

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE
GUARDIANSHIP OF THE PERSON AND
ESTATE OF KATHLEEN JUNE JONES,
PROTECTED PERSON

KATHLEEN JUNE JONES,

Appellant,

vs.

ROBYN FRIEDMAN; DONNA SIMMONS;
AND ELIZABETH BRICKFIELD,
GUARDIAN AD LITEM FOR KATHLEEN
JUNE JONES,

Respondents.

No. 84655

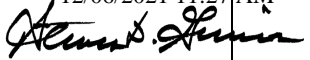
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RESPONDENTS' APPENDIX

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CLERK OF THE COURT

FFCL

**EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY NEVADA**

In the Matter of the Guardianship of the) Case No.: G-19-052263-A
Person and Estate:) Dept. No.: B
)
Kathleen Jones,)
)
Protected Person(s).)
_____)

**FINDINGS OF FACT AND CONCLUSIONS OF LAW AND ORDER
REGARDING VISITATION, FIRST ANNUAL ACCOUNTING,
GUARDIAN'S FEES, CARETAKING FEES, ATTORNEY'S FEES
AND COSTS, AND REMOVAL OF THE GUARDIAN**

The above-entitled matter having come before this Honorable Court June 8, 2021, and August 12, 2021, Maria Parra-Sandoval, Esq., appearing for Protected Person, James Beckstrom, Esq., appearing on behalf of Guardian Kimberly Jones, Kimberly Jones appearing, John Michaelson, Esq., appearing on behalf of interested parties Robyn Friedman and Donna Simmons, Robyn Friedman and Donna Simmons appearing, Elizabeth Brickfield, Esq., appearing as Court appointed Guardian Ad Litem, for an Evidentiary Hearing, relative to visitation and communication with the Protected Person and the First Annual Accounting, the Court hereby makes the following Findings of Fact and Conclusions of Law and Orders:

1 ***Relevant Procedural History***

2 In September 2019, two of the daughters of the Protected Person, Robyn
3 Friedman and Donna Simmons, petitioned the District Court for guardianship
4 of their mother alleging, in part, that the Proposed Protected Person's Power
5 of Attorney, Kimberly Jones, was unwilling or unable to address serious
6 issues effecting the health and welfare of the Proposed Protected Person.
7 The Proposed Protected Person's Power of Attorney, Kimberly Jones, is the
8 daughter of the Proposed Protected Person and sister to both Robyn and
9 Donna.
10 Donna.

11 Initially, Kimberly objected to the need for a guardian for her Mother.
12 Later, Kimberly opposed Robyn and Donna's petition and filed her own
13 petition for guardianship. Jerry, the husband of the Proposed Protected
14 Person, objected and filed a counter petition for guardianship. The three
15 competing petitions alleged: elder abuse; financial misconduct; exploitation;
16 isolation; kidnapping; and many other things. See Robyn and Donna's
17 Petition Guardianship, filed September 19, 2019; Kimberly's Opposition and
18 Counter-Petition, filed October 2, 2019; Jerry's Opposition and Counter-
19 Petition, filed October 2, 2019.

20 Ultimately, Robyn and Donna withdrew their Petition and supported
21 Kimberly. Kimberly was appointed guardian of the person and estate of her
22 Mother on October 15, 2020.
23 Mother on October 15, 2020.

1 After the appointment of Kimberly, the guardianship proceedings and
2 related civil proceedings remained actively contentious. Allegations of
3 isolation of the Protected Person from her family by the Guardian persisted,
4 simmering under the surface, while more immediate and complex litigation
5 concerns were addressed.
6

7
8 In December 2020, Robyn and Donna filed a Petition for Communication,
9 Visits, and Vacation Time with the Protected Person. The Petition requested
10 that Kimberly assist the Protected Person to “[r]eceive telephone calls and
11 personal mail and have visitors . . .” consistent with the Protected Person’s
12 Bill of Rights. *See* NRS 159.328(1)(n). Robyn and Donna did not seek “to
13 compel Ms. Jones to visit with them. Rather, they seek a routine or series of
14 windows of opportunity so that all sides can plan to be available to
15 accomplish the visits.” *See* Petition for Communication at page 3.
16

17
18 In their Petition for Communication, Robyn and Donna alleged that the
19 Protected Person needs assistance to receive telephone calls and have visitors
20 because: she cannot operate her telephone without assistance; has severe
21 memory impairment; and is often disoriented as to time. Robyn and Donna
22 further allege many specific instances in which their sister and Guardian,
23 Kimberly, failed to facilitate telephone calls and visitors for the Protected
24 Person.
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1 The Protected Person, through counsel, vehemently objected to the request
2 for communication. The Protected Person “is clear that she does not want the
3 imposition of anything that looks like a visitation schedule, nor does she
4 want her guardian to be bound by a communication protocol to arrange calls
5 or visitation when June is easily accessible.” *See* Objection filed January 25,
6 2021.
7

8
9 The Guardian, Kimberly, also objected to the Petition for Communication,
10 alleging that she has not restricted communication or visits, presenting her
11 own allegations of specific instances in which she has facilitated
12 communication and visitation. The Guardian further argued that a schedule
13 would be too burdensome for the Guardian because she is busy caring for the
14 Protected Person whose mental and physical health is declining.
15

16
17 The Court appointed a Guardian Ad Litem, Elizabeth Brickfield, Esq.,
18 pursuant to NRS 159.0455, and Nevada Statewide Guardianship Rule 8. *See*
19 Order Appointing Guardian Ad Litem filed February 12, 2021. Ms.
20 Brickfield submitted her Report and Recommendations March 29, 2021.
21

22 While these issues of communication and access to the Protected Person
23 remained pending, issues regarding potential settlement of an associated civil
24 litigation, requiring the Protected Person to promptly vacate her long-time
25 residence, were presented, and mandated immediate attention and multiple
26 hearings. Because the permanent and temporary location of the Protected
27
28

1 Person (California or Nevada) directly impacted issues of communication
2 and visitation, the Court continued the Request for Communication pending
3 the determination of the Protected Person's relocation.
4

5 On April 23, 2021, Robyn filed a Petition for Visitation with the Protected
6 Person relative to Mother's Day 2021.
7

8 On May 5, 2021, the Protected Person dramatically reversed course.
9 Protected Person's Counsel initially objected to the request for
10 communication and visitation by Robyn and Donna. However, Protected
11 Person's Counsel now proposed a restriction for phone calls and in-person
12 visits between the Protected Person and family members. The Protected
13 Person requested limiting all family visits and communications to a two hour
14 window each Friday. Counsel for Protected Person filed a Petition to
15 Approve Proposed Visitation Schedule. In the Petition, the Protected Person
16 argued, "[d]espite her own desired wished and stated preferences, [Protected
17 Person] feels she has been forced by all parties, including the court-appointed
18 Guardian Ad Litem, to concede on the issue of visitation." See Petition at
19 page 3. While maintaining she was still opposed to a Court ordered schedule,
20 the Protected Person proposed the Court order a specific schedule.
21
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25 In a Minute Order, the Court vacated the Hearing on the Petition for
26 Visitation (Mother's Day) and the Hearing on the Petition to Approve
27 Protected Person's Proposed Visitation Schedule. The Court ordered all
28

1 pending visitation matters set for Evidentiary Hearing. The Court further
2 ordered that the Parties submit: proposed witness lists; proposed exhibit lists;
3 and briefs by a certain date and time. Importantly, the Court directed that the
4 supplemental legal briefs further examine the issues contained in NRS
5 159.332 through NRS 159.334 (visitation and communication); NRS 159.335
6 through NRS 159.337 (removal of a guardian); and NRS 159.328 (Protected
7 Persons' Bill of Rights). *See* Minute Order filed May 12, 2021.¹

8
9
10 Later the same day, Protected Person filed a Motion for Stay in the District
11 Court, referencing the already pending Nevada Supreme Court case. Exhibits
12 supporting the Motion for Stay and a Notice of Hearing were filed the next
13 day, June 3, 2021. The hearing on the Motion to Stay was scheduled by the
14 Clerk's Office for July 8, 2021. On June 7, 2021, the Court denied the
15 Protected Person's request for stay pending her petition for extraordinary
16 relief and the Evidentiary Hearing went forward.

