Parcel/Account Number

Assessor Tax # not yet assigned

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Use dark black ink and print legibly. Documents not legible will be rejected per RCW 65.04.045 & 65.04.047

DOCUMENT TITLE(S):

DURABLE POWER OF ATTORNEY OF
WILLIAM CHARLES SUTTON

**AUDITOR FILE NUMBER & VOL. & PG. NUMBERS OF DOCUMENT(S)
BEING ASSIGNED OR RELEASED:**

Additional reference numbers can be found on page _____ of document.

GRANTOR(S)

WILLIAM CHARLES SUTTON

Additional grantor(s) can be found on page _____ of document.

GRANTEE(S):

BENJAMIN LAFAYETTE SUTTON

Additional grantee(s) can be found on page _____ of document.

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DURABLE POWER OF ATTORNEY

OF

William Charles Sutton

I. PRINCIPAL AND ATTORNEY-IN-FACT

I, William Charles Sutton, who resides at 30609 134th Street Southeast, Sultan, Washington 98294, appoint the following person to serve as my attorney-in-fact, to act for me in any lawful way with respect to the subjects indicated below.

Name: Benjamin L. Sutton
Address: 7004 Vista Drive
Ferndale, Washington 98248

If Benjamin L. Sutton resigns or is unable or unwilling to serve as my attorney-in-fact, I appoint the following person to serve as my successor attorney-in-fact:

Name: Cynthia M. Brown
Address: 11518 Chipwood Drive
Little Rock, Arkansas 72211

II. EFFECTIVE TIME

~~_____ becomes effective immediately~~
~~_____ by any subsequent disability or incapacity of the principal.~~ This is a Durable Power of Attorney.

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any similar state laws, and exclusively for the purpose of making a determination of my incapacitation or incapability of managing my financial affairs and obtaining an affidavit of such incapacitation by a physician, I authorize any health care provider to disclose to the person named herein as my "attorney-in-fact," any pertinent individually identifiable health information sufficient to determine whether I am by reason of illness or mental or physical

disability incapacitated or incapable of managing my financial affairs. In exercising such authority, my attorney-in-fact shall constitute my 'Personal Representative' as defined by HIPAA.

III. POWERS OF ATTORNEY-IN-FACT

My attorney-in-fact shall have the power to act in my name, place and stead in any way which I myself could do with respect to the following matters to the extent permitted by law:

YOUR ATTORNEY-IN-FACT SHALL BE AUTHORIZED TO ENGAGE ONLY IN THOSE ACTIVITIES THAT ARE INITIALED.

(WCS) REAL ESTATE TRANSACTIONS:

- Manage, sell, transfer, lease, mortgage, pledge, refinance, insure, maintain, improve, and perform any and all other acts with respect to real property and interests in real property that I own now or later acquire.
- Defend, settle and enforce by litigation a claim to real property and interests in real property that I own now or later acquire.
- Buy, lease or otherwise acquire real property or an interest in real property.
- Execute deeds, mortgages, releases, satisfactions and other instruments relating to real property and interests in real property that I own now or later acquire.

(WCS) PERSONAL PROPERTY TRANSACTIONS:

Buy or otherwise acquire ownership or possession of, sell or otherwise dispose of, mortgage, pledge, assign, lease, insure, maintain, improve, pay taxes on, and otherwise manage tangible personal property and interests thereof that I now own or later acquire.

(WCS)

[REDACTED]



- Buy, sell, pledge and exchange stocks, mutual funds, bonds, options, commodity futures and all other types of securities in my name.
- Sign, accept and deliver in my name certificates, contracts or other documents relating to the foregoing, including agreements with brokers or agents.
- Exercise voting and other rights and enter into agreements relating thereto.

