

1 Exhibit C

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6 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
7 FOR KING COUNTY

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9 In the Guardianship of:

10 OMANA THANKAMMA,
11 An Incapacitated Person.

No. 18-4-05231-6 SEA

PETITION FOR INSTRUCTIONS
REGARDING MEDICAL CARE

12
13 **1. Request**

14 **COMES NOW** CHANNA COPELAND, the Full Guardian of the Person and Estate of
15 OMANA THANKAMMA, by and through her attorneys of record, REGEIMBAL,
16 McDONALD & YOUNG, PLLC, and petitions this Court for instructions regarding Ms.
17 Thankamma’s continued and potential end of life care.

18 **2. Facts**

19 1. CHANNA COPELAND (the “Guardian”) was appointed the Full Guardian of the
20 Person and Estate of OMANA THANKAMMA on November 28, 2018. Ms. Thankamma’s code
21 status is currently “Full Code” pursuant to the request of her family members, particularly her
22 son, JAYAKRISHNAN K. NAIR.

23 2. As elucidated in the Notice of Change in Circumstances filed in this matter on
24 December 31, 2019, Ms. Thankamma was discharged from Harborview Medical Center
25 (“Harborview”) to Queen Anne Healthcare on December 20, 2019, and on December 27, 2019,
she was readmitted to Harborview for high blood sugar and altered mental status. On December
29, 2019, due to rapid breathing and in order to stabilize Ms. Thankamma, her treatment team
determined it was in her best interest that she be sedated, intubated, and placed into the Intensive

1 Care Unit (ICU) at Harborview. See *Exhibit 1*. Attached as *Exhibit 2* is a progress note, dated
2 January 8, 2020, detailing Ms. Thankamma's condition at that time and recommending that
3 comfort care be instituted. As set forth in the most recent Notice of Change in Circumstances,
4 filed in this matter on February 6, 2020, at one point Ms. Thankamma woke up enough to pull
5 out her own ventilator tube, but less than two days later, she needed to be intubated again. See
Exhibit 3.

6 3. Although the Guardian was vested with full authority to make health care decisions on
7 Ms. Thankamma's behalf in the Order Appointing Guardian, dated November 28, 2018, the
8 Guardian holds it a high priority to consult with Ms. Thankamma's family members regarding
9 end of life care. Recent communications were exchanged through a family liaison, SURESH
10 MUTHUSWAMY, as the remaining family is located in India. The Guardian has been informed
11 that family preference is to keep Ms. Thankamma at "full code." The Guardian worked with Mr.
12 Muthuswamy to arrange a video visit between Ms. Thankamma and her family in India on
13 January 7, 2020. See *Exhibit 4*.

14 4. One complicating factor is the ongoing litigation between Ms. Copeland and Ms.
15 Thankamma's only son, Mr. Nair. The Guardian has been unable to work with Mr. Nair to civilly
16 discuss Ms. Thankamma's ongoing quality of life, and Mr. Nair has initiated several legal
17 proceedings in an attempt to restrict the Guardian's ability to make decisions on Ms.
18 Thankamma's behalf.

19 5. The Guardian has sought the recommendation of an ethics committee at Harborview.
20 Their report is attached hereto as *Exhibit 5*. This committee concluded that it is ethically
21 permissible to move Ms. Thankamma to comfort care only. They report as follows:

22 Mrs. Thankamma is living a very poor quality of life. There was consensus among
23 everyone present that Comfort Care is the medically and ethically appropriate course of
24 action for this patient. There is a great deal of moral distress among care providers
25 because they know the right thing to do (comfort care) but are unable to make it happen
because the fate of this patient is in the hands of the court.

[...]

In summary, there is a consensus of caregivers and ethicists who fully support changing
the patient's status to Comfort Measures Only.

See *Exhibit 3*, p. 4. The ethics committee also addressed the issue of visitation with Mr. Nair,
saying that it would be nice "for the patient to see her son again if the court permits and if
safeguards are in place." *Id.*

1 6. This Court has issued a Vulnerable Adult Protection Order under King County
2 Superior Court Cause No. 19-4-31462-1 SEA restraining Mr. Nair from contact with Ms.
3 Thankamma. On February 5, 2020, an Order Re Motion to Modify Order for Protection was
4 entered granting a single supervised visit to Mr. Nair subject to a stipulated visitation plan. *See*
5 **Exhibit 6**. This single visit was accomplished on February 5, 2020. The Guardian anticipates that
6 both she and Harborview will oppose any effort by Mr. Nair to obtain additional visitation, as
7 Mr. Nair has violated the Order. *See Exhibit 7*.

8 7. On February 6, 2020, the Guardian received an email from Jacqueline Butin, Social
9 Work Supervisor at Harborview, regarding Ms. Thankamma's ongoing deterioration. In the
10 email, attached as **Exhibit 8**, Ms. Butin indicates that Ms. Thankamma "seems to be suffering,"
11 and that her skin, teeth, and tongue are starting to break down due to her long intubation.

12 8. On February 11, 2020, the family communicated to a member of the ethics committee
13 at Harborview again reaffirming their desire that Ms. Thankamma remain full code and alleging
14 that the Guardian seeking instructions from the Court constitutes a "murder attempt." *See*
15 **Exhibit 9**.