17
18
19
20 ***Statement of Facts***

21 The Protected Person was not present at the Evidentiary Hearing.

22 Mr. Michaelson, on behalf of Robyn and Donna, called the Protected
23 Person as the first witness. Both Counsel for the Protected Person and
24

25
26

¹ Both the Protected Person and the Guardian failed to comply with the Court's Order.
27 Guardian and Protected Person did not submit legal briefs, proposed exhibits, or proposed
28 witness lists in a timely manner.

1 Counsel for the Guardian objected to the Protected Person being subject to
2 any questions by Counsel and/or the Court. The objection was based upon:
3
4 (1) Protected Person's representations to her attorney that she did not want to
5 participate in the proceeding; and (2) that based on Protected Person's
6 Counsel's observations of the Protected Person, the Protected Person's
7 participation in the proceeding would cause emotional distress.
8

9 The Court declined to ORDER the Protected Person to testify or
10 participate in the proceedings, despite Mr. Michaelson's objection. Mr.
11 Michaelson anticipated that the Protected Person would testify as to her
12 desires for visitation with family members and her personal ability and
13 familiarity with the telephone. See Pre Trial Memorandum filed June 1,
14 2021, at page 10.
15
16

17 Many family members testified that they would like to visit with the
18 Protected Person and/or have communication with the Protected Person.
19 However, the family members did not feel comfortable being around the
20 Guardian or the Guardian's boyfriend for various reasons.
21
22

23 The Protected Person cannot operate a telephone. She cannot answer or
24 place telephone calls. Guardian Kimberly Jones testified that she makes all
25 appointments for the Protected Person. Guardian Kimberly Jones testified
26 that she placed or received all telephone calls on behalf of the Protected
27 Person.
28

1 ***Scott Simmons***

2 Scott Simmons, son of the Protected Person, testified. He last saw his
3
4 Mother on the Saturday before Mother's Day 2021. Prior to that Mother's
5 Day visit, he had not seen his Mother for fifteen to seventeen (15-17) months
6 because he does not want to see or interact with Kimberly, the Guardian,
7
8 and/or Kimberly's boyfriend, Dean. Scott has not tried to call the Protected
9 Person or respond to Kimberly's communication because he does not want to
10 interact with Kimberly or Kimberly's boyfriend, Dean. Approximately 15-
11
12 17 months ago, Kimberly indicated to Scott that she planned to bring
13 Protected Person to his home. Instead, Kimberly brought Dean to the
14 meeting. During the meeting, Scott believes Dean threatened him, saying
15 "things are going to come down hard and come down on you."
16

17 Scott does not have the land line telephone number for his Mother's
18 current residence. Mr. Simmons further testified that he works on Fridays.
19

20 Scott testified that his Mother was unable to verbally answer to questions
21 during his recent visit. Instead, his Mother simply nodded and shook her
22 head in the affirmative or negative. The only thing she verbalized during that
23 visit was that she wanted to take a nap. He assisted her and helped her move
24 to take a nap.
25

26 In his experience, the Protected Person's proposed visitation schedule is
27 inconsistent with her previous attitude toward visitation and communication
28

1 with her family. Scott indicated her door was always open and she was
2 always happy to visit with her entire family.

3
4 Scott indicates that he would like to visit with his Mother at another
5 neutral location, like at his sister's house.

6 Scott was evicted from the Anaheim rental owned by Protected Person.
7
8 Scott paid \$1,200.00 per month for approximately 18 years. The Guardian
9 increased the rent by \$800.00 per month. The home is approximately 60
10 years old.

11
12 ***Cameron Simmons***

13 Cameron Simmons is the son of Scott Simmons and the grandson of the
14 Protected Person. He has a background in IT.

15
16 At the Mother's Day visit, the Protected Person was not talkative. By her
17 face and smile, Mr. Simmons could see she was happy. He showed her
18 pictures and gave her information about new happenings in the family. The
19 Protected Person nodded and smiled. She did verbally ask him to help her
20 lay down to take a nap. Grandmother nodded her head affirming, upon his
21 question if she wanted him to come visit.

22
23
24 Jerry and the Protected Person had a joint cell phone. Cameron and the
25 Protected Person would call and text each other. The last time he FaceTime
26 her, Cameron thought he was at Rodney's wedding, and he thinks the
27 Protected Person used Donna's cell phone.
28

1 Cameron testified that the visitation schedule is inconsistent with her
2 historic desire toward visitation and communication with her family.

3 Cameron testified that his Grandmother is unable to effectively communicate
4 via telephone. He does not have Kimberly's cellular number because
5 Kimberly had no assigned cellular phone number. The last he knew,
6 Kimberly had three phones dependent upon Wi-Fi. However, he
7 acknowledged that he could have obtained the telephone numbers.
8

9 Cameron testified he will not go to the Anaheim house because of
10 Kimberly's boyfriend, Dean. He is afraid to be around Dean because of his
11 history, an incident with Kimberly, and information and statements provided
12 from the neighbors.
13

14 In an incident, Kimberly requested that Cameron wipe all data from her
15 laptop and make sure there is no tracking devices or location sharing
16 applications on her two cellular telephones or laptop in order to ensure that
17 Dean was unable to access information relative to her location. Cameron
18 indicated that the request was a red flag. He does not believe Kimberly feels
19 safe with Dean. He remains concerned for Kimberly's safety.
20

21 Cameron testified that, based upon the Protected Person's mobility, a
22 landline will not assist in communication. Cameron testified that he sent her
23 a Christmas present.
24

1 Cameron further testified that he did not receive a text from Kimberly nor
2 his Grandmother at Christmas time.

3
4 ***Samantha Simmons***

5 Samantha Simmons, Granddaughter of the Protected Person and daughter
6 of Donna Simmons, testified. On her 21st birthday, Samantha came to Las
7 Vegas to visit and celebrate with the Protected Person. The night before
8 Samantha visited, she was advised by Kimberly that the Protected Person
9 would be unavailable and was vacationing in Arizona.
10

11
12 Kimberly later reached out to Samantha relative to a visit. Kimberly made
13 a reservation at the restaurant. Kimberly brought Protected Person to
14 Donna's house for a boat ride about eight months ago. Samantha does not
15 have great relationship with Kimberly. She has not reached out to Kimberly
16 relative to visits or communication. Samantha saw her Grandmother in
17 January 2021 and Mother's Day 2021.
18

19
20 ***Donna Simmons***

21 Donna Simmons is the daughter of the Protected Person. Donna worked
22 as a caregiver for many years for two individuals. Donna testified that her
23 Mother, the Protected Person, is hard of hearing and takes a "long time" to
24 process things. Consequently, the Protected Person responds to a lot of
25 conversations with a head nod in the affirmative.
26
27
28

1 Donna testified that the Protected Person cannot operate a cellular phone
2 and cannot answer phone calls. All telephone calls with the Protected Person
3 are made through Kimberly.
4

5 In the last year, Donna has called her Mother at least fifty times. The
6 Protected Person does not answer but sometimes calls back, only with the
7 assistance of Kimberly. Donna receives texts from Kimberly indicating that
8 the Protected Person is trying to call her. Kimberly helps the Protected
9 Person use the cellular telephone. Usually, the speaker is on and Donna can
10 hear Kimberly in the background. Kimberly talks for her Mother and/or
11 interjects in the conversation, denying the opportunity for one-on-one
12 communication between Donna and her mother. Donna testified that she
13 prefers one-on-one communication with her Mother.
14
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16

