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MASON CO. WA

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SHARON K. FOGG CO. CLERK

BY BH 7 DEPUTY

21-4-00040-23  
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Order Appointing Guardian Ad Litem  
9819123



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

In Re the Guardianship of:

VIRGINIA LEE JACKSON,  
  
An Alleged Incapacitated Person.

NO. ~~21-4-00040-23~~

ORDER APPOINTING  
GUARDIAN AD LITEM AND  
WAIVING PREPAYMENT OF FILING  
FEE (RCW 11.88.030(3)(b))

Clerk's Action Required

THIS MATTER having come before the Court ex parte upon the motion of the Department of Social and Health Services, and the Court being duly advised in the premises, now, therefore,

IT IS HEREBY ORDERED as follows:

1. Shawna Shearer, (360) 377-7691, a person registered with the Court pursuant to RCW 11.88.090(4), and found or known to be a suitable person who possesses the requisite knowledge, training, and expertise to perform the duties required by RCW 11.88.090, is hereby appointed guardian ad litem for Virginia Lee Jackson (hereinafter Ms. Jackson).

2. The guardian ad litem shall perform the following duties:

(a) 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 right to a jury trial on the issue of his or her alleged incapacity, the right

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1 to independent legal counsel as provided by RCW 11.88.045, and the right to be present in court  
2 at the hearing on the petition;

3 (b) To obtain a written report according to RCW 11.88.045 and such other written or  
4 oral reports from other qualified professionals as are necessary to permit the guardian ad litem to  
5 complete the report required by RCW 11.88.090;

6 (c) To meet with the person whose appointment is sought as guardian or limited  
7 guardian and ascertain:

8 (i) The proposed guardian's knowledge of the duties, requirements, and  
9 limitations of a guardian; and

10 (ii) The steps the proposed guardian intends to take or has taken to identify the  
11 needs of the alleged incapacitated person;

12 (d) To consult as necessary to complete the investigation and report required by  
13 RCW 11.88.090 with those known relatives, friends, or other persons the guardian ad litem  
14 determines have had a significant interest in the welfare of the alleged incapacitated person,  
15 including obtaining bank account information, financial statements, and medical records;

16 (e) To investigate alternative arrangements made, or which might be created, by or on  
17 behalf of the alleged incapacitated person, such as revocable or irrevocable trusts, durable powers  
18 of attorney, or blocked accounts; whether good cause exists for any such arrangements to be  
19 discontinued; and why such arrangements should not be continued or created in lieu of  
20 guardianship;

21 (f) To provide the Court with a written report which shall include the following:

22 (i) A description of the nature, cause, and degree of incapacity, and the basis  
23 upon which this judgment was made;

24 (ii) A description of the needs of the alleged incapacitated person for care and  
25 treatment, the probable residential requirements of the alleged incapacitated person, and the basis  
26 upon which these findings were made;

1 (iii) An evaluation of the appropriateness of the guardian or limited guardian  
2 whose appointment is sought and a description of the steps the proposed guardian has taken or  
3 intends to take to identify and meet current and emerging needs of the alleged incapacitated  
4 person;

5 (iv) A description of any alternative arrangements previously made by the  
6 alleged incapacitated person or which could be made, and whether and to what extent such  
7 alternatives should be used in lieu of guardianship, and if the guardian ad litem is recommending  
8 discontinuation of any such arrangements, specific findings as to why such arrangements are  
9 contrary to the best interest of the alleged incapacitated person;

10 (v) A description of the abilities of the alleged incapacitated person and a  
11 recommendation as to whether a guardian or limited guardian should be appointed. If  
12 appointment of a limited guardian is recommended, a recommendation of the specific areas of  
13 authority the limited guardian should have and the limitations or disabilities to be placed on the  
14 alleged incapacitated person;

15 (vi) An evaluation of the person's mental ability to rationally exercise the right  
16 to vote and the basis upon which the evaluation is made;

17 (vii) Any expression of approval or disapproval made by the alleged  
18 incapacitated person concerning the proposed guardian or limited guardian or guardianship or  
19 limited guardianship;

20 (viii) Identification of persons with significant interest in the welfare of the  
21 alleged incapacitated person who should be advised of their right to request special notice of  
22 proceedings pursuant to RCW 11.92.150; and

23 (ix) Unless independent counsel has appeared for the alleged incapacitated  
24 person, an explanation of how the alleged incapacitated person responded to advice of the right to  
25 a jury trial, to independent counsel, and to be present at the hearing on the petition.

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1 (g) Within forty-five (45) days after service of notice of the commencement of this  
2 action, and at least fifteen (15) days before the hearing on the petition, unless an extension of  
3 time is granted for good cause, the guardian ad litem shall file those reports required by  
4 RCW 11.88.045(4) and RCW 11.88.090(5)(f), and send a copy to those persons described in  
5 RCW 11.88.090(5)(f)(viii) and any other persons who have requested special notice pursuant  
6 to RCW 11.92.150.