16 3. Issue

17 Should this Court authorize the Guardian to modify OMANA THANKAMMA'S POLST
18 form so that the health care providers are allowed to withdraw OMANA THANKAMMA's
19 breathing tube and institute comfort care, as recommended by an ethics committee?
20

21 4. Law

22 **RCW 11.92.043**

23 **Additional duties.**

24 It shall be the duty of the guardian or limited guardian of the person:

25 ... (f) Consistent with RCW 7.70.065, to provide timely, informed consent for health care of the
incapacitated person,

26 **RCW 7.70.065**

27 **Informed consent—Persons authorized to provide for patients who are not competent— Priority**

28 (1) Informed consent for health care for a patient who is not competent, as defined in *RCW
29 11.88.010(1)(e), to consent may be obtained from a person authorized to consent on behalf of
30 such patient.

1 (a) Persons authorized to provide informed consent to health care on behalf of a patient who
2 is not competent to consent, based upon a reason other than incapacity as defined in *RCW
3 11.88.010(1)(d), shall be a member of one of the following classes of persons in the
4 following order of priority:

- 5 (i) The appointed guardian of the patient, if any;
- 6 (ii) The individual, if any, to whom the patient has given a durable power of attorney that
7 encompasses the authority to make health care decisions;
- 8 (iii) The patient's spouse or state registered domestic partner;
- 9 (iv) Children of the patient who are at least eighteen years of age;
- 10 (v) Parents of the patient; ((and))
- 11 (vi) Adult brothers and sisters of the patient;
- 12 (vii) Adult grandchildren of the patient who are familiar with the patient;

13 (c) Before any person authorized to provide informed consent on behalf of a patient not
14 competent to consent under *RCW 11.88.010(1)(e), other than a person determined to be
15 incapacitated because he or she is under the age of majority and who is not otherwise
16 authorized to provide informed consent, exercises that authority, the person must first
17 determine in good faith that that patient, if competent, would consent to the proposed health
18 care. If such a determination cannot be made, the decision to consent to the proposed health
19 care may be made only after determining that the proposed health care is in the patient's best
20 interests.

21 In re Ingram, 102 Wn.2d 827, 840, 689 P.2d 1363 (1984).

22 In re Grant, 109 Wn.2d 545, 566-568, 747 P.2d 445 (1987), corrected 757 P.2d 534, 1988.

23 In re Hamlin, 102 Wn.2d 810, 820-821, 689 P.2d 1372 (1984).

24 5. Argument

25 In In re Hamlin, 102 Wn.2d 810, 820-821, 689 P.2d 1372 (1984), the court ruled that the
withholding of life sustaining treatments would not require prior court authorization when the
following circumstances were present:

1. The incompetent patient's attending physician, together with two other physicians
qualified to assess the patient's condition, determine with reasonable medical judgment
that the patient is in an advanced stage of a terminal and incurable illness and is suffering
severe and permanent mental and physical deterioration;
2. The incompetent patient's legal guardian, if one has been appointed, determines that
either (a) the patient, if competent, would choose to refuse life sustaining treatment; or,
(b) if such a determination cannot be made, the guardian determines that the withholding
of life sustaining treatment would be in the best interests of the patient;
3. No members of the incompetent patient's immediate family object to the decision to
withhold such treatment; and

1 4. Neither the patient's physicians nor the health care facility responsible for the care of
2 the patient object to the decision to withhold such treatment.

3 In Ms. Thankamma's case, there are immediate family members who are objecting to the
4 idea of changing Ms. Thankamma's code status to anything but full code, while Ms.
5 Thankamma's care providers are recommending comfort care. Therefore, the Guardian seeks
6 court instruction as to this issue.

7 As it is not currently possible to determine Ms. Thankamma's own wishes and
8 preferences regarding her ongoing care, the Guardian is required to make the judgment based on
9 what is in the best interest of the Incapacitated Person. See RCW 7.70.065. See also In re Grant,
10 109 Wn.2d 545, 566-568, 747 P.2d 445 (1987), corrected 757 P.2d 534, 1988. In Grant, the
11 Court ruled that if there is an absence of sufficient information to determine the actual desires of
12 an Incapacitated Person, then the Guardian should make her judgment based on what is in the
13 best interest of the Incapacitated Person. The court provided a non-exclusive list of factors to be
14 considered to determine if the withholding of life-saving treatments would be in the best interest
15 of the Incapacitated Person. The court recommended consideration of:

16 "[E]vidence about the patient's present level of physical, sensory,
17 emotional, and cognitive functioning; the degree of physical pain
18 resulting from the medical condition, treatment, and termination of
19 treatment, respectively; the degree of humiliation, dependence, and loss
20 of dignity probably resulting from the condition and treatment; the life
21 expectancy and prognosis for recovery with and without treatment; the
22 various treatment options; and the risks, side effects, and benefits of
23 each of those options.

24 Grant at 567-568.

25 The Guardian believes that consideration of the above factors dictates that the Guardian be
allowed to adopt the recommendation of the ethics committee that Ms. Thankamma's POLST
form should be modified so that the health care providers are allowed to withdraw Ms.
Thankamma's breathing tube, institute comfort care, and are not required or authorized to
perform CPR, a tracheostomy, or cardioversion.

Based on the continuing litigation and allegations between Mr. Nair and the Guardian, it
may also be proper to appoint a Guardian ad Litem to investigate and provide a recommendation
to the Court.

1 The Guardian will provide notice of hearing to Harborview Medical Center should
2 Harborview wish to support the preferences of the ethics committee and care providers.

