

FILED

NOV 28 2023

KITSAP COUNTY CLERK
DAVID T. LEWIS III

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KITSAP**

In re the welfare of Adeline Feulner:

Case No: 07-3-01713-1

Lenard Feulner,

And
Heather Wood

**MOTION AND DECLARATION
REQUESTING CLARIFICATION OF
GUARDIAN AD LITEM AUTHORITY**

MOTION

COMES NOW Nancy Tarbell, Guardian ad Litem, appearing pro se, and moves the Court for CLARIFICATION OF GAL AUTHORITY. This Motion is supported by the court file and attached declaration.

DECLARATION

I was appointed Guardian ad Litem for Adeline Feulner by Judge Forbes on October 25, 2023. Judge Forbes was the settlement conference Judge on this case; the need for a GAL appears to have been recognized at that time; my appointment was not as a result of an open hearing (I believe the court has the power to appoint me outside of an on the record hearing, but this seems to be a point brought up pertaining to other matters so I note it here); and the appointment was not signed by the parties. I then signed and refiled the same document adding only my acceptance of the appointment so that point would be clear to all. There have been many filings since that time but no hearings. Among the matters to be heard on December 1, 2023 are the following issues:

1) Jurisdictional issues pertaining to the captioning of this case and who is rightly petitioner and who is respondent. In filing in 2008, Ms Wood filed the petitioner and in all other ways acted as

07-3-01713-1
MTAF 115
Motion and Affidavit Declaration
15664442



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1 the petitioner. At that time the caption listed her as petitioner. Mr. Feulner was listed as
2 respondent, filed his response, and in all other ways acted as respondent. The case languished
3 without being dismissed. In 2023 new filing in the case designated Mr. Feulner as petitioner,
4 listing his name first, and Ms Wood as respondent. Ms Wood contends that this recent
5 captioning is incorrect; that jurisdiction is affected by the captioning; and that my appointment as
6 GAL is invalid (incorrect caption, every court action following the incorrect caption is invalid).
7 OR she may be indicating that the hearings of August 15th was the jurisdictional break and
8 everything following that date is void. At any rate, it is argued, by the time of my appointment
9 jurisdiction was no longer in effect. In accordance with her legal theory regarding jurisdiction,
10 Ms. Wood has expressed that she does not believe my GAL appointment and authority is valid.
11 In accordance with that belief she has not served me with any documents.

12 2) Issues flowing from the settlement conference. Ms Wood had expected an open hearing in
13 which judicial decisions would be made and not a private settlement conference without a
14 record.

15 3) Asserting that her signature was coerced on the trial setting order.

16 4) Parenting plan decisions.

17 My original discussion with the parties ascertained that all parties seemed to believe that I
18 could proceed with my appointment in part because the cause number under which I was
19 appointed was a valid cause number and that my duties were not affected by which parent was
20 the petitioner and which the respondent. I started exercising Guardian ad Litem authority by
21 interviewing collateral references, gathering records, doing a home visit. Then I came to
22 understand that Ms Wood did NOT believe I was properly appointed (ex A). At that time I
23 ceased undertaking new activity in anticipation of further court guidance.

24 The investigative role of Guardian ad Litem is extremely powerful, allowing access to all
25 manner of privileged information, including that of CPS, and un-redacted law enforcement

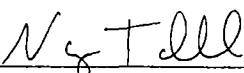
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1 reports. And I am further tasked with requesting drug screening/evaluations/medical records of
2 the parties and of Adeline. My authority must be clear and unassailable as these records are
3 protected by layers of confidentiality requirements.

4 Guardian ad Litem Orders are unique in that within the order itself it reads: "A party's
5 signature authorizes release of information as described in 8 above". (ex B). Mr. Feulner and
6 Adeline have both signed the Order after the fact but I understand that Ms. Woods believes the
7 Order is invalid and so declines to sign (in the nicest possible manner). I understand that there
8 are CPS records in existence and they are needed to fulfil my duties under #5 of the Order.