7 (h) To advise the Court of the need for appointment of counsel for the alleged  
8 incapacitated person within five (5) court days of the meeting described in RCW 11.88.090(5)(a)  
9 and paragraph (2)(a) of this order unless:

10 (i) Counsel has appeared;

11 (ii) The alleged incapacitated person affirmatively communicated a wish not to  
12 be represented by counsel after being advised of the right to representation and the conditions  
13 under which court-provided counsel may be available; or

14 (iii) The alleged incapacitated person was unable to communicate at all on the  
15 subject, and the guardian ad litem is satisfied that the alleged incapacitated person does not  
16 affirmatively desire to be represented by counsel;

17 (i) Within five (5) days of receipt of notice of appointment, file with the court and  
18 serve, either personally or by certified mail with return receipt, each party with the guardian ad  
19 litem's written statement of qualifications as required by RCW 11.88.090(3)(b);

20 (j) To have the authority, in the event the alleged incapacitated person is in need of  
21 emergency life-saving medical services and is unable to consent to such medical services due to  
22 incapacity pending the hearing on the petition, to give consent for such emergency life-saving  
23 medical services on behalf of the alleged incapacitated person;

24 (k) To accomplish all such other duties and responsibilities as may be required under  
25 RCW 11.88.090.

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1 (l) The Guardian ad Litem shall have the additional authority to consent to referrals  
2 for residential services and release of protected health information to DSHS-contracted providers  
3 of residential services on Ms. Jackson's behalf.

4 (m) The Guardian ad Litem shall have the additional authority to consent to and sign  
5 forms and any care plans on behalf of Ms. Jackson if necessary to ensure that she is able to obtain  
6 and maintain DSHS and/or medical services for her care needs.

7 (n) To accomplish all such other duties and responsibilities as may be required under  
8 RCW 11.88.090.

9 3. The Guardian ad Litem shall have access to the following information:

10 (a) All provider's that are covered entities under HIPAA and their business associates,  
11 upon receipt of a copy of this Order verifying the Guardian ad Litem's duties and authority to  
12 receive the required information, shall release to the Guardian ad Litem the original medical  
13 report required by RCW 11.88.045 and copies of any other medical, psychiatric/psychological  
14 records or reports requested by the Guardian ad litem. 45 C.F.R. 164.512(e)(1)(i).

15 (b) For the purpose of completing his or her investigation, the Guardian ad Litem shall  
16 have access to all information and records regarding the Alleged Incapacitated Person, regardless  
17 of source or reason from which they originated. Such information may contain, but is not limited  
18 to, the following: Education records such as Individual Education Plans, financials records or  
19 documentation, matters of legal representation of the Alleged Incapacitated Person, trust accounts  
20 for or on behalf of the Alleged Incapacitated Person, and records of state agencies such as the  
21 Department of Social and Health Services and the Developmental Disabilities Administration.  
22 All financial institutions holding accounts in the name of the Alleged Incapacitated Person, or in  
23 the name of the Alleged Incapacitated Person and any other individual, shall provide to the  
24 Guardian ad Litem all records and financial information regarding those accounts. By this Order,  
25 copies of information regarding the Alleged Incapacitated Person shall be released to the  
26 Guardian ad Litem.

1           4.     The Department of Children, Youth & Families (DCYF) and Adult Protective  
2 Services (APS) shall provide a copy of the relevant DCYF and APS files, respectively, to the  
3 guardian ad litem upon request, *provided* that DCYF and APS shall not be required to release  
4 the identities of persons making reports under RCW 26.44.030 or 74.34.035, and shall have the  
5 right to reserve other privileged or confidential information as it deems appropriate to protect  
6 the alleged incapacitated person. DCYF and APS shall have the option of redacting identifying  
7 information of persons, other than the alleged incapacitated person, who are named in the  
8 record, pending notification that release of the record has been requested.

9           5.     The documents released to the guardian ad litem are provided for the purpose of  
10 assisting the guardian ad litem in his/her investigation and report to the court. To the extent the  
11 guardian ad litem uses information from the DCYF or APS files at a contested guardianship  
12 hearing, it shall be the responsibility of the guardian ad litem, and not DCYF or APS, to  
13 provide discovery to the other parties.

14           6.     The DCYF and APS documents released to the guardian ad litem shall be used  
15 only in the guardianship proceedings and shall not be further disseminated.

16           7.     Ms. Jackson's presence at the hearing on the merits of the petition is waived if  
17 good cause is set forth in the report of the guardian ad litem and if the guardian ad litem  
18 appears in her place.

19           8.     Prepayment of the statutory filing fee is hereby waived pursuant to  
20 RCW 11.88.030(3)(b). The issue of the filing fee is reserved and shall be determined at the  
21 hearing on the merits of the petition.

22           9.     The issue of whether the guardian ad litem's fees shall be paid at county  
23 expense or from the income and other assets of Ms. Jackson is reserved until hearing on the  
24 petition. If the guardian ad litem's fees are to be paid at county expense, the hourly rate and  
25 maximum fee shall be set by the court. If the guardian ad litem's fees are to be paid by the  
26 alleged incapacitated person's estate, the matter of the guardian ad litem's fees is deferred until

1 the hearing on the guardianship petition. The Guardian ad Litem shall be authorized to conduct  
2 up to ten hours of investigation without prior authorization from the court.

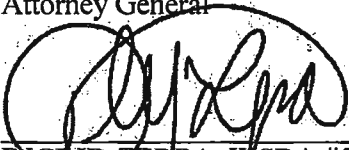
3 DATED this 24 day of February, 2021.

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6 JUDGE/COURT COMMISSIONER

7 Presented by:

8 ROBERT W. FERGUSON  
9 Attorney General

MONTY D. COBB

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11 \_\_\_\_\_  
12 INGRID ZERPA, WSBA #51459  
13 Assistant Attorney General  
14 Attorneys for Petitioner  
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