3 **DATED** this 18th day of February, 2020.

4 Respectfully Submitted:

5 **REGEIMBAL, McDONALD & YOUNG, PLLC**

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9 Ermin Ciric, WSBA No. 52611
10 Attorney for Guardian

EXHIBIT 1

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

In the Guardianship of:
Omana Thankamma
An Incapacitated Person.

Case No. 18-4-05231-6 SEA
NOTICE OF CHANGE IN CIRCUMSTANCES
Clerk's code: (NTCCIR)

The following circumstances have changed with regards to the Incapacitated Person.

On December 20th, 2019, the Incapacitated Person was discharged from Harborview Medical Center to Queen Anne Healthcare, located at 2717 Dexter Ave N, Seattle, WA 98109. On December 27th, 2019, the Incapacitated Person was re-admitted to Harborview Medical Center. I was informed by the treating physician on the 27th of December that The Incapacitated Person was stable and they were waiting on test result and that the Incapacitated Person experienced high blood sugar and altered mental status, which caused her readmission. On December 30th, 2019 I was notified that on December 29th, due to rapid breathing and in order to stabilize the Incapacitated Person the treatment team determined it was in The Incapacitated Persons best interest to be sedated and intubated and placed into the ICU at Harborview.

I plan to notify known family members of the Incapacitated Person, namely her brother, Jayakumar Nair, her daughter, Rajakumari Susheelkumar, and her granddaughter, Sukanya Susheel, of this change in the Incapacitated Person's condition at their last known email and mailing addresses. I plan to inform them that there are no restrictions on them with regard to visitation, and that I am able and willing to facilitate their visitation in Harborview should they desire to visit the Incapacitated Person.

The son of the Incapacitated Person, Jayakrishnan Nair, has been restricted from visiting his mother by a Vulnerable Adult Order of Protection (VAPO) entered under King County Superior Court Cause
NOTICE OF CHANGE IN CIRCUMSTANCES

1 No. 19-2-31462-1 SEA. My counsel will reach out to him directly at his last known email address to inform
2 him that visitation will be allowed only as provided for in the VAPO, i.e., supervised at his own expense and
3 with the permission of the hospital, for the protection of the Incapacitated Person.

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**DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON
THAT THE FOREGOING IS TRUE AND CORRECT.**

Signed at Orting, Washington this 30th day of December, 2019.


Channa Copeland, CPG

EXHIBIT 2

ICU - Inpt Record
* Final Report *

THANKAMMA, OMANA - H3897689

Result Type: ICU - Inpt Record
Service Date: January 08, 2020 13:42
Result Status: Authenticated
Performed By: Curtis MD MPH, Jared Randall on January 08, 2020 14:20
Verified By: Curtis MD MPH, Jared Randall on January 08, 2020 14:22
Encounter info: 1844383984, HMC, Inpatient, 12/28/2019 -

*** Final Report ***

HOSPITAL DAY: 11

ID & CHIEF CONCERN/PROBLEM: *(required for all billing levels)*

Chronic respiratory failure, stroke,

ATTENDING STATEMENT:

I saw and evaluated this patient today with the MICU team and I agree with their note for today. I personally examined the patient today and reviewed the patient's clinical course, laboratory data, and hemodynamic data.

PERTINENT HISTORY, EXAM AND DATA: 77 year old Malayalam-speaking woman with a history of remote CVA with residual dense aphasia and bilateral lower extremities contractures, type 2 diabetes, coronary artery disease s/p CABG, recurrent multi-drug resistant infections, and multiple admissions for sepsis with unclear source, admitted to the MICU 11 days ago with acute respiratory failure requiring intubation, shock, and hypernatremia.

This morning she remains intubated and sedated. Remains unresponsive to voice and minimal movement which is very close to her baseline mental status and functional status. Symptoms (ROS) are not available due to her extremely poor mental status. She is afebrile and hemodynamically stable. Oxygenating and ventilating ok on FiO2 21% PEEP 5 with Ve 5 L/min but failed a spontaneous breathing trial quickly yet again this AM with rapid shallow breathing. Lungs with coarse BS and abd soft. Labs with reviewed and unchanged.

DIAGNOSES, ASSESSMENT, AND PLAN:

1. Acute resp failure likely multifactorial and due to aspiration pneumonia in context of her severe

Printed by: Carruth MSW, Miranda
Printed on: 1/8/2020 16:10

Page 1 of 3
(Continued)

underlying frailty and prior stroke. She initially also had a component of volume overload but she has had no improvement with what maximal diuresis which caused her creatinine to rise and hypotension that required giving back IV fluids. We treated her aspiration pneumonia with ceftriaxone and she has completed a full course of antibiotics. At this point, with no improvement despite treating her pneumonia and volume overload, I believe that we will not be able to liberate her from mechanical ventilation due to her underlying frailty and stroke. If we were to continue life support, I would recommend a tracheostomy and a percutaneous gastrostomy (PEG) tube for what would likely be permanent mechanical ventilation in a Long Term Acute Care Hospital. Given her extremely poor quality of life, inability to communicate or interact with her surroundings, and extremely poor prognosis of any meaningful improvement, I believe that the vast majority of people would not want to be kept alive through ongoing life support. Therefore, I have recommended to her guardian, Channa Copeland, that we change the goals of care to comfort measures only and remove the life support that is prolonging her current poor quality of life. This path would allow us to focus on her comfort and not prolong this poor quality. The other possible treatment path would be to proceed with tracheostomy for long-term ventilation and begin the process of referring her to a Long Term Acute Care (LTAC) hospital. Channa Copeland feels that trachesomy/PEG/LTAC would not be in the pateint's best interests but wants to explore this with family and people who know the patient. We will continue our current treatment and continue to follow up with the guardian.