(WCS)

[REDACTED]



Conduct any business with banks and other financial institutions, including but not limited to the following:

- Signing and endorsing all checks and drafts in my name.
- Withdrawing funds from accounts.
- Opening, maintaining and closing accounts or other banking arrangements.
- Hiring safe deposit boxes, entering into them and removing articles from them.
- Borrowing money, pledging property as security, and negotiating terms of debt payments.
- Applying for and receiving letters of credit, credit cards and traveler's checks, and giving an indemnity or other agreement in connection with letters of credit.

(WCS)

[REDACTED]



- Obtain, modify, renew, convert, rescind, pay the premium on or terminate insurance and annuities of all types for myself and for my family and other dependents.
- Designate the beneficiary of the contract, but the attorney-in-fact may be named a beneficiary of the contract, or an extension, renewal, or substitute for it, only to the extent the attorney-in-fact was named as a beneficiary under a contract procured by the principal before signing this Power of Attorney.
- Surrender and receive the cash value, borrow against or pledge any insurance or annuity policy.

(WCS)

[REDACTED]

- To act for me in all matters that affect a trust, probate estate, guardianship, conservatorship, escrow, custodianship or other fund from which I am now, claim to be or later become entitled, as a beneficiary, to a share or payment.
- Transfer any of my property to a living trust that I created as a grantor before this Power of Attorney was signed.

(WCS)

LEGAL ACTIONS:

To act for me in all legal matters, whether claims in my favor or against me, including but not limited to retaining attorneys on my behalf; appearing for me in all actions and proceedings, commencing actions in my name, signing all documents, submitting claims to arbitration or mediation, settling claims and paying judgments and settlements.

(WCS)

[REDACTED]

Claim and collect benefits from social security, Medicare, Medicaid, or other government programs or civil or military service.

(WCS)

[REDACTED]

To act for me in all matters that affect my retirement or pension plans, including but not limited to selecting payment options, designating beneficiaries, making contributions, exercising investment powers, making "rollovers" of plan benefits, borrowing or selling assets from the plan, and, if I am a spouse who is not employed, waiving my right to be a beneficiary of a joint or survivor annuity.

(WCS)

TAXES:

- Prepare, exercise any available election, and sign tax returns and related documents.
- Pay taxes due, collect refunds, post bonds, receive confidential information.
- Represent me in all income tax matters before any federal, state, or local tax collecting agency.

(wcl)

My attorney-in-fact is empowered to take all further action, including the payment of expenditures and the preparation and execution of all documents, as the attorney-in-fact deems necessary or appropriate in order to fully effectuate the purposes of the foregoing matters.

IV. GENERAL PROVISIONS

1. Reliance By Third Parties. I hereby agree that any third party receiving a duly executed copy or copy of this document may rely on and act under it. Revocation or termination of this Power of Attorney shall be ineffective as to the third party unless and until actual notice or knowledge of the revocation or termination has been received by the third party. I, for myself and for my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any third party from any and all claims because of reliance on this instrument in good faith.

2. Severability. If any provision hereof is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of this document, and such other provisions shall be given effect without the invalid or unenforceable provision.

3. Revocation. I may revoke this Power of Attorney at any time.

4. Accounting. My attorney-in-fact shall provide an accounting for all funds handled and all acts performed as my attorney-in-fact, but only upon my request or the request of a personal representative or a fiduciary acting on my behalf. Any requirement of my attorney-in-fact to file inventories and accounts with the county clerk or with the court is specifically waived.

5. Compensation and Reimbursement. My attorney-in-fact shall not be compensated for services provided on my behalf pursuant to this Power of Attorney. My attorney-in-fact shall be reimbursed for all reasonable expenses incurred relating to his or her responsibilities under this Power of Attorney.

6. [REDACTED] So long as my attorney-in-fact is acting in good faith and in my best interest, my attorney-in-fact is permitted to personally benefit or profit from transactions taken on my behalf.

7. [REDACTED] My attorney-in-fact is permitted to commingle my funds and assets with his or her own to the extent permitted by applicable law and so long as my attorney-in-fact is acting within his or her duties as a fiduciary.