17 Approximately six months ago, Donna spoke with her Mother via
18 FaceTime. When Donna speaks to her Mother on the telephone, her Mother
19 is in a rush to get off the phone because she has hearing issues. Donna wishes
20 she could have private conversations with her Mother.
21

22 Donna testified that her Mother does not know what day of the week,
23 month of the year, or time of the day it is. The Protected Person cannot
24 schedule or plan a visit. She does not remember plans, nor does she know
25 how to cancel plans.
26
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1 Donna testified that when she speaks with her Mother, her Mother is
2 unable to discern when she last saw her. Donna testified she thinks her
3 Mother likes her, but is unable to remember that she is supposed to call.
4

5 Donna testified that Kimberly is not trustworthy.

6 Donna testified that, instead of permitting phone calls with the Protected
7 Person, Kimberly tries to force Donna into communicating with the Protected
8 Person via text messages in order to show the Judge. Donna prefers to
9 communicate with her own mother via telephone.
10

11 Most of the time that Donna has seen her Mother, Kimberly asks Donna to
12 watch her Mother. Most of the time, Kimberly contacts Donna last minute
13 for the same.
14

15 In one instance, just before a hearing in September 2020, Kimberly called
16 Donna at the last minute with no advance notice and indicated to Donna that
17 she was in California. Donna dropped everything and met Kimberly on the
18 side of the road so that she could see her Mother. As they met, Donna and
19 Kimberly discussed where to go and eat. There were several fast foods
20 restaurants nearby. Donna asked her Mother which one she wanted to eat at.
21 Kimberly told Donna that the Protected Person is unable to make decisions,
22 and that Donna needed to "just tell her where you were going."
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1 Relative to the Report of the Guardian Ad Litem, Donna believes the
2 Report is an accurate description of her Mother's wishes. The Protected
3 person has never said that she does not want to see Donna.
4

5 Previously, Jerry, the Protected Person's late husband, facilitated
6 telephone calls from his telephone to ensure that the Protected Person was
7 speaking with her family. Donna desires that Kimberly facilitate
8 communication as was previously done.
9

10 Donna would further like to drive the Protected Person to the beach, visit
11 people, visit in the area, and get her nails done, all in the best interest and
12 happiness of the Protected Person.
13

14 Donna does not feel safe visiting with her Mother at the house if Dean,
15 Kimberly's boyfriend, is living at the house or is at the house. Donna
16 describes a suspicious instance involving keys that were missing from her
17 purse. Donna does not want to be around Dean and his associates. Donna is
18 worried that someone will come after her.
19

20 Donna is unable to accommodate the family visits at her residence on
21 Fridays because Donna works on Friday. Donna believed things would be
22 easier once the Protected Person moved to Anaheim, California. However,
23 communication and visitation remain difficult.
24

25 Donna does not believe that the Protected Person's proposed schedule was
26 created or drafted by her Mother.
27
28

1 The Protected Person has hearing aids, however, she will not wear them
2 because she hears background noises. Donna has talked to Kimberly about
3 assisting Protected Person with the hearing aids.
4

5 Donna indicated that she never asked Kimberly to leave the room so that
6 Donna and her Mother could have a private conversation. Donna testified
7 that Kimberly has never said “no, you cannot see her.” However, Donna
8 indicates that Kimberly has made it hard or impossible to see or
9 communicate with the Protected Person.
10
11

12 Kimberly only offers an opportunity to see her Mother before a Court
13 hearing. Donna testified that she would like to stop by her Mother’s house at
14 any time.
15

16 ***Robyn Friedman***

17 Robyn Friedman, daughter of the Protected Person, similarly testified that
18 her telephone calls with the Protected Person are limited by Kimberly.
19

20 For a period during the guardianship, Robyn and Kimberly reached an
21 agreement or understanding allowing Robyn to visit with her Mother every
22 Wednesday and every other Saturday, have FaceTime communication one
23 time per week, twice weekly telephone communication, and scheduled
24 vacations. The agreement lasted only a short period of time and resulted in
25 significant attorney’s fees.
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1 At one scheduled visit in June 2020, Kimberly brought out a wheelchair.
2 Robyn indicated that she did not need the wheelchair during the visit as she
3 planned to take her Mother on a scenic drive.
4

5 Robyn took her Mother on a scenic drive to Mt. Charleston and returned
6 approximately two hours later. Upon their return to the Protected Person's
7 home, there was no answer at the door. Robyn took her Mother, the
8 Protected Person, and her four year old son to a neighbor's home so that they
9 both could utilize the restroom.
10

11 Robyn used her Mother's phone to call Kimberly. Kimberly indicated that
12 she could be there in thirty minutes, or she could pick her up at Robyn's
13 house.
14

15 Kimberly texted Robyn that the key to the front door was in the
16 wheelchair. However, Kimberly had not advised Robyn that the keys were in
17 the wheelchair when Robyn picked up her Mother.
18

19 Robyn believes that Kimberly's intentional failure to assist and support the
20 Protected Person in facilitating communication and visitation is hurting the
21 Protected Person. The Protected Person is unable to make and execute plans,
22 which is stressful to the Protected Person. Robyn believes that it is especially
23 cruel of Kimberly to require the Protected Person to manage her own
24 schedule and execute plans without the assistance of Kimberly.
25
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1 Robyn testified about the trouble she encountered with Kimberly when
2 wanting to bring her four-year-old son over to the Protected Person's home,
3 so that the Protected Person could see him in his Halloween costume.
4

5 Robyn testified about the difficulty in getting Kimberly to confirm a flower
6 delivery for the Protected Person.
7

8 Robyn testified about problems associated with spending time with her
9 Mother around the Christmas season to exchange gifts. The first floor of
10 Robyn's home was inaccessible because the flooring was being redone. The
11 Protected Person could not easily access the second floor via a spiral
12 staircase. Robyn wanted to visit alone with her Mother for an hour.
13 Kimberly would not leave her home so that Robyn could spend time alone
14 with her Mother. Instead, Kimberly drove her Mother forty-five minutes to
15 Robyn's residence. Robyn visited with her Mother inside Robyn's car, in
16 front of her house, and exchanged gifts. Robyn pretended everything was ok
17 so that her Mother would not be upset.
18
19
20

21 Robyn testified about the events surrounding Easter 2021. Robyn had an
22 Easter Basket delivered to the Protected Person's home and was advised that
23 the residence was empty and vacant. Robyn knew the Protected Person's
24 housing situation was unstable and she would likely move to California.
25 However, Robyn did not know where her Mother was at that time.
26
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1 Robyn testified that 48 hours before the Protected Person's birthday,
2 Kimberly advised that she and the Protected Person *might* be going to
3 Arizona the next day. Robyn believed the trip to Arizona was an effort by
4 Kimberly to avoid visitation between the Protected Person and Robyn.
5

6 Robyn has contacted Kimberly very few times in the last few months.
7
8 Robyn has not attempted to see her Mother in Anaheim based on Kimberly's
9 actions. Kimberly's actions and inactions have resulted in a restriction of
10 visitation, communication, or interaction between the family and the
11 Protected Person.
12

13 ***Kimberly Jones, Guardian***

14 Kimberly testified that she cares for her Mother, the Protected Person,
15 twenty-four hours per day. She lives with the Protected Person, in the
16 Protected Person's home. Kimberly cooks, manages medication, schedules
17 all appointments, and must assist the Protected Person in answering incoming
18 telephone calls and placing outgoing telephone calls.
19
20

21 Kimberly testified that she believes her Mother, the Protected Person,
22 wants to communicate and visit with all of her family members.
23

24 Kimberly testified that she never refused a request for visitation with her
25 Mother. Kimberly acknowledged that she refuses to leave the Protected
26 Person's residence so that family may have private visits with the Protected
27 Person.
28

1 Kimberly testified that her boyfriend, Dean, is at the Protected Person's
2 home quite often, but Dean does not live at the home. Dean stays overnight
3 sometimes.
4