2. Decreased level of consciousness - likely due to underlying her stroke plus her critical illness. We will continue to follow exam and consider repeat imaging if there are changes in her exam.

3. Hyperglycemia - we transitioned back to insulin gtt because of poorly controlled glucose. We will continue this.

4. Leukocytosis - stable high today. Afebrile. Completed a course of ceftriaxone for aspiration pneumonia. We will follow closely for signs of new infection.

Date of Service: 01/08/20

Signature Line

Electronically Reviewed/Signed On: 01/08/20 at 14:22

Curtis MD MPH, Jared Randall

Professor, Division of Pulmonary and Critical Care 10EH-26 Harborview Medical Center
Box 359762
Seattle WA

ICU - Inpt Record
* Final Report *

THANKAMMA, OMANA - H3897689

JRC
DD:01/08/20

EXHIBIT 3

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

In the Guardianship of:
Omana Thankamma
An Incapacitated Person.

Case No. 18-4-05231-6 SEA
NOTICE OF CHANGE IN
CIRCUMSTANCES
Clerk's code: (NTCCIR)

The following circumstances have changed with regards to the Incapacitated Person:

The Guardian has been notified that Ms. Thankamma regained consciousness to the extent that she removed her own ventilator tube. She was able to breathe on her own for two days, but she then had to be re-intubated for respiratory support. Ms. Thankamma remains on a ventilator in the Intensive Care Unit at Harborview Medical Center.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

Signed at Orting, Washington this 4 day of January, 2020.

C. Copeland
Channa Copeland, CPG

EXHIBIT 4

From: muthuswamy suresh <muthusuresh@hotmail.com>
Sent: Wednesday, January 8, 2020 2:14 PM
To: Ermin Ciric <Ermin.Ciric@rm-law.com>
Cc: Rebecca Jenkins <Rebecca.Jenkins@rm-law.com>; susheel.sukanya@gmail.com <susheel.sukanya@gmail.com>
Subject: Re: Request for medical transportation of Omana

Respected Ermin:

Both Padmaja and Myself met guardian yesterday "Channa Copeland" and visited Omana Thankamma. We truly thank you so much for making this appointment happened. This was very important for their loved ones to see her directly.

During our conversation with Ms.Copeland, she offered Jay Krishna Nair to meet her mother escorting by me (Suresh Muthuswamy), Padmaja or Hari Prasad at Harborview hospital. We are so thankful to Ms.Copeland, she also mentioned there should be prior paper work needs to happen. So please advise what will be the next steps to setup visiting to see his mom?

Jay Krishna Nair is NO CONTACT court order and hence he couldn't able to talk to Ms.Copeland in video call yesterday.

Once we setup new appointment, he mentioned due to NO CONTACT court order, he don't want to meet her in-person to avoid any further damage. So please advise.

Based on my discussions with the family, they urge Harborview hospital to consider the next treatment plan and as explained in the call thoraiaic for Omana Thankamma and continue on life support.

Their entire family wants to thank you and Ms.Copeland for allowing us for the visit.

We are eagerly waiting fo your response in arranging visiting for Jay Nair with escorting by the community friends.

I also want to personally thank Ms.Copeland services offering through non-profit organization and it was pleasure meeting her in-person.

1/9/2020

Mail - Ermin Ciric - Outlook

Thank you again, I will let the family know you will communicating to the hospital about the life support.

I will let Jay Krishna the instructions you have given to follow and come up with proposal at the earliest. He is very eager to meet her mother hoping we can setup an appointment offered by Copeland. Now I understand we may need to sign a declaration and come for hearing. Without declaration and hearing it is not possible right?

Regards,

Suresh

EXHIBIT 5

Consultation - Inpt
* Final Report *

THANKAMMA, OMANA - H3897689

Result Type: Consultation - Inpt
Service Date: January 22, 2020 11:11
Result Status: Authenticated
Result Title: Ethics consult 1/21/2020
Performed By: Treece RN, Patsy D on January 22, 2020 11:16
Verified By: Treece RN, Patsy D on January 22, 2020 11:16
Encounter info: 1844383984, HMC, Inpatient, 12/28/2019 -

*** Final Report ***

Attending from ethics: Jill Watanabe, Diane Timberlake, Denise Dudzinski and Patsy Treece

Attending from the team: Lois Nakamura, Dionne Williams, Miranda Caruth, Lori Davis and Sean Bean.

Also in attendance: Channa Copeland and Catherine May, pt's guardian and case manager for guardian.

Ethics Questions: Is it ethically permissible to change patient's status to comfort care? Additional question- is it ethically permissible to perform a tracheostomy on patient?

Recommendations: Please see the notes by Jill Watanabe from Jan 8, 2020 and the note by J. Randall Curtis on the same date.