8. Liability of Attorney-in-Fact. All persons or entities who in good faith endeavor to carry out the provisions of this Power of Attorney shall not be liable to me, my Estate, or my heirs, for any damages or claims arising because of their actions or inactions based on this Power of Attorney. My Estate shall indemnify and hold them harmless. A successor attorney-in-fact shall not be liable for acts of a prior attorney-in-fact.

IN WITNESS WHEREOF, the undersigned has executed this Power of Attorney on the date set forth below.

Date: May 11, 2009

William Charles Sutton
Signature of William Charles Sutton

This document was prepared by:

Name: Benjamin L. Sutton

Address: 7004 Vista Drive
Ferndale, Washington 98248

WITNESSES

By signing as a witness, I am acknowledging the signature of the principal who signed in my presence, and the fact that he or she stated that this Power of Attorney reflects his or her wishes and is being executed voluntarily. I believe the principal to be of sound mind. I have not been appointed as attorney-in-fact by the principal, am not related to him or her by blood, marriage or adoption, and, to the best of my knowledge, am not entitled to any portion of his or her Estate under his or her will.

1. Marianne House (Signature of witness) Marianne House (Print Name)

214 E Main St
(Address)

Monroe WA 98272
(City, State, ZIP)

2. Nikki Lee (Signature of witness) Nikki Lee (Print Name)

214 E Main St
(Address)

Monroe WA 98272
(City, State, ZIP)

ACKNOWLEDGMENT
OF NOTARY PUBLIC

State of Washington

County of Snohomish

On this 11 day of May, 2009, before me, the undersigned Notary Public, personally appeared William Charles Sutton, personally known to me (or proved to me on the basis of satisfactory evidence) to be the individual who signed the foregoing Power of Attorney and acknowledged to me that he or she executed the same in his or her authorized capacity, and that by such signature, the person executed the instrument.

Witness my hand and seal.

Signature of Notary Public:

Kathy J Hill



HEALTH CARE DIRECTIVE
(LIVING WILL / HEALTH CARE POWER OF ATTORNEY)

OF

William Sutton

I, William Sutton, being of sound mind and disposing mind and memory, do hereby make and declare this to be my Health Care Directive, thereby revoking and making null and void any and all other living wills and health care powers of attorney heretofore made by me.

I. LIVING WILL

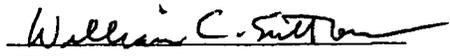
A. If I have been diagnosed by two physicians that any of the following are true:

- I have an incurable and irreversible condition that will result in my death within a relatively short time without the administration of life-sustaining treatment
- I am in an irreversible coma
- I am in a persistent vegetative state

and I am no longer able to make decisions regarding my medical treatment, I willfully and voluntarily make known my desire not to be kept alive with artificial life support systems and direct my attending physician to withhold or withdraw treatment that only prolongs my life and is not necessary for my comfort or to alleviate pain.

If I have a condition stated above, it is my preference to not receive artificially administered nutrition and hydration (food and fluids).

Page 1


(Signature)

B. I desire to receive treatment for comfort or to alleviate pain except as stated below:

No exceptions.

II. ANATOMICAL GIFTS

I hereby authorize the making of anatomical gifts of the following parts of my body for the following purposes:

Gift: All organs and parts.
Purpose: Medical purposes only.

III. POWER OF ATTORNEY FOR HEALTH CARE

A. In the event that I have been determined to be incapacitated to provide informed consent for medical treatment and surgical and diagnostic procedures, I wish to designate as my agent for health care decisions:

Name: Benjamin Sutton
Address: 7004 Vista Drive
Ferndale, Washington 98248
Phone: (360) 366-3250
Relation: Son

If my agent is unable or is unwilling to perform his or her duties, I designate as my alternate agent:

Name: Cynthia Brown
Address: 11518 Chipwood Drive
Little Rock, Arkansas 72211
Phone: (501) 554-5840
Relation: Sister

B. I fully understand, and intend, that this designation will permit my designee to make health care decisions and to provide, withhold, or withdraw consent on my behalf; to apply for public benefits to defray the cost of healthcare; to have access to my records necessary to make

decisions or apply for benefits; and to authorize my admission to or transfer from a health care facility. I specifically give my agent the power and authority to provide, withdraw, or withhold consent to the provision of life-prolonging procedures on my behalf; and to execute all documents, waivers and releases related to any of the foregoing and the powers set forth in the previous sentence. My agent must act consistently with my desires as outlined in my Living Will, if any.