9 In order to anticipate as many possible current and future questions, I suggest that a new
10 Order Appointing Guardian ad Litem, signed as a result of the open, on the record hearing of
11 December 1, 2023, with signatures of any parent available and willing to sign the order and court
12 authority exercised should any parent not be available and willing to sign, *nunc pro tunc* to
13 October 25, 2023 be issued to clarify my authority. Or any other unassailable resolution crafted
14 by the court, including the possibility that I fulfill my appointed duties only to the extent that I
15 can gain the appropriate releases voluntarily from the parties. I believe that I can substantially
16 fulfill most of the court appointed duties with the signatures in hand, but the court needs to know
17 the situation. I have not yet asked Ms. Wood to sign individual releases which would fill in any
18 gaps in the Order and also resolve her jurisdiction issue. I find her trying to be very cooperative
19 within the constructs of her beliefs.

20 I swear under penalty of perjury under the laws of the State of Washington that the above is true
21 and correct. DATED this 27th day of November, 2023 and signed in Port Orchard, WA.

22 
23 _____
24 Nancy Tarbell,
25 Guardian ad Litem

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EXHIBIT A



Nancy Tarbell <nancy@tarbelllaw.com>

Re: I've been thinking - and researched the history of your case.

1 message

Heather Wood <hthrwood012@gmail.com>
To: Nancy Tarbell <nancy@tarbelllaw.com>

Wed, Nov 15, 2023 at 11:03 AM

Thank you Miss Tarbell.

I want my daughter safe.

I object to Jurisdiction.

I want you to get paid for your services.

I believe this whole thing is a sham and was a sham since first Adeline told hospital staff she was "afraid" to come home with me.

Then, when first Lenard and Adeline saw Judge Hauser (parental alienation). Lenard put his name and even tried to put adeline's name down as petitioner (crossed out Adeline).

The clerk allowed it, and yet when I put my name back as petitioner in an ex parte attempt at relief, Judge Bassett questioned the caption, and noted that I AM the original petitioner after all.

Two weeks later, commissioner Clucas did rule in my favor.

Clucas told me to follow through with ARY, which was the At Risk Youth program - I was required to Have Her in My Custody in order to do so (ARY).

When I asked her to come home with me, her dad told her to run and get the car (dangerous). Lenard is often getting friends and family into dangerous events (his friend Jeff wrote a song about it).

Clucas blamed me, took my daughter, and now Adeline has gotten into a car wreck, missed 10 days of school, and is seen drinking, vaping, and drugging - things are escalating quickly in Lenard's custody (Lenard has a well documented neurological developmental disability).

Adeline is doing what her dad allows her to do, and at this rate she may not be alive given three more months!!!

Is there an emergency order you could seek to get her into inpatient now?

Protect her from herself.

It's mathematically obvious to me that she is headed for big injuries.

Please help Adeline.

Who is libel for this harm to my daughter?

I will be filing objections and responses in both cases soon.

You are talented,
Heather Wood
(360)999-8493

On Wed, Nov 15, 2023, 9:38 AM Nancy Tarbell <nancy@tarbelllaw.com> wrote:

I will look to the court file to see what is there. I am not appointed on the emancipation case. While I have reviewed that case a bit I am not keeping up on what is filed there. Right before I write my report for the residential schedule I will revisit that case to see how it is positioned. Since you have two active, complicated cases covering much the same

information, are you intending to ask for a judge to be pre-assigned? Maybe you already have done so---I'll have to review your motions.

I cannot join with any other party to answer legal questions or support their side. My role as guardian ad litem is very limited and specific. I don't want to mislead you in any way.

My only question was aimed at sorting out my authority as GAL. I am a bit unclear, but Mr. Smith may have questioned it. While I know he isn't your attorney, you seem to rely on his advice. What is YOUR position? Do you believe I have authority from the court to act as guardian ad litem? Are you challenging Judge Forbes' Order appointing me? I need to know as time is very short. I will not ask for further records, including law enforcement records, until I am sure of my authority to proceed. Please clearly state whether you are now or intend to dispute my appointment as GAL.

Thank you. I do enjoy the information you have provided. You are a very talented person.

On Tue, Nov 14, 2023 at 7:45 PM Heather Wood <hthrwood012@gmail.com> wrote:
Good Evening Miss Tarbell,

This past weekend I am sorry to report my Dearest Loved One caused a collision in Thurston County where she has been domiciled with me since 4/2012.

The case number is new:

2023-5645, and the citation number: 3A0793262.

I am happy that she did not harm anyone too badly, and that she is still living, though details I have none until maybe the end of the week.