5 Kimberly testified that she has never not allowed her Mother to answer the
6 telephone. Yet, concedes her Mother requires assistance to operate the
7 telephone.
8

9 Kimberly does not want a visitation schedule imposed.

10 ***Guardian Ad Litem***
11

12 The Court appointed a Guardian Ad Litem pursuant to Nevada
13 Guardianship Rule 8. The Court appointed attorney Elizabeth Brickfield
14 who has practiced in the area of probate, trust, and guardianship for over
15 twenty-five years. In her March 29, 2021, Report, Guardian Ad Litem
16 Brickfield stated that: it is in the best interest of the Protected Person for the
17 Protected Person to visit and communicate with her children and
18 grandchildren; Guardian Kimberly Jones has not encouraged or facilitated
19 visits and communications between the Protected Person and her family; and
20 that Guardian Kimberly Jones is unlikely to encourage and facilitate visits
21 without supervision by the Court.
22
23
24

25 Specifically, Guardian Ad Litem Brickfield indicates, given the Protected
26 Person's unique abilities and need for assistance, the Guardian should be
27
28

1 facilitating and encouraging the mutual desire of parent and child to visit and
2 communicate with each other on a regular basis.

3
4 ***Annual Accounting***

5 The Annual Accounting in this matter was due within sixty (60) days of
6 the anniversary date and must include those items mandated by statute. *See*
7
8 NRS 159.176; NRS 159.177; NRS 159.179.

9 Here, the first accounting was filed by the Guardian Kimberly Jones on
10 December 21, 2020. The relevant accounting period is October 15, 2019,
11 through October 15, 2020.

13 The Eighth Judicial District Court Guardianship Compliance Division's
14 reviewed the First Annual Accounting and filed an Accounting Review on
15 January 8, 2021. The Accounting Review noted the following issues: time
16 missing between prior accounting; account summary is not consistent with
17 information on supporting worksheets; ending balance does not equal the
18 assets listed; starting balance is inconsistent with past filings; ending balance
19 is inconsistent with transactions; starting balance does not match various
20 inventories filed; assets do not match recap; income is not itemized and in
21 depth analysis is not available; expenditures are not itemized; expenses not
22 itemized and in depth analysis is not available.

26 On June 3, 2021, Guardian Kimberly Jones filed an Amended First
27 Accounting, and an Accounting Review was filed on June 7, 2021. The
28

1 Accounting Review indicated the following issues: contains mathematical
2 errors; is not consistent with information in supporting worksheets; assets do
3 not total the amount listed in Account Summary Starting or Ending Balances;
4 the starting balance is inconsistent with past filings; the ending balance is
5 inconsistent with transactions; income is not itemized and in depth analysis
6 of income is not available; expenditures not itemized; expenses not itemized
7 and in depth analysis of the appropriateness of the expenses is not available.
8

9
10 On June 16, 2021, the Guardian Kimberly Jones filed a Notice of Hearing,
11 six months after the first accounting was filed, and set the Accounting
12 Hearing for July 15, 2021. The Accounting Hearing was continued, pursuant
13 to stipulation.
14

15
16 On July 15, 2021, Robyn Friedman and Donna Simmons filed an objection
17 to the Guardian's Accounting and First Amended Accounting.
18

19 On August 9, 2021, the Guardian filed a Second Amendment to the First
20 Accounting, just days prior to Accounting Hearing scheduled for August 12,
21 2021.
22

23 The Guardian's Second Amendment to the First Accounting purports to
24 correct and recalculate based upon CPA's omission of credit card
25 transactions and replaces all prior versions of first annual accounting. *See*
26 Guardian's Second Amendment, filed August 9, 2021, at footnote 1.
27
28

1 After the August 9, 2021, Accounting Hearing, the Court ordered the
2 Guardian Kimberly Jones to produce all receipts or vouchers that support the
3 accounting pursuant to NRS 159.179(5) on or before September 14, 2021.
4

5 *See* Order to Produce filed August 31, 2021.

6 On September 16, 2021, Guardian Kimberly Jones filed Receipts and/or
7 Vouchers in Support of the First Accounting. The documents provided in
8 support of the First Accounting include the following: (1) statements from
9 Bank of American XX7492, approximately August 2019 through October
10 2020; (2) statements from Citibank Credit Card XX1157, approximately
11 September 2019 through November 2020; and (3) statements from Bank of
12 American XX8243, approximately August 2020 through November 2020.
13
14
15

16 Despite the title of Guardian Kimberly Jones' pleading, the documents
17 filed do not include any receipts. Instead, the documents are bank statements
18 and credit card statements.
19

20 The Bank of America records indicate that there was a withdrawal on
21 September 11, 2020, of \$15,215.15. *See* Production at Jones 000857. The
22 withdrawal was made just days after the proceeds from the refinance were
23 deposited into the Bank of America account. The Accounting contains no
24 information or itemization relative to this large withdrawal.
25

26 After the Guardian's production of "receipts and/or vouchers" pursuant to
27 NRS 159.179, an Accounting Review was again conducted at the direction of
28

1 the Court. *See* Accounting Review filed November 16, 2021. The
2 Accounting Review identified the following issues relative to Worksheet A:

3
4 The starting balance is inconsistent with past filings;
5 The ending balance is inconsistent with the transactions; and
6 The starting balance used for the 8/9/2021 Supplement does not reflect the
7 actual balances of the listed assets. The bank accounts listed in the
8 9/16/2021 Support total \$2,549.34 as of the accounting starting date. The
9 8/9/2021 Supplements lists \$98.00 as the accounting starting balance. The
10 real and personal property total either \$478,247.89 or \$485,247.89. The
11 actual total is unknown because the personal property is listed as \$21,000
12 when in fact the itemized values total only \$14,000. This value was not
13 adjusted in the accounting. It is unknown which value is correct.

14 The Accounting Review further states, in reference to Worksheet C:

15 There were seven payments to a Citibank credit card totaling \$1,108.62.
16 The credit card was not in the name of the protected person. It is not
17 known if these payments are for the benefit of the protected person.
18 There were five cash withdrawals in the account totaling \$8,100. The
19 statements provided also show other cash withdrawals of \$1,550.00 prior
20 to the start of the accounting period.
21 There are multiple expenses related to an automobile and auto fuel. No
22 automobile is listed in the starting or ending balance.

23 Another Notice of Accounting Review was filed on December 2, 2021,
24 and highlights six cash withdrawals, totaling \$23,300.00 which include:
25 Customer Withdrawal Image on September 11, 2020, of \$15,230.00; branch
26 withdrawal on April 2, 2020, of \$5,000.00; branch withdrawal on September
27 21, 2020, of \$2,260.00; and cash withdrawals of \$1,550.00 prior to the start
28 of the accounting period.

The Guardian's Second Supplement indicates that the Estate received
\$88,011.00 and expended \$56,018.88 during the accounting period. The

Guardian alleges that the Protected Person received \$18,381.00 in Social Security income and \$13,500.00 in income relative to a rental property. The largest source of income for the Protected Person's Estate was \$54,345.00, which was received as a result of the real property refinance. The Guardian alleges that \$22,870.56 was expended on the remodel of the real property. However, the expenditures relative to the remodel were not itemized and only a handful of receipts provided.

After a careful review of the Debit Card and Credit Card records provided in the Production of Documents, approximately \$4,000.00 can arguably be categorized as expended relative to a renovation because the purchases were made at Home Depot, Lowes, and a paint store.

