**Superior Court of Washington**

**County of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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| In the Guardianship of:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, An Alleged Incapacitated Person | **Case No.:****Order Appointing Guardian ad Litem (GAL) (RCW 11.88.090)**(ORAPGL)**Clerk’s Action Required, para 2.1, 2.3** |

# I. Findings

1.1 This court has jurisdiction over this matter.

1.2 A Guardian ad Litem (GAL) should be appointed.

1.3 The GAL should be appointed in the following manner:

[ ]  the GAL should be the person whose name next appears on the guardian ad litem registry; or

[ ]  the GAL should not be the person whose name next appears on the registry because the court finds that extraordinary circumstances exist, as follows:

[ ]  there is a need for particular expertise in the area of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

[ ]  other: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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1.4 [ ]  The filing fee should be waived because:

[ ]  the petition alleges that the alleged incapacitated person has total assets of a value of less than $3,000; or

[ ]  payment of the filing fee would impose a hardship upon the alleged incapacitated person

1.5 [ ]  The alleged incapacitated person would suffer substantial hardship if he or she were required to pay the GAL’s fees.

# II. Order

The court orders:

2.1. The filing fee:

[ ]  is waived.

[ ]  is not waived.

2.2 Payment of the GAL shall:

[ ]  be at **public expense**, to be paid by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_County at a rate not to exceed $\_\_\_\_\_\_\_\_ per hour up to a maximum of $\_\_\_\_\_\_\_\_ / \_\_\_\_\_(hours) unless the GAL obtains prior approval from the court for a different amount. If evidence is submitted showing that there was not financial hardship or that financial hardship no longer exists, the court shall be reimbursed the filing fee and all other fees and costs.

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

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

[ ]  be determined at a future hearing.

2.3. The hearing on the guardianship petition shall be held within 60 days of the date the petition was filed. The hearing:

[ ]  shall be held on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date) at \_\_\_\_\_\_\_\_\_\_ (hour) at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (court’s location and room or department).

[ ]  shall be scheduled by the [ ]  petitioner [ ]  court or [ ]  GAL.

2.4. The court finds or knows that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (GAL’s name) has the required knowledge, training, or expertise to perform the duties required by RCW 11.88.090 and is free of influence from anyone interested in the result of the proceeding. The court appoints this person as GAL for the alleged incapacitated person in this case. The GAL can be contacted in the following manner:

Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Telephone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

2.5. The GAL’s Duties

The GAL shall have the following duties:

A. Within five days of receiving the notice of appointment, file with the court and serve, either personally or by certified mail with return receipt, each party with a statement including: his or her training relating to the duties as a GAL; his or her criminal history as defined in RCW 9.94A.030 for the period covering ten years prior to the appointment; his or her hourly rate, if compensated; whether the GAL has had any contact with a party to the proceeding prior to his or her appointment; and whether he or she has an apparent conflict of interest;

B. To meet and consult with the alleged incapacitated person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his or her alleged incapacity, the right to independent legal counsel as provided by
RCW 11.88.045, and the right to be present in court at the hearing on the petition;

C. To obtain a written report according to RCW 11.88.045; and such other written or oral reports from other qualified professionals as are necessary to permit the GAL to complete the report required by RCW 11.88.090;

D. To meet with the person whose appointment is sought as guardian or limited guardian and ascertain:

1. The proposed guardian's knowledge of the duties, requirements, and limitations of a guardian; and

2. The steps the proposed guardian intends to take or has taken to identify and meet the needs of the alleged incapacitated person;

E. To consult as necessary to complete the investigation and report required by this order and RCW 11.88.090 with those known relatives, friends, or other persons the GAL determines to have a significant, continuing interest in the welfare of the alleged incapacitated person;

F. To investigate alternate arrangements made, or which might be created, by or on behalf of the alleged incapacitated person, such as revocable or irrevocable trusts, durable powers of attorney, or blocked accounts; whether good cause exists for any such arrangements to be discontinued; and why such arrangements should not be continued or created in lieu of a guardianship;

G. To provide the court with a written report which shall include the following:

1. A description of the nature, cause, and degree of incapacity, and the basis upon which this judgment was made;

2. A description of the needs of the incapacitated person for care and treatment, the probable residential requirements of the alleged incapacitated person, and the basis upon which these findings were made;

3. An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought and a description of the steps the proposed guardian has taken or intends to take to identify and meet current and emerging needs of the incapacitated person;

4. A description of any alternative arrangements previously made by the alleged incapacitated person or which could be made, and whether and to what extent such alternatives should be used in lieu of a guardianship, and, if the GAL is recommending discontinuation of any such arrangements, specific findings as to why such arrangements are contrary to the best interest of the alleged incapacitated person;

5. A description of the abilities of the alleged incapacitated person and a recommendation as to whether a guardian or limited guardian should be appointed. If appointment of a limited guardian is recommended, the GAL shall recommend the specific areas of authority the limited guardian should have and the limitations and disabilities to be placed on the incapacitated person;

6. An evaluation of the person's mental ability to rationally exercise the right to vote and the basis upon which the evaluation is made;

7. Any expression of approval or disapproval made by the alleged incapacitated person concerning the proposed guardian or limited guardian or guardianship or limited guardianship;