C. I authorize my agent to direct the disposition of my remains.

D. I authorize my agent to consent to an autopsy of my remains.

IV. GENERAL PROVISIONS

A. If any provision hereof is held to be invalid, such invalidity shall not affect the other provisions of this document, and such other provisions shall be given effect without the invalid provision.

B. Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and any similar state laws, and exclusively for the purpose of making a determination of my incapacitation or inability to direct my own health care decisions and obtaining a physician affidavit of such, I authorize any health care provider to disclose to the person named herein as my health care agent or alternate health care agent, as applicable, any pertinent individually identifiable health information sufficient to determine whether I am by reason of illness or mental or physical disability incapacitated or incapable of directing my own health care decisions. In exercising such authority, my health care agent shall constitute my "Personal Representative" as defined by HIPAA.

Upon the determination of my incapacitation or incapability to direct my own health care decisions, I intend for the person named herein as my health care agent or alternate health care agent, as applicable, to be treated as my "Personal Representative" under HIPAA and any similar state law, and as such to be treated as I would be with respect to my rights regarding the use and disclosure of my individually identifiable health information or other medical records.

C. It is my intent that this document be legally binding and effective. If the law does not recognize the legal validity of this document, it is my intention that this document be taken as a formal declaration of my intentions concerning all of the above provisions. Copies of this document have the same effect as the original.

D. All persons or entities who in good faith endeavor to carry out the provisions of this document shall not be liable to me, my Estate, or my heirs, for any damages or claims arising because of their actions or inactions based on this document. My Estate shall indemnify and hold them harmless.

IN WITNESS WHEREOF, I have executed this document on the date
below:

William Sutton
Signature of William Sutton

Dated: May 11, 2009, 20

30609 134th Street Southeast
Sultan, Washington 98294

William C. Sutton
(Signature)

WITNESS DECLARATIONS

Under penalty of perjury, each of the undersigned declares that: (1) William Sutton has been personally known to me (or that the individual's identity was proven to me by convincing evidence), and I believe him or her to be of sound mind and not under duress, fraud or undue influence, (2) William Sutton signed or acknowledged this document in my presence, and I did not sign William Sutton's signature, (3) I am not related to William Sutton by blood, adoption or marriage, (4) I am not entitled to any part of William Sutton's Estate or directly financially responsible for his or her medical care, (5) I am competent and at least eighteen years of age, (6) I am not William Sutton's doctor or physician, or an employee of William Sutton's doctor or physician, and (7) I am not the operator or an employee of a community care facility or a residential care facility for the elderly.

Signature: Kim Leslie
Print Name: Kim Leslie
Address: 214 E. Main Street
Monroe WA 98272

Signature: Marianne House
Print Name: Marianne House
Address: 214 E Main St
Monroe WA 98272

ACKNOWLEDGMENT
OF NOTARY PUBLIC

State of Washington

County of Snohomish

On this 11 day of May, 2009, before me, Kathy J Hill
personally appeared William Sutton, personally known to me (or proved to me
on the basis of satisfactory evidence) to be the person whose name is subscribed
to the within instrument and acknowledged to me that he or she executed the
same in his or her authorized capacity and that by his or her signature on the
instrument the person executed the instrument.

WITNESS my hand and official seal.

Kathy J Hill
Notary Public



My Commission Expires: 2-19-11

William C. Sutton
(Signature)