Some of the small number of receipts provided by the Guardian do not coincide with the relevant accounting period. Exhibit 1 to the Second Amendment provides receipts and invoices for expenditures as follows:

Document	Dated	Amount
American Vision Windows, Inc. Invoice Windows/Sliding Doors Marked "Paid 12/10/2020"	11/24/2020	740.00
American Vision Windows, Inc. Invoice Windows/Sliding Doors Marked "Paid 12/10/2020"	11/30/3020	2,960.00
American Vision Windows, Inc. Invoice Windows/Sliding Doors \$3,700.00 Permit fee 190.91	03/03/2021	3,965.91

1	Service Pulled fee 75.00		
2	Home Depot Receipt Garden Grove	07/25/2020	146.52
3	Home Depot Cut Merchandise Ticket		
4	Laminate 23.69		
5	60 cases		
6	13 under		
7	Vinyl 20.8, \$51.79		
8	66 case		
9	"Not to be used as a Release of Merchandise. This does not constitute a sales receipt unless Register Receipt attached"		
10	Home Depot Receipt Orange County	07/25/2020	65.87
11	Home Depot Quote	07/27/2020	1,070.11
12	19 HDC Baneberry Oak 20.8, \$51.79		
13	Home Depot Customer Receipt		2,654.00
14	Costco Receipt (Costco Visa X1157)	07/03/2020	265.29
15	Walmart Receipt (US Debit 2282)	03/24/2020	304.33
16	Walmart Receipt (US Debit 2282)	03/05/2020	385.51
17	Walmart Receipt (US Debit 2282)	02/04/2020	376.74
18	Walmart Receipt (US Debit 2282)	12/10/2019	281.68
19	Walmart Receipt (US Debit 2282)	11/05/2019	349.24
20	Walmart Receipt (US Debit 2282)	11/16/2019	379.99

24 The accounting period for the first accounting should be October 15, 2019,
 25 through October 15, 2020. All three of the American Vision Windows
 26 Invoices are dated and paid outside the accounting period. Two of the
 27

28

1 American Vision Invoices, dated 11/24/2020 and 11/30/2020, are stamped
2 “Paid.” The “Paid” date on both Invoices is 12/10/2020.

3
4 The notations on the first two American Vision Invoices, dated 11/24/2020
5 and 11/30/2020, are for “Windows/Sliding Doors.” The first, dated
6 11/24/2020, totals \$740.00. The second, dated 11/30/2020, totals \$2,960.00.
7
8 The third American Vision Invoice, dated 03/03/2021, seems to represent a
9 summary of all charges and incorporates the earlier Invoices. The third
10 Invoice notes, “Windows/Sliding Doors” \$3,700.00, which is coincidentally
11 the exact sum of the first two Invoices for the identical item (11/24/2020
12 Invoice \$740.00, plus 11/30/2020 Invoice \$2,960.00, equals the 3/03/2021
13 Invoice \$3,700.00). The 03/03/2021 Invoice also adds the permit fee
14 (\$190.91) and the service charge for pulled fee (\$75.00).
15
16

17 ***Financial History***

18 A Financial Forensic Audit, filed March 13, 2020, revealed that Kimberly
19 Jones withdrew \$4,836.00 from Bank of American Account X6668 in August
20 2019 and placed the cash in a Safe Deposit Box. The Audit further revealed,
21 consistent with allegations by the Protected Person’s late husband that
22 Kimberly Jones was utilizing the Protected Person’s accounts. Kimberly
23 Jones withdrew \$2,652.82 from Bank of America x7492 in July 2019. At the
24 time of the Audit, Kimberly Jones provided an accounting of the \$2,652.82
25 withdrawn by her from Bank of America x7492 and indicated that she paid
26
27
28

1 for a Safety Deposit Box. *See* Financial Forensic Audit filed March 13, 2020
2 at page 6, 7, 10, and Exhibit E.

3
4 The Guardian's Inventory, filed before the March 2020 Forensic Audit,
5 does not reference a Safe Deposit Box or cash on hand. The three versions of
6 accountings, filed before and after the Forensic Audit, also fail to reference
7 cash held in a Safe Deposit Box. However, the records produced from Bank
8 of America note \$100 paid on August 5, 2020, toward a Safe Box rental. *See*
9 Production filed on 9/16/21 at Jones 000853.
10

11
12 ***Conclusions of Law***

13 ***Communication and Visitation***

14 A guardian may not restrict communication or visitation between a
15 protected person and the protected person's family. A protected person is
16 entitled to *unrestricted* contact with their family. If a guardian opposes a
17 request from a family member for communication and contact with the
18 Protected Person, the guardian bears the burden of proof.
19

20
21 Only a guardian may request a restriction of a family member's
22 communication and contact with the Protected Person. Here, Nevada
23 Guardianship statutes require that protected people be allowed
24 communication and visitation with their families. A guardian is specifically
25 prohibited from restricting communication and visits. *See* NRS 159.332.
26

27
28 Only under specific circumstances may a guardian seek to limit or restrict

1 contact through the court. The procedure and evidence necessary to restrict
2 contact is clearly detailed within the statute. *See* NRS 159.332.

3
4 The Protected Person's Bill of Rights is codified in NRS 159.328.
5 However, the rights enumerated do not abrogate any remedies provided by
6 law. *See* NRS 159.328(2). A protected person is to be granted the greatest
7 degree of freedom possible, consistent with the reasons for guardianship, and
8 exercise control of all aspects of his or her life that are not delegated to a
9 guardian specifically by a court order. NRS 159.328(1)(i).

10
11 A protected person may receive telephone calls and have visitors, unless
12 her guardian and the court determine that particular correspondence, or a
13 particular visitor will cause harm to the protected person. NRS
14
15 159.328(1)(n).

16
17 Each protected person has a right to "[r]emain as independent as possible,
18 including, without limitation to have his or her preference honored regarding
19 his or her residence and standard of living, either as expressed or
20 demonstrated before a determination was made relating to capacity or as
21 currently expressed, if the preference is reasonable under the circumstances."
22
23 NRS 159.328(h).

24
25 Each protected person has a "right to have a family member . . . raise any
26 issues of concern on behalf of the protected person during a court hearing,
27
28

1 either orally or in writing, including without limitation, issues relating to a
2 conflict with a guardian.”

3
4 Communication, visitation, and interaction between a protected person and
5 a relative is governed by NRS 159.331 through NRS 159.338. A guardian is
6 prohibited from restricting communication, visitation, or interaction between
7 a protected person and a relative. *See* NRS 159.332. NRS 159.332 provides
8 as follows:
9

10 1. A guardian shall not restrict the right of a protected person to
11 communicate, visit or interact with a relative or person of natural
12 affection, including, without limitation, by telephone, mail or
13 electronic communication, unless:

14 (a) The protected person expresses to the guardian and
15 at least one other independent witness who is not affiliated
16 with or related to the guardian or the protected person that the
17 protected person does not wish to communicate, visit or
18 interact with the relative or person of natural affection;

19 (b) There is currently an investigation of the relative or
20 person of natural affection by law enforcement or a court
21 proceeding concerning the alleged abuse of the protected
22 person and the guardian determines that it is in the best
23 interests of the protected person to restrict the
24 communication, visitation or interaction between the
25 protected person and the relative or person of natural
26 affection because of such an investigation or court
27 proceeding;

28 (c) The restriction on the communication, visitation or
interaction with the relative or person of natural affection is
authorized by a court order;

(d) Subject to the provisions of subsection 2, the
guardian determines that the protected person is being
physically, emotionally or mentally harmed by the relative or
person of natural affection; or

(e) Subject to the provisions of subsection 3, a
determination is made that, as a result of the findings in a plan

1 for the care or treatment of the protected person, visitation,
2 communication or interaction between the protected person
3 and the relative or person of natural affection is detrimental to
the health and well-being of the protected person.

4 2. Except as otherwise provided in this subsection, if a guardian
5 restricts communication, visitation or interaction between a
6 protected person and a relative or person of natural affection
7 pursuant to paragraph (d) of subsection 1, the guardian shall file a
8 petition pursuant to NRS 159.333 not later than 10 days after
9 restricting such communication, visitation or interaction. A guardian
10 is not required to file such a petition if the relative or person of
natural affection is the subject of an investigation or court
proceeding pursuant to paragraph (b) of subsection 1 or a pending
petition filed pursuant to NRS 159.333.