As you can imagine the helpless feeling of not being allowed to parent and protect my daughter at this troubled teenage time for her.

Would you help me restore my rights, and reverse this nightmare?

Her father continues his usual neglect, and she, her spontaneous-but-predictable behavior.

I imagine the both of us can continue working toward the same end of correcting this case, though each by different means.

I have a court date scheduled for December 1st to hear a motion to apply strict scrutiny and several other reliefs.

I will be filing declarations in her emancipation case to counter Leonard's statements and her false bologna. I believe it was her father's sister who helped her compose paperwork - I don't recognize her signature either. I could be mistaken, but I'm trying to figure out why she misspoke about so many details. Could he be suborning perjury?

It would be a great help to all involved if you could get that police report from WASPC. We have already served subpoena to them.

Here is what John had to say:

As we have discussed, the captioning of your case is a mess: the State was the petitioner when the case was designated 5 - sealed case regarding paternity;

[That is correct. Lenard was NEVER the Petitioner until he modified the caption w/o a court order, based on bad legal advice from a Kitsap court clerk, when entering his 8-4-23 pleadings which could be barred by the principles of laches as well as judicial/equitable seoppel. It is not trivial and is connected to whether proper venue & jurisdiction exists, which, of course, clucas claims exists to cover his ass, it's more than a 'mess', it's a lynching and a witch hunt.]

then when it was transferred to a 3 - open case for residential schedule, you captioned it with you as the petitioner - and you filed the petition; Lenard responded.

[Heather not only initiated the action, but filed and properly served a summons. An RTS is on file in the record proving this. Heathe filed a GR34 motion, was found indigent, and received an Order to proceed in Forma Pauperis. The matter languished since 2009. Clucas railed at both parents for this ennui but he admitted it should have been dismissed after notice by the Clerk, if they had a competent Clerk's office. It's not trivial and, technically, based on Clucas' totally lawless behavior from the bench on 8-15-23 after he had dismissed Lenard's motion. The fruit of the poisoned tree doctrine arises NOT because of the facially defective court documents and defective record, but BECAUSE of Clucas' abhorrent Kangaroo Court hearing & demeanor on 8-15-23 and all that flowed from it, rendering it and all subsequent orders not just voidable, but void ab initio.]

Somehow the case morphed into Lenard as the petitioner (same cause number, etc).

[Technically, if the Clucas cabal has no proper jurisdiction, an appointment of a GAL is also void. Heather has been advised not to consent to jurisdiction and cannot alter a document w/a judge's signature w/o incurring criminal liability. This case has evolved into the state in the guise of Clucas versus Heather Wood, which is why Clucas chooses to treat and refer to it as a 'parentage' case. It is no such thing. And Heather should stand firmly on her fundamental rights even in the face of bullying and intimidation. A court that acts w/o proper jurisdiction should receive no respect or compliance from any citizen whatsoever. While Ms. Tarbell appears to be a conscientious attorney, she has been hired and appointed by a lawless Kangaroo court and the fruit of that poisoned tree,]

This needs to be sorted well before trial in March. John indicates he has a "fruit of the poisonous tree" argument which might be extended to my appointment. I disagree with that as the captioning makes no difference to my work. However--

[Indeed it does. A petition in the proper venue for a writ of Habeas Corpus is on the table along w/an ARY's petition. Heather cannot get a fair trial nor the appearance of one in Kitsap County. Perhaps Ms. Tarbell can suggest as much to Clucas and his cohorts. Heather should demand an elected judge and a change of venue while continuing to preserve her ongoing objection to jurisdiction at every step. One cannot countenance dragging 2 parents off the street post dismissal and holding an impromptu Kangaroo Hearing based on extrajudicial communications, NO evidence, no sworn testimony, no participation by the true litigants/parents, and summary instant stripping of all Heather's parental rights ON THE SPOT w/o any genuine investigation or inquiry beforehand and blaming Heather for her truculent child's misbehavior. This entire proceeding is fraudulent based on a false premise arising from the incompetence and confirmation biases of Commissioner Clucas--the real villain in this entire scenario.]

Do you want me to bring this before the court to be sorted? Or do you want to do that? It is clear that it needs to be sorted and the sooner the better. Thoughts? I think it needs to be resolved before the end of November.

[This entire line of judicial misconduct is barred by the principle of judicial estoppel and should be dismissed out of hand. A Kangaroo Court should not be rewarded, but MUST be challenged.]