8. Identification of persons with significant interest in the welfare of the alleged incapacitated person who should be advised of their right to request special notice of proceedings pursuant to RCW 11.92.150; and

9. Unless independent counsel has appeared for the alleged incapacitated person, an explanation of how the alleged incapacitated person responded to the advice of the right to jury trial, to independent counsel, and to be present at the hearing on the petition;

H. Within forty-five days after notice of commencement of the guardianship proceeding has been served upon the GAL, and at least fifteen days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the GAL shall file his or her report and send a copy to the alleged incapacitated person and his or her counsel, spouse or domestic partner, all children not residing with a notified person, those persons described in (f)(viii) of this subsection, and persons who have filed a request for special notice pursuant to RCW 11.92.150. If the GAL needs additional time to finalize his or her report, then the GAL shall petition the court for a postponement of the hearing or, with the consent of all other parties, an extension or reduction of time for filing the report. If the hearing does not occur within sixty days of filing the petition, then upon the two-month anniversary of filing the petition and on or before the same day of each following month until the hearing, the GAL shall file interim reports summarizing his or her activities on the proceeding during that time period as well as fees and costs incurred;

I. The GAL’s report shall be filed as two separate documents, one public and one sealed. The sealed report must be filed under a Sealed Confidential Reports cover sheet. The sealed GAL report may not be placed in the court file or used as an attachment or exhibit to any other document except under seal. The GAL must comply with GR 22(e) regarding filing two separate documents, one public and one sealed;

J. To advise the court of the need for appointment of counsel for the alleged incapacitated person within five court days after the meeting described in **section B of this order** unless (i) counsel has appeared, (ii) the alleged incapacitated person affirmatively communicated a wish not to be represented by counsel after being advised of the right to representation and of the conditions under which court-provided counsel may be available, or (iii) the alleged incapacitated person was unable to communicate at all on the subject, and the GAL is satisfied that the alleged incapacitated person does not affirmatively desire to be represented by counsel.

2.6 GAL’s Authority and Access to Information

A. The GAL shall have the authority to give consent for emergency life-saving medical services on behalf of the alleged incapacitated person, if the alleged incapacitated person is in need of emergency life-saving medical services, and is unable to consent to such medical services due to incapacity, pending the hearing on the petition.

B. The GAL shall have the authority to move for temporary relief under chapter 7.40 RCW to protect the alleged incapacitated person from abuse, neglect, abandonment, or exploitation, as those terms are defined in RCW 74.34.020, or to address any other emergency needs of the alleged incapacitated person. Any alternative arrangement executed before filing the petition for guardianship shall remain effective unless the court grants the relief requested under chapter 7.40 RCW, or unless, following notice and a hearing at which all parties directly affected by the arrangement are present, the court finds that the alternative arrangement should not remain effective. Upon request of the GAL, all providers that are covered entities under Health Insurance Portability and Accountability Act (HIPAA) and their business associates shall release to the GAL a medical report required by RCW 11.88.045.

C. Upon the GAL’s request, financial institutions holding accounts in the name of the alleged incapacitated person, or in the name of the alleged incapacitated person and any other individual, shall provide the GAL with all records and financial information regarding those accounts. By this order, copies of financial information regarding the alleged incapacitated person shall be released to the GAL.

D. The GAL shall have access to the Adult Protective Service (APS) file and social report if any exists, provided that APS shall not be required to release the identities of persons making reports under RCW 74.34 et.seq., and shall have the right to reserve other privileged or confidential information as it deems appropriate to protect the alleged incapacitated person. Any APS records released to the GAL are provided for the purpose of assisting the GAL in his/her investigation and report to the court. The records released to the GAL shall be used in the guardianship proceedings and shall not be further disseminated without a court order and prior notice to the Attorney General’s Office.

E. The GAL shall have access to the APS file and social report if any exists, provided that APS shall not be required to release the identities of persons making reports under RCW 74.34 et. seq., and shall have the right to reserve other privileged or confidential information as it deems appropriate to protect the alleged incapacitated person. Any APS records released to the GAL are provided for the purpose of assisting the GAL in his/her investigation and report to the court. The records released to the GAL shall not be further disseminated without a court order and prior notice to the Attorney General’s Office.

2.7 GAL’s Duty to Keep Information Confidential

The GAL shall maintain any information as confidential and shall not disclose said information except in oral or written reports to the court, the parties and their counsel, except as authorized under RCW 11.88.045, RCW 11.88.090, RCW 11.92.150, RCW 74.34.095, GR 15, GR 22, GR 31, and GALR 2.

2.8. The court also orders:

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Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 **Judge/Court Commissioner**

Presented by:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Signature of Petitioner/Attorney Printed Name of Petitioner/Attorney,

 WSBA/CPG #

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Address City, State Zip Code

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\*Telephone/Fax Number Email Address

**\*If you do not want your personal phone number on this public form, you may list your telephone number on a separate form which may be available to parties and the court, as well as its staff and volunteers, but will not be made available to the public. Use Form WPF GDN 03.0100, Guardianship Confidential Information Form (Telephone Numbers), for this purpose. GR 22(b)(6)**.