11 3. A guardian may consent to restricting the communication,
12 visitation or interaction between a protected person and a relative or
13 person of natural affection pursuant to paragraph (e) of subsection 1
14 if the guardian determines that such a restriction is in the best
15 interests of the protected person. If a guardian makes such a
16 determination, the guardian shall file a notice with the court that
17 specifies the restriction on communication, visitation or interaction
18 not later than 10 days after the guardian is informed of the findings
in the plan for the care or treatment of the protected person. The
guardian shall serve the notice on the protected person, the attorney
of the protected person and any person who is the subject of the
restriction on communication, visitation or interaction.

19 In any proceeding held pursuant to NRS 159.331 to 159.338, the guardian
20 has the burden of proof, if a guardian opposes a petition filed pursuant to
21 NRS 159.335.
22

23 Here, in response to a request for communication and visitation by the
24 Protected Person's two daughters, the Guardian and the Protected Person
25 propose a visitation schedule that would allow family members to visit and
26 call the Protected Person during a two-hour window one time per week.
27
28

1 However, the Protected Person is entitled to *unrestricted* communication
2 and visitation with her family. The Guardian and Protected Person have
3 failed to meet the statutory requirements that would allow the Court to
4 restrict communication with the Protected Person.

6 Robyn and Donna's Petition for Communication filed December 30, 2020,
7 and Petition for Visitation filed April 23, 2021, were both filed pursuant to
8 NRS 159.335 and requested that the Court grant a relative access to the
9 Protected Person and removal of the guardian. *See* Verified Petition for
10 Communication, Visits, and Vacation Time with Protected Person, filed
11 December 30, 2020, at page 20, paragraph 62.

14 Kimberly has the burden of proof, as she opposes Robyn and Donna's
15 petition for communication. *See* Kimberly's Opposition filed January 25,
16 2021; Kimberly's Pre-Trial Memorandum filed June 7, 2021.

18 No care plan has suggested that interaction between any family members
19 is detrimental to the health and well-being of the Protected Person. Kimberly
20 has not filed any petition with the Court advising that she has restricted
21 interaction. Only *a guardian* may file a petition for order restricting
22 communication, visitation, or interaction between a protected person and a
23 relative. *See* NRS 159.333 [emphasis added].

26 Here, the Guardian, Kimberly, did not file a petition for order restricting
27 communication. Instead, the Protected Person has filed a petition for
28 communication.

1 visitation order. This request by the protected person is a request for a court
2 order restricting. *See* Petition to Approve Kathleen June Jones' Visitation
3 Schedule filed May 5, 2021.
4

5 The request to restrict communication does not contain any Affidavit or
6 Declaration executed by the Protected Person. At the Evidentiary Hearing,
7 Counsel for Protected Person failed to present evidence or testimony through
8 an independent statement by an unrelated party. The argument by Counsel
9 for the Protected Person does not represent a statement by witness who is not
10 affiliated with the Protected Person.
11
12

13 If the Guardian believed that she was restricting interaction between
14 Protected Person and her relatives based upon the Protected Person's wishes,
15 the Guardian would be required to file a petition with the Court within ten
16 days of the restriction pursuant to NRS 159.332(2). No such petition was
17 filed by the Guardian.
18
19

20 ***Annual Accounting***

21 NRS 159.179 governs the contents of an annual accounting and requires a
22 guardian to retain receipts or vouchers for all expenditures. The statute also
23 provides a pathway to prove payment when a receipt or voucher is lost. NRS
24 159.179 provides as follows:
25

- 26 1. An account made and filed by a guardian of the estate or
27 special guardian who is authorized to manage the property of a
28

protected person must include, without limitation, the following information:

- (a) The period covered by the account.
 - (b) The assets of the protected person at the beginning and end of the period covered by the account, including the beginning and ending balances of any accounts.
 - (c) All cash receipts and disbursements during the period covered by the account, including, without limitation, any disbursements for the support of the protected person or other expenses incurred by the estate during the period covered by the account.
 - (d) All claims filed and the action taken regarding the account.
 - (e) Any changes in the property of the protected person due to sales, exchanges, investments, acquisitions, gifts, mortgages or other transactions which have increased, decreased or altered the property holdings of the protected person as reported in the original inventory or the preceding account, including, without limitation, any income received during the period covered by the account.
 - (f) Any other information the guardian considers necessary to show the condition of the affairs of the protected person.
 - (g) Any other information required by the court.
2. All expenditures included in the account must be itemized.
 3. If the account is for the estates of two or more protected persons, it must show the interest of each protected person in the receipts, disbursements and property. As used in this subsection, "protected person" includes a protected minor.
 4. Receipts or vouchers for all expenditures must be retained by the guardian for examination by the court or an interested person. A guardian shall produce such receipts or vouchers upon the request of the court, the protected person to whom the receipt or voucher pertains, the attorney of such a protected person or any interested person. The guardian shall file such receipts or vouchers with the court only if the court orders the filing.
 5. On the court's own motion or on ex parte application by an interested person which demonstrates good cause, the court may:
 - (a) Order production of the receipts or vouchers that support the account; and
 - (b) Examine or audit the receipts or vouchers that support the account.

1 6. If a receipt or voucher is lost or for good reason cannot be
2 produced on settlement of an account, payment may be proved by
3 the oath of at least one competent witness. The guardian must be
4 allowed expenditures if it is proven that:
5 (a) the receipt or voucher for any disbursement has been lost or
6 destroyed so that it is impossible to obtain a duplicate of the receipt
7 or voucher; and
8 (b) Expenses were paid in good faith and were valid charges against
9 the estate.

10 Here, the Guardian failed to itemize all expenditures. Further, the
11 Guardian failed to retain receipts and vouchers. If the receipts and vouchers
12 were lost, the Guardian failed to establish that it is impossible to obtain a
13 duplicate and that the expenses were paid in good faith and were valid
14 charges.

15 The Court details herein the failure of the Guardian to account for the
16 approximately \$22,000.00 expended in a home renovation. Further, the
17 Guardian fails to account for a significant amount of funds withdrawn.

18 ***Removal***

19 NRS 159.185 governs the conditionals for removal of a guardian and
20 provides as follows:
21

22 1. The court may remove a guardian if the court determines that:

23 (a) The guardian has become mentally incapacitated, unsuitable or
24 otherwise incapable of exercising the authority and performing the
25 duties of a guardian as provided by law;

26 (b) The guardian is no longer qualified to act as a guardian pursuant
27 to NRS 159.0613;

28 (c) The guardian has filed for bankruptcy within the previous 5
years;

1 (d) The guardian of the estate has mismanaged the estate of the
2 protected person;

3 (e) The guardian has negligently failed to perform any duty as
4 provided by law or by any order of the court and:

5 (1) The negligence resulted in injury to the protected person or
6 the estate of the protected person; or

7 (2) There was a substantial likelihood that the negligence
8 would result in injury to the protected person or the estate of the
9 protected person;

10 (f) The guardian has intentionally failed to perform any duty as
11 provided by law or by any lawful order of the court, regardless of
12 injury;

13 (g) The guardian has violated any right of the protected person that
14 is set forth in this chapter;

15 (h) The guardian has violated a court order or committed an abuse
16 of discretion in making a determination pursuant to paragraph (b) of
17 subsection 1 or subsection 3 of NRS 159.332;

18 (i) The guardian has violated any provision of NRS
19 159.331 to 159.338, inclusive, or a court order issued pursuant to NRS
20 159.333;

21 (j) The best interests of the protected person will be served by the
22 appointment of another person as guardian; or

23 (k) The guardian is a private professional guardian who is no
24 longer qualified as a private professional guardian pursuant to NRS
25 159.0595 or 159A.0595.

26 2. A guardian may not be removed if the sole reason for removal
27 is the lack of money to pay the compensation and expenses of the
28 guardian.