Best regards,
Miss Wood
(360) 999-8493

On Tue, Nov 14, 2023, 4:12 PM Nancy Tarbell <nancy@tarbelllaw.com> wrote:

As we have discussed, the captioning of your case is a mess: the State was the petitioner when the case was designated 5 - sealed case regarding paternity;
then when it was transferred to a 3 - open case for residential schedule, you captioned it with you as the petitioner - and you filed the petition; Lenrd responded.

Somehow the case morphed into Lenrd as the petitioner (same cause number, etc).

This needs to be sorted well before trial in March. John indicates he has a "fruit of the poisonous tree" argument which might be extended to my appointment. I disagree with that as the captioning makes no difference to my work. However--

Do you want me to bring this before the court to be sorted? Or do you want to do that? It is clear that it needs to be sorted and the sooner the better. Thoughts? I think it needs to be resolved before the end of November.

With regards,
Nancy Tarbell

The information in this e-mail is intended for the sole use of the person to whom it is addressed and may contain confidential and privileged information. If this e-mail is sent to you in error please immediately discard and contact the sender.

With regards,

Nancy Tarbell

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EXHIBIT B

Superior Court of Washington, County of Kitsap

In re:

Petitioner/s (person/s who started this case):

LENARD R. FEULNER

And Respondent/s (other party/parties):

HEATHER L. WOOD

No. 07-3-01713-1

Order Appointing
Guardian ad Litem for a Child
(ORAPGL)

Order Appointing Guardian ad Litem for a Child

Use this form to appoint a GAL to investigate and report on a child's best interests for a Parenting Plan, Residential Schedule, or parentage decision.

Do not use this form to appoint a GAL for a minor parent, or a child who is added as a party in this case, use form FL All Family 147 instead.

1. A motion to appoint a Guardian ad Litem (GAL) for the children listed below was made by the (check one): ☐ Petitioner ☐ Respondent ☒ Court:

Child's name	Age	Child's name	Age
1. ADELINE FEULNER	16	2.	
3.		4.	
5.		6.	

2. The court finds it is in the best interest of the children listed in 1 to appoint a Guardian ad Litem. The court has authority to make this appointment under (check one):

☐ divorce (dissolution) law, ch. 26.09 RCW. ☒ parentage law, ch. 26.26A RCW and
☐ domestic violence law, ch. 26.50 RCW. ch. 26.26B RCW.

➤ **The Court Orders:**

3. (GAL's name): NANCY TARBELL is appointed Guardian ad Litem (GAL) for the children listed in 1 above. The GAL must always act in the children's best interests.

4. **GAL's Rights**

All parties must serve the Guardian ad Litem (GAL) with:

- Notice of any court hearing or proposed agreement involving these children, and

- Copies of all documents they file in this case.

The court clerk must give the GAL free, certified copies of this *Order*, upon request.

5. GAL's Duties

The Guardian ad Litem's (GAL's) duties include:

- Going to all court hearings and pretrial conferences for this case that are related to the children, unless the court says otherwise, and
- Investigating and reporting factual information to the court on issues set out below.

The GAL is ordered to investigate and file a report only on the issues checked below, unless the court approves investigation into other issues (*check all that apply*):

[X] All issues related to making a parenting plan for these children including any of the issues below whether they are specifically checked or not:

[X] Only the issues that are checked below:

- | | |
|--------------------------------------|--|
| [X] Parenting abilities | [X] Petitioner [X] Respondent |
| [X] Abandonment or neglect by | [X] Petitioner [X] Respondent |
| [] Criminal history of | [] Pet. [] Resp. [] Other: _____ |
| [] Domestic violence of | [] Pet. [] Resp. [] Other: _____ |
| [] Mental health issues of | [] Pet. [] Resp. [] Other: _____ |
| [] Physical health issues of | [] Pet. [] Resp. [] Other: _____ |
| [] Sexual abuse allegations against | [] Pet. [] Resp. [] Other: _____ |
| [X] Substance abuse of | [X] Pet. [X] Resp. [X] Other: <u>Child</u> |

[X] Any other issues discovered that could affect the **safety** of the children.

[] All issues related to deciding who the legal parents are for these children.

[] Whether genetic testing should be done to decide who the legal parents are.