1. Continue to let the patient's comfort and well-being be the guiding force for making treatment decisions.
2. It is ethically permissible to move patient to comfort measures only based on her medical condition.
3. It is ethically permissible to perform a tracheostomy in this unique setting where there is a delay in our ability to carry out comfort care because we are awaiting a court order. Usually, comfort care is deemed appropriate and then carried out somewhat quickly. In this case because a court order will be necessary there may be physiologic or comfort reasons to do the tracheostomy even in the setting of comfort care. There is a limit to the time a patient can be intubated with an endotracheal tube because there is a risk of damage to the trachea. For this physiologic reason to prevent further harm to the patient, a tracheostomy may be necessary in the weeks ahead.
4. Per instructions by the court and assurance of security/protection of the patient and staff, a supervised visit from her son after a shift to comfort care is ethically appropriate, since the patient enjoys seeing

her son and our understanding of likely cultural preferences is that they endorse the presence of family near end-of-life.

Medical Indications:

77 year old Malayalam-speaking woman with a hx of remote CVA with residual dense aphasia and LE contractures, T2DM, CAD s/p CABG, recurrent MDRO UTIs, and multiple admissions for SIRS physiology with unclear source, admitted with AHRF, shock, and hypernatremia s/p self-extubation 1/17, re-intubated 1/20 for increased work of breathing and tachypnea. She is full code. The patient lacks decision-making capacity and the court has appointed a guardian to make treatment decisions. She had self-extubated and was able to breathe on her own for quite some time but did require re-intubation last night. She had strokes in 2014 and 2015 while visiting her son in Washington. She has a PEG for feedings. There is a language barrier that is challenging. There are some staff on 3E who speak her language and sometimes come and interact with her when she is doing better.

Quality of Life:

Her quality of life is very poor. She is bedridden, has contractures and is dependent on others for all her hygiene, nutrition and toileting. She is able to move her right arm but otherwise is immobile. Even when turned her body does not bend, she turns as a whole. Nursing is barely able to get a pillow between her knees to prevent pressure sores on the bony prominences

She enjoys when her son visits- it is said that when she was better she would wake up and talk when he was here. He has not been able to visit her in months because of a Vulnerable Adult Protective Order (VAPO)prohibiting him from visiting his mother.

She has spent a great deal of the past year and a half either in the hospital or in a SNF. At one point she stated that she felt like she was a prisoner at HMC.

Patient Preferences:

Little is known about her specific preferences in the circumstances she finds herself in. After her 2nd stroke she said to a HCP "I want to live". It is unknown if she would still feel this way.

From research Dr. Watanabe did on the Hindu culture it is common to forego extraordinary medical interventions when a person is extremely ill and to shift to comfort care instead.

We again talked about how she adores her son and if she had her preference would probably be to see him, however she is unable to consider other factors that led to issuing of the VAPO.

Contextual Features:

Consultation - Inpt
* Final Report *

THANKAMMA, OMANA - H3897689

This is a very complicated case with a guardian appointed in 2017 after an APS investigation into the patient's son. APS investigated him for years according to one source and then a guardian was appointed to make decisions for the patient.

In addition to the behavior that led to an APS investigation and appointment of a legal guardian for the patient, there are multiple incidences where the son has been abusive to staff at the care facility and at HMC.

Despite the VAPO, the son's attorney wants him to have visitation. This could be accomplished only with approval from the court and a private security guard present. Visitation may be good for the patient but because he has placed her at risk in the past, we must take steps to insure he can not harm her in any way. We also need to provide for the safety of the staff.

Getting her home to India which was a goal of hers would likely not be feasible at this stage of her illness. She would have to have a medical life flight team, she would have to be stable and there would have to be an accepting facility that could provide the level of care she needs in India.

Discussion: Mrs. Thankamma is living a very poor quality of life. There was consensus among everyone present that Comfort Care is the medically and ethically appropriate course of action for this patient. There is a great deal of moral distress among care providers because they know the right thing to do (comfort care) but are unable to make it happen because the fate of this patient is in the hands of the court.

We talked about how nice it would be for the patient to see her son again if the court permits and if safeguards are in place.

We talked about cultural considerations including having family near at the time of death.

Care has been and will continue to be focused on Mrs. Thankamma's comfort and wellbeing. We understand the need for court involvement and are receptive to the court's instruction, but care for patients like this is hour to hour and we need to anticipate her needs while the court decides. Therefore we discussed the possible need for a trach. While not urgently needed, it might be necessary for her comfort and does not conflict with a shift to "comfort care only".

In summary, there is a consensus of caregivers and ethicists who fully support changing the patient's status to Comfort Measures Only.

Thank you for this very interesting consult. If we may be of further service please do not hesitate to call on us.

Patsy Treece

Ethics consultant

Signature Line

Electronically Reviewed/Signed On: 01/22/20 at 11:16

Consultation - Inpt
* Final Report *

THANKAMMA, OMANA - H3897689

Treece RN, Patsy D
Registered Nurse
Box 359762
Seattle WA

PDT
DD:01/22/20

Ethics consult 1/21/2020

EXHIBIT 6

EXP01

Superior Court of Washington	
For <u>King</u> County	
In re the Matter of:	
<u>OMANA THANKAMMA</u>	<u>2/23/42</u>
A Vulnerable Adult (Protected Person)	DOB
<u>KUNAKRISHNAN NAR</u>	<u>5/9/80</u>
Respondent (Restrained Person)	DOB

No. 19-2-31462-1 SEA

Order Re Motion to
Modify/Terminate Order for
Protection
(ORMTPO)
(Clerk's action required)

The *Moving Party* (requester) is the (Check all that apply):

- Petitioner.
- Respondent.
- Vulnerable adult. I have not been adjudicated fully incapacitated under chapter 11.88 RCW.
- Vulnerable adult's guardian.