Here, Kimberly has negligently failed to assist the Protected Person to
have visitation and communication with her family. Kimberly through her
actions and inactions has created an environment in which the Protected
Person has been isolated from her family. Kimberly has made it difficult for
the family to have visitation and communication with the Protected Person.

1 In addition, Kimberly has failed to provide the required annual accounting.
2 Specifically, Kimberly failed to itemize all expenditures and retain receipts
3 and/or vouchers for expenses related to the guardianship estate, as required
4 by NRS 159.179.
5

6 ***Successor Guardian***
7

8 Pursuant to NRS 159.1871, the Court may appoint a successor guardian at
9 any time to serve immediately or when a designated event occurs. The
10 revocation of letters of guardianship by the court or any other court action to
11 suspend the authority of a guardian may be considered to be a designated
12 event for the purposes of NRS 159.1871 if the revocation or suspension of
13 authority is based on the guardian's noncompliance with his or her duties and
14 responsibilities as provided by law.
15
16

17 ***Guardian's Request for Caregiver and Guardians Fees***
18

19 Guardian, Kimberly Jones, requests caregiver fees and guardian fees.
20 Kimberly requests \$90,000 in past caregiver fees for the services she
21 rendered during the first eighteen months of the guardianship.
22

23 Kimberly also requests that the Court prospectively approve and allow
24 Kimberly to bill the Guardianship Estate for both caregiver fees and
25 guardianship fees in the future. Kimberly requests the Court approve
26 caregiver fees of \$21.00 per hour, ten hours per day, five days a week.
27
28

1 Kimberly requests the Court approve guardianship fees of \$100 per hour for
2 up to five hours each week.

3
4 NRS159.183 governs compensation of a guardian and allows
5 compensation, subject to the discretion and approval of the court, of expenses
6 incurred. Here, Kimberly requests compensation for work already completed
7 (\$90,000 in caregiving fees for the first eighteen months of the guardianship)
8 and compensation for work to be completed in the future (\$500 per week in
9

10 The petition is insufficient to establish, pursuant to NRS 159.183, that the
11 caregiver fees requested were reasonable and necessary in exercising the
12 authority and performing the duties of a guardian. Further, the petition is
13 insufficient to establish the type, duration, and complexity of the services
14 rendered. The petition makes general statements about the type of duties and
15 services that the Guardian has undertaken. Additionally, the petition is
16 insufficient to establish that future caregiver fees and guardianship fees can
17 be approved. The statute allows for the payment of expenses incurred. The
18 statute does not allow for anticipated or future expenses to be pre-approved.
19
20
21

22 ***Guardian's Request for Attorney's Fees***

23
24 Guardian, Kimberly Jones, requests the Court approve the payment of
25 attorney's fees and costs in the amount of \$101,558.24 from the
26 Guardianship Estate for fees and costs incurred from December 31, 2019,
27
28

1 through February 25, 2021. Kimberly's Counsel also submitted a *Brunzell*
2 Affidavit in support of the request for fees.

3
4 Kimberly failed to file a timely notice of intent to seek reimbursement of
5 attorney's fees pursuant to NRS 159.344. Kimberly filed a Notice of Intent
6 to seek reimbursement of attorney's fees on January 15, 2020, well after her
7 first appearance in this matter on October 2, 2019. The Protected Person
8 initially objected to the untimely notice. *See* Objection filed February 11,
9 2020.
10

11
12 On February 21, 2020, new attorneys for Kimberly, Marquis Aurbach
13 Coffing, filed a "Notice of Intent to Seek Payment of Attorneys' Fees and
14 Costs from Guardianship Case" on behalf of themselves, not on behalf of
15 Kimberly.
16

17 Nevertheless, the petition fails to address all of the fourteen factors, which
18 include *Brunzell* factors, the Court may consider in determining whether
19 attorney's fees are just, reasonable, and necessary in NRS 159.344(5).
20

21 Certainly, Counsel for Kimberly is well qualified, and the difficult work
22 performed required skill. However, the Court is very concerned about the
23 ability of the estate to pay, considering: the value of the estate; the nature,
24 extent, and liquidity of the assets of the estate; the disposable net income of
25 the estate; the anticipated future needs of the protected person; and other
26 foreseeable expenses. The value of the Guardianship Estate, based upon the
27
28

1 recent accounting and production of documents, is fuzzy. The Guardian's
2 lack of receipts and failure to itemize expenses, do not allow the Court to
3 reasonably rely upon the Guardian's representations relative to the value of
4 the estate. The income each month is minimal, and the largest asset is the
5 California residence. The estate is unable to cover the current needs of the
6 Protected Person. The Guardian requests approximately \$190,000.00 be
7 paid from the Estate to cover past expenses. The Estate will be unable to
8 provide for the future needs of the Protected Person given the enormity of
9 these expenses.
10
11
12

13 Further, the Court cannot say given the totality of litigation to this point
14 that Kimberly has conferred any actual benefit upon the Protected Person or
15 attempted to advance the best interest of the Protected Person pursuant to
16 NRS 159.344(5)(b). Kimberly has not made efforts to reduce and minimize
17 issues in this guardianship litigation. *See* NRS 159.344(5)(k). Further, the
18 Court cannot find that Kimberly has acted in good faith during her time
19 managing the Guardianship Estate.
20
21
22

23 Kimberly initially objected to the guardianship and then petitioned for
24 guardianship. She withheld medications and information from the
25 Temporary Guardians. She created an environment in which the Protected
26 Person was isolated from her family. She withdrew approximately
27 \$23,000.00 from the Estate without the required detailed explanation. She
28

1 failed, despite many opportunities, to provide a sufficient accounting. Many
2 statements by Kimberly are a combination of double-talk and feigned
3 confusion.
4

5 NRS 159.183(5) does not allow compensation or expenses incurred as a
6 result of petition to have a guardian removed, if the court removes the
7 guardian.
8

9 NRS 159.338 allows a court to impose sanctions and award attorney's fees
10 against a guardian, if the court finds a guardian has acted frivolously or in
11 bad faith in restricting communication between a protected person and a
12 family member.
13

14 ***Findings of Fact***
15

16 THE COURT HEREBY FINDS that in the instant case, the
17 statutory requirements relative to restriction of visitation and communication
18 were not met by the Guardian in restricting access to the Protected Person.
19

20 THE COURT FURTHER FINDS that the Protected Person failed to
21 establish the statutory requirements necessary in order to restrict visitation
22 and communication with her family members.
23

24 THE COURT FURTHER FINDS Kimberly had difficulty
25 answering questions and difficulty understanding questions related to
26 visitation and communication between the Protected Person and her family.
27

28 The Court finds that Kimberly's testimony was not credible.

1 THE COURT FURTHER FINDS that the Guardian through her
2 actions and inactions restricted the Protected Person's communication,
3 visitation, and access to her relatives contrary to the Protected Person's Bill
4 of Rights and NRS 159.331 to NRS 159.338.
5

6 THE COURT FURTHER FINDS that the Guardian, Kimberly
7 Jones, in violation of NRS 159.179: failed to itemize all expenditures in the
8 annual accounting; failed to retain receipts and/or vouchers related to
9 expenditures to support the annual accounting; and failed to retain receipts
10 relative to cash and disbursements.
11
12

13 THE COURT FURTHER FINDS that pursuant to NRS 159.185(i),
14 the conditions for removal of the Guardian have been met because the
15 Guardian has violated provisions of NRS 159.331 to 159.338, inclusive,
16 relative to communication and visitation.
17

18 THE COURT FURTHER FINDS that pursuant to NRS 159.185(e),
19 the conditions for removal of the Guardian have been met because the
20 Guardian has negligently failed to perform a duty as provided by law and
21 there is a substantial likelihood that the negligence would result in injury to
22 the Protected Person's estate, relative to failure to itemize expenditures,
23 retain cash and disbursement receipts, and retain receipts relating to
24 expenditures.
25
26
27
28