[] Whether the children's names should be changed.

[] For cases about *changing* a parenting/custody order; whether the children have been integrated into the home of the parent who has less time under the current order.

[X] Other: Child has also filed for emancipation & has a GAL per separate order under cause no. 23-2-01534-18.

6. GAL's Report

The Guardian ad Litem's (GAL's) report must include:

- Facts about the issues listed in 5 above.
- The children's preferences for the parenting plan (if they stated any),
- Any facts about whether the children stated their preferences voluntarily, and
- Any facts about the children's level of understanding.

The report may include recommendations based on the investigation.

Deadline! Unless the court extends the deadline, the report must be filed and served on all parties by (date) _____, which is at least 60 days before the trial.

Trial set for 3/12/2024.

The parties (or their lawyers, if any) have the right to inspect and copy the GAL's file of data gathered during the investigation, including the names and addresses of everyone the GAL consulted. **Exception:** information in the GAL's file that is confidential by law or sealed by a court shall not be shared with the parties or their lawyers.

7. Access to the Children and Information

The Guardian ad Litem (GAL) is allowed reasonable access to the children, and to all records and people with information that affects the children, including:

- Child care providers
- Physical and mental health care providers
- Schools and other educational institutions
- Law enforcement agencies, Child Protective Services, and the Department of Children, Youth, and Families (or equivalent agencies if outside Washington)
- All providers for the parents related to issues the GAL is ordered to investigate including mental health and substance abuse records where applicable.

Note: agencies may withhold or black out legally protected parts of requested information.

8. Release of Information

The signatures of parties or children 12 or older below mean they give permission to the agencies and professionals listed in 7 above to share information related to the issues the GAL is ordered to investigate about themselves and the children with the GAL.

9. Confidentiality

The Guardian ad Litem (GAL) will:

- Have access to all Superior Court and Juvenile Court files related to their duties, including sealed and confidential documents. **Exception:** The GAL will not have access to information sealed under RCW 13.50.050(7);
- Keep confidential any sealed and confidential information (unless their duties as GAL require otherwise);
- Tell the court if their report includes any sealed or confidential information; and
- File their report in two parts: one public and one sealed as required by GR 22.

Any party or the GAL may ask the court to make confidential any reports or documents placed in the file, if there is a good reason to do so.

10. GAL's Fees

The Guardian ad Litem's (GAL's) hourly fee is \$ 75.00. The GAL may not charge more than a total of \$ 3,000.00 without court review and approval. (40 hours)

The GAL's fees will be paid as follows (*check one*):

- [] ____ % paid by Petitioner _____
- ____ % paid by Respondent _____
- ____ % paid by (*specify*): _____

[X] 100% or \$ _____ paid by the County at public expense. However, if the parties' financial circumstances change, the court may order the parties to pay the fees according to their ability to pay.

[] Other: _____

Billing Process:

- The GAL must file an itemized statement of time and expenses with the court and provide a copy to the person/s or entity responsible for payment.
- The GAL may file any request for payment with the court, along with an itemized statement and a proposed order.

11. Appointment Ends

The GAL's appointment ends when the GAL is discharged by the court or earlier if:

☒ [X] the final *Parenting Plan* or *Residential Schedule* is signed by the court.

☐ [] parentage is decided.

☐ [] other (specify): _____

12. Other Orders (if any):

Ordered.

10/25/2023
Date

[Signature]
Judge or Commissioner

Petitioner and Respondent or their lawyers fill out below:

A party's signature authorizes release of information as described in 8 above.

This document (check any that apply):

☐ [] is an agreement of the parties

☐ [] is presented by me

☐ [] may be signed by the court without notice to me

This document (check any that apply):

☐ [] is an agreement of the parties

☐ [] is presented by me

☐ [] may be signed by the court without notice to me

[Signature]
Petitioner signs here or lawyer signs here + WSBA #

Lenard Feulner 11-3-23

Print Name

Date

Respondent signs here or lawyer signs here + WSBA #

Print Name

Date

Children age 12 or older sign below to authorize release of information as described in 8:

[Signature]
Child signs here

Adeline Feulner
Print name

11/3/23
Date

Other child signs here

Print name

Date

Guardian ad Litem signs below to accept appointment:

[Signature]
GAL signs here

Nancy Tarbell
Print name

10/30/23
Date