The court reviewed the motion for an order to modify/terminate the terms and conditions of the following order:

- Temporary order for protection, filed on 1/19/20 (date).
- Order for protection, filed on 12/15/20 (date).
- _____, filed on _____ (date).

The court finds good cause and hereby orders that the order referenced above:

- Shall be continued in effect and the motion is denied.
- Shall continue in effect until the hearing date on page 2.
- Is terminated.
- Is continued in effect but modified as follows:

see the terms of the attached Ex. A: Agreed Order regarding Stipulation Regarding Supervised Visitation Plan, entered on February 5, 2020.

fl

This order is a temporary modification. It will be effective until the hearing scheduled below.
 The parties are directed to appear for a hearing on _____ at _____ a.m./p.m.,
 at _____ (location).

visitation is complete.

If this order modifies or terminates the protection order, the clerk of court shall forward a copy of this order on or before the next judicial day to:

Seattle County Sheriff's Office _____
 Police Department *Where the protected person lives* which shall enter it in a computer-based criminal intelligence system available in this state used by law enforcement to list outstanding warrants.

Service

The moving party shall arrange for service of this order on:
 Respondent.
 Vulnerable adult.
 Vulnerable adult's guardian.

The following persons appeared, further service is not required:
 Respondent, *and Respondent's Attorney*
 Vulnerable adult.
 Vulnerable adult's guardian. *(attorney Ermin Gric)*

pr

Dated 2/5/2020 at 11:30 a.m./p.m.

Brad Moore
 Brad Moore
 Judge/Court Commissioner

I acknowledge receipt of a copy of this Order:
Carole M. MWW 2/5/20
 Moving party (requester) Date

Attorney for Respondent
Jay Nave
 Respondent

I acknowledge receipt of a copy of this Order:
Ermin Gric 2-5-2020
 Nonmoving party Date

Ermin Gric WSA A No. 52611

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SUPERIOR COURT OF WASHINGTON
COUNTY OF KING

In re

OMANA THANKAMMA,
A Vulnerable Adult,
v.
JAYAKRISHNAN NAIR,
Respondent.

No. 19-2-31462-1 SEA

AGREED ORDER GRANTING
STIPULATION REGARDING
SUPERVISED VISITATION
PLAN

[PROPOSED]

THIS MATTER having come on regularly for hearing upon the Stipulation for Agreed Order Regarding Supervised Visitation Plan, filed by Respondent Jayakrishnan Nair; and stipulated to by Channa Copeland, Guardian of the Person and Estate of Omana Thankamma; and the Court having reviewed the Stipulation, finds as follows:

FINDINGS OF FACT

1. Omana Thankamma is the mother of Respondent Jayakrishnan Nair (hereafter, "Mr. Nair").

Exhibit A

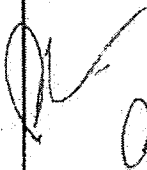
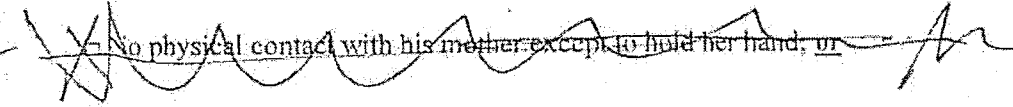
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2. Ms. Thankamma is currently a patient of Harborview Medical Center, in the Intensive Care Unit.

3. On December 17, 2019, a five-year Vulnerable Adult Protection Order ("VAPO") was entered against Mr. Nair in this matter. The VAPO among other things, prohibits Mr. Nair from coming near or from having any contact with the Vulnerable Adult, Ms. Thankamma.

4. Mr. Nair wishes to visit with his gravely ill mother at Harborview. In compliance with the VAPO's instructions, he agrees to the following terms for a single visit:

- Visitation will occur only Monday-Friday between 8 am to 4 pm.
- Mr. Nair will be accompanied during his visit by a representative from Agency Security Group (Phone: 253-236-2157; Email: info@agencysecuritygroup.com).
- Before the visit, Mr. Nair will coordinate with the Guardian's attorney, Ermin Ciric, Agency Security Group, and Harborview Medical Center to determine the date and time of Mr. Nair's visit on a date and at a time the individual from Agency Security Group will be able to accompany him.
- The visitation supervisor will accompany Mr. Nair at all times during the visit.
- Mr. Nair's visit will last no more than four hours.
- The door and curtain are to remain open during the visit.
- During this visit, Mr. Nair shall have:

 ~~No physical contact with his mother except to hold her hand, or~~ 

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No physical contact with his mother.

- Mr. Nair will not raise his voice during this visit; and he will not engage in argument with any of the Harborview staff or individuals accompanying him.
- Mr. Nair will not videotape or record the visit.
- Mr. Nair will respect and abide by the instructions of Harborview staff during his visit; and if asked to leave by Harborview, the Guardian or the visitation supervisor, Mr. Nair will leave immediately.
- After the visit, the Guardian and Harborview Medical Center will determine the reasonableness of potentially permanently modifying the VAPO to incorporate the supervised visitation terms in the Agreed Order based upon

this Stipulation.

- 5. Mr. Nair agrees to abide by all of the terms listed above in Paragraph 4. *Mr. Nair will enter the hospital through the emergency dept. and mental*
- 6. All other terms of the VAPO remain in full force and effect. If Mr. Nair violates *delecta* any of the terms of the Agreed Order based upon this Stipulation, that shall constitute a violation of the VAPO currently in place. *in this visit by Ms. Chanelle Hailis, who will be provided with a*

Mr. Nair will be accompanied

DATED this 5 day of February, 2020.

copy of the VAPO and this agreed order.



JUDGE COMMISSIONER

Brad Moore
Pro Tem

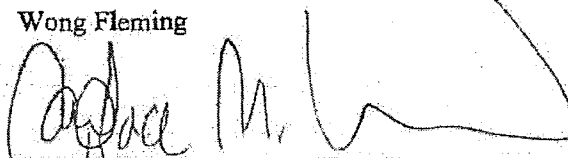
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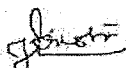
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Jointly Presented and Agreed to by:

Wong Fleming



SANDACE M. WILKERSON/WSBA #42211
Attorney for Respondent



JAYAKRISHNAN NAIR
Respondent



ERMIN CIRIC, WSBA#52611
Attorney for Guardian

EXHIBIT 7

Rebecca Jenkins

From: Ermin Ciric
Sent: Thursday, February 6, 2020 2:48 PM
To: Candace Wilkerson; Steve Phillips
Cc: Rebecca Jenkins
Subject: Thankamma - Violation of VAPO

Candace,

I have received very upsetting news about Mr. Nair's supervised visit. Namely, Mr. Nair was holding Ms. Thankamma's hand during the visit even though he specifically knew and it was specifically argued in front of the Court yesterday that no physical contact was to be had. Mr. Nair appears to have taken advantage of the fact that there were two Orders even though he knew full well that the Court signed off on the version that reflected no physical contact. Why did the visitation supervisor fail to stop this activity, which Order did you send them? This is clearly in violation of the VAPO, unless immediate clarification is provided by Mr. Nair we intend to report the violation to law enforcement and inform the Court.

I was also informed that the visit was troubling where:

- Mr. Nair did have a concerning interaction with a staff member wherein he stated- "Oh, I remember you. You were the nurse who stood in the front of the doorway and wouldn't let me see my mom. I still have your photo on my phone." When told he shouldn't have the photo, he stated "well I do." The staff member feels threatened and scared of Mr. Nair. This I believe is also a violation of the Order.
- Mr. Nair tried to have the person accompanying him (Chanelle) take photos before being told to stop. This is also a violation of the Order.

I was also informed that Mr. Nair indicated to staff that he would "be back next week." Needless to say no further visits are to occur and the VAPO remains in place. The Guardian does intend to take these issues up with the court which is extremely unfortunate because we went to such great efforts and cost to get Mr. Nair this visit but it is clear that Mr. Nair's intention is to abide by his desires and not by court Order.

I send this email only to you as I have not seen a withdrawal notice filed by you. I have copied Mr. Phillips as a courtesy.

Best Regards,
Ermin Ciric

LAW OFFICES OF

REGEIMBAL, MCDONALD & YOUNG, PLLC

612 S. 227th St.
Des Moines, WA 98198
Phone: 206-212-0220
Fax: 206-408-2022
E-mail: ermin@rm-law.com
Website: desmoineselderlaw.com

EXHIBIT 8

From: Jacqueline Butin <jeckie@uw.edu>
Sent: Thursday, February 6, 2020 3:41:53 PM
To: Channa Copeland <channa@nscasemanagement.com>
Subject: Comfort Care Update

Hi Channa,

I wanted to follow up on the comfort care order for Ms. Thankamma. I am concerned on how long this is taking. She seems to be suffering. We are doing everything to keep her comfortable.

Due to skin breakdown, she is starting to develop wounds so she has been put on a special mattress to try and minimize this. But this will not stop the wounds from developing it will just slow them down potentially. She also had 3 teeth extracted and several more teeth loose because her mouth, lips and tongue are swollen and are putting pressure on her teeth and also the long use of the intubation. The skin of her tongue is starting to show the wear of the long intubation as well. Every time the nurses move her she is in pain. Her body is contracted.

Can you tell us when the decision can be made for comfort care?

Thank You,
Jacqueline

Jacqueline Butin, MSW, LICSW, ACM
Social Work Supervisor

Voicemail: 206.744.8270
Fax: 206.744.8225

Harborview Medical Center, Box 359760
325 9th Ave
Seattle, WA 98104

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EXHIBIT 9

FW: Omana Amma Thankamma: TRUE FACTS AND HUMBLE PRAYER FOR HELP

Baker, Daniel R. (ATG) <daniel.baker@atg.wa.gov>

Wed 2/12/2020 3:41 PM

To: Ermin Ciric <Ermin.Ciric@rm-law.com>

Hi Ermin,

Just FYI that Mr. Nair sent the below email to someone who is apparently a member of HMCs ethics committee.

-db

**Daniel Baker**

Assistant Attorney General – Healthcare Team

Attorney General's Office, UW Division

daniel.baker@atg.wa.gov | (206) 543-4150

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From: Jayakrishnan Nair <jknaair@gmail.com>**Sent:** Tuesday, February 11, 2020 1:00 PM**To:** Butler, Catherine Rose**Cc:** Steve Phillips; cca.cgisf@mea.gov.in; LALITHA SUBRAMONIAN; Sukanya Susheel; Raji Susheel; muthuswamy suresh; Madhavan Nair; Candace Wilkerson; Suresh Kumar Thazhathu Veedu**Subject:** Omana Amma Thankamma: TRUE FACTS AND HUMBLE PRAYER FOR HELP

Dear Harborview Ethics Committee Member Dr. Catherine Butler,

The matter of Ms. Thankamma is more than what meets the eye. The true facts are here: <http://saveomana.in>

This is a blog that her family in India is maintaining. She was taken from a happy home where she was staying in peace and love, to be left to die in a transient shelter that is ranked worst of the worst in the entire nation, ONLY on the basis of a misunderstanding from a neighbor about a maid who asked to borrow a blender. After her daughter Raji, visiting from India, found her in the most horrible condition covered with blisters from glucose over 400 (bullosis diabetorum), in a fever and neglected to die covered in her own feces and urine, she called paramedics to save her, and initiated a police complaint against the so-called "guardian" for a murder attempt, on 7/3/2019. Please note there had been absolutely no restrictions on her children's visits until then, but from 7/5/2019, she has been kept in solitary confinement with no access to family or friends, and her location was not even disclosed to outside world. Nurses working at Harborview that speak our language (Malayalam) have confirmed her extreme agony and distress at being separated from her family and also from having her daily routine and religious practices, for which she relied on her children, disrupted. Please see the attached Civil

Rights Case currently proceeding in Federal Court.

Last Wednesday was totally heart-wrenching day, having seen my poor mother after 8 long months. She immediately recognized my voice and opened her eyes despite being under sedation. She started crying and tears rolled down her cheeks, and she lifted her right hand and beckoned to me, despite being very heavily sedated before our visit. She tried her best to keep her eyes open and tried her best to say something, it appeared she was trying her best to call my name, but with the intubation it was not possible to speak. She lifted her right hand (the only hand she has control over) tried to hold on to my hand.

This indicates she needs a permanent breathing solution, which can be from a portable ventilator. Very recently (Jan 17, 2020) at the ICU she has shown she was conscious and alert enough to have actually pulled the tube out with her right hand by herself, showing she is still mentally and physically capable. She was then stable for two days before being intubated again, according to the statement that has been filed (attached). Therefore we consulted her doctor at the ICU as well as her doctors in Ananthapuri Hospital in India, who have said that she needs a tracheostomy and a portable ventilator, with which "she could be stabilized enough to live for several months if not years". As you are aware, tracheostomy is a safe and very common surgical procedure done all across the world, and millions of patients worldwide live full and content lives with portable ventilators at home or nursing home. Despite being under sedative, our mother has shown she is very alert and wants to live with her children. The VAPO against Mr. Nair was taken out without service, as a retaliation for the complaints they had filed, and in reality I have done more than most people to take care of my mother, becoming her primary caregiver at 5 years leaving a lucrative IT job. There is nothing Omana wants, than to be back with her loving family in India. However, the guardian and the Harborview Hospital, seeing she has no insurance, are trying to get a permission from Court to pull her off the ventilator although she desperately wants to live and go back to India. This is nothing but murder as our mother wants to live, and she has the right to live. We wish to arrange her transportation back to India expediently.

As can be seen from her mental evaluation done by UW Psychologist Dr. Janice Edwards, she is still quite alert and capable. She was able to answer general knowledge questions (such as naming previous presidents of USA) and answering math questions such as multiplying two two-digit numbers by head (something a majority of the population find difficult). As of the most recent date my sister and I were allowed to meet with her, she was quite talkative and wanting to plan her return to India. She had told us her dying wish was breathe her last at her ancestral home in Vanchiyoor, Kerala, India where she grew up as a child. Kindly read the attached statement from our uncle Jayakumar Nair.

Family of Omana Thankamma are hereby begging, with the most reverential respect, and appealing to the humanity of the physicians at Harborview Medical Center and its Ethics Committee, to kindly help

us arrange medical transportation for our mother back to India following a tracheostomy for providing her with a portable ventilator. We have all facilities to take care of her ventilator in India at Amritapuri hospital, and we are able to provide a statement from that hospital (<https://www.ananthapurihospitals.com/>) attesting to the fact

Ananthapuri Hospitals - Leading Tertiary Care Hospital in Asia.

www.ananthapurihospitals.com

Ananthapuri Hospitals is simply the best in its field owing to its remarkable panel of eminent doctors. Combined with a state-of-the-art infrastructure, world class equipments and dedicated staff, Ananthapuri undoubtedly ushers a new world of health and healing in the capital city of Kerala.

they are ready and able to take care of Ms. Thankamma once she has been handed over to their care. Kindly also please feel free to forward this email to as many of your colleagues as you like. Thank you and God BLESS.

Regards

Jay and Raji (Omana's Children, as well as her entire family including brother Jayakumar and granddaughter Sukanya)

On CC:

Officer Mr. Suresh B. at the Indian Consulate in SFO
Officer Ms. Lalitha Subramonian at Indian Consulate in SFO
Attorney Mr. Steve Phillips representing the Family in making the arrangements to take her to India
Mr. Suresh Muthuswamy, Family Friend willing to act as a local liaison for her transfer
Mr Madhavan Nair, President of FOKANA, and Family Friend.

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