1 THE COURT FURTHER FINDS that pursuant to NRS 159.185(d),
2 the conditions for removal of the Guardian have been met because the
3 Guardian of the Estate has mismanaged the estate of the Protected Person.
4

5 THE COURT FURTHER FINDS that pursuant to NRS 159.185(j),
6 the conditions for removal of the Guardian have been met because the best
7 interest of the Protected Person will be served by the appointment of another
8 person as guardian.
9

10 THE COURT FURTHER FINDS that pursuant to NRS 159.1871, a
11 Successor Guardian shall be appointed. A designated event has occurred,
12 specifically, the revocation of Kimberly Jones' letters of guardianship,
13 herein.
14

15 THE COURT FURTHER FINDS that pursuant to NRS 159.199,
16 Kimberly Jones shall not be discharged as Guardian or relieved from liability
17 as she has not had an Accounting approved by this Court, and has not filed
18 receipts or vouchers showing compliance with the orders of the court in
19 winding up the affairs of the guardianship.
20

21 ***Orders***
22

23 IT IS HEREBY ORDERED that the Request for Our Family Wizard
24 or Talking Parents is DENIED.
25

26 IT IS FURTHER ORDERED that the request for Family Mediation
27 is DENIED.
28

1 IT IS FURTHER ORDERED that the request for communication
2 and visitation is GRANTED. Pursuant to the Protected Person's Bill of
3 Rights, the Protected Person shall have unrestricted access to all family
4 members. The Guardian shall support, assist, and facilitate communication
5 and visitation with family as necessary based upon the Protected Person's
6 unique abilities.
7

8
9 IT IS FURTHER ORDERED that the Protected Person's request to
10 limit all communication and visitation with family members to a two hour
11 window one day per week is DENIED.
12

13 IT IS FURTHER ORDERED the Guardian Kimberly Jones' request
14 for caregiver fees already incurred is DENIED.
15

16 IT IS FURTHER ORDERED that Guardian Kimberly Jones'
17 request for attorneys' fees and costs from the Guardianship Estate is
18 DENIED.
19

20 IT IS FURTHER ORDERED that Guardian Kimberly Jones'
21 request for pre-approval to bill caregiver and guardianship fees from the
22 Guardianship Estate in the future is DENIED.
23

24 IT IS FURTHER ORDERED that the request to remove Kimberly
25 Jones as guardian of the person and estate is GRANTED.
26
27
28

1 IT IS FURTHER ORDERED that pursuant to NRS 159.185,
2 Kimberly Jones SHALL be removed as Guardian over the Person and Estate
3 of Protected Person, Kathleen Jones.
4

5 IT IS FURTHER ORDERED that the Letters of Guardianship
6 issued to Kimberly Jones are hereby REVOKED.
7

8 IT IS FURTHER ORDERED that pursuant to NRS 159.1871,
9 Robyn Friedman SHALL be appointed as Successor Guardian of the Person
10 and Estate of Kathleen Jones. An Order Appointing Successor Guardian
11 shall issue, along with Letters of Guardianship.
12

13 IT IS FURTHER ORDERED that Successor Guardian, Robyn
14 Friedman, SHALL file an Inventory of the Estate with sixty (60) days of the
15 Order Appointing Guardian.
16

17 IT IS FURTHER ORDERED that the Successor Guardian, Robyn
18 Friedman, file a proposed care plan within ninety (90) days of the Order
19 Appointing Guardian, after review of medical records, medical evaluation,
20 and consultation with medical professionals.
21

22 IT IS FURTHER ORDERED that the Successor Guardian, Robyn
23 Friedman, file a proposed budget within ninety (90) days of the Order
24 Appointing Guardian, considering the Inventory and the proposed Care Plan.
25
26
27
28

1 IT IS FURTHER ORDERED that the Successor Guardian, Robyn
2 Friedman, shall not move the Protected Person's temporary residence without
3 permission from the Court.
4

5 IT IS FURTHER ORDERED that a forensic financial investigation
6 shall be ordered relative to the management of the Guardianship Estate by
7 former Guardian Kimberly Jones to include the personal finances of former
8 Guardian Kimberly Jones. An Order Appointing Investigator shall issue and
9 a return for Investigator's Report scheduled on the Court's Chambers
10 Calendar set for March 2, 2022, at 5:00 AM.
11

12 IT IS SO ORDERED.
13

14 Dated this 6th day of December, 2021

15 
16

17 0B8 D29 E25A C6A5
18 Linda Marquis
19 District Court Judge
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28

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 In the Matter of the Guardianship of: CASE NO: G-19-052263-A
7 Kathleen Jones, Protected DEPT. NO. Department B
8 Person(s)
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District
12 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled
14 case as listed below:

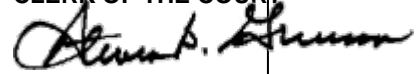
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15 If indicated below, a copy of the above mentioned filings were also served by mail
16 via United States Postal Service, postage prepaid, to the parties listed below at their last
17 known addresses on 12/7/2021

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Attorneys for Kathleen June Jones, Adult Protected Person

**EIGHTH JUDICIAL DISTRICT COURT
FAMILY DIVISION
CLARK COUNTY, NEVADA**

In the matter of the Guardianship of the Person
and Estate of:

KATHLEEN JUNE JONES

Adult Protected Person.

**Case No.: G-19-052263-A
Dept. No.: B**

Hearing Requested

**MOTION TO STAY ORDER FOR REMOVAL OF GUARDIAN AND ORDER
APPOINTING SUCCESSOR GENERAL GUARDIAN OF THE PERSON AND
ESTATE AND FOR ISSUANCE OF LETTERS OF GENERAL GUARDIANSHIP**

Adult Protected Person, Kathleen June Jones (“June”), by and through her counsel, Maria L. Parra-Sandoval, Esq., of Legal Aid Center of Southern Nevada, Inc., respectfully requests this Court to stay its Orders For Removal of the Guardian filed December 6, 2021 and Order Appointing Successor General Guardian of the Person and Estate and for Issuance of Letters of General Guardianship filed on December 7, 2021¹ (collectively to be known as “Orders Removing Guardian and Appointing Successor Guardian”) pending resolution of the appeal filed

¹ See Findings of Fact and Conclusions of Law and Order Regarding Visitation, First Annual Accounting, Guardian’s Fees, Caretaking Fees, Attorney’s Fees and Costs, and Removal of the Guardian, filed December 6, 2021 on file herein and Order Appointing Successor General Guardian of the Person and Estate and for Issuance of Letters of General Guardianship, filed December 7, 2021 on file herein.

1 on December 15, 2021. The Notice of Appeal was electronically stamped by the Supreme Court
2 of Nevada as case number 83967 on December 22, 2021.

3 This Motion is based on NRAP 8(a)(1), the following Memorandum of Points and
4 Authorities, and any other evidence this Court may wish to consider.

5 DATED this 22nd day of December 2021.

7 **LEGAL AID CENTER OF
8 SOUTHERN NEVADA, INC.**

9 /s/ Elizabeth R. Mikesell

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19 *Attorneys for Kathleen June Jones, Adult
20 Protected Person*

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. BACKGROUND**

23 June brings this Motion to Stay the Orders Removing Guardian and Appointing
24 Successor Guardian in order to allow the Nevada Supreme Court to reach a decision in the
25 pending appeal.²

26 This Court has continually ignored June's due process rights and her rights under the
27 Protected Person's Bill of Rights. June has been clear that she does not want a guardian and had
28 taken steps, like completing a Power of Attorney, to ensure that did not happen. This Court
disregarded the plan put in place by June, prior to any claim of a lack of capacity, and eventually

² Notice of Appeal filed December 15, 2021 on file herein.

1 appointed Kimberly Jones as guardian, the same person named as the agent under the Power of
2 Attorney.

3 Then June clearly expressed her preference against the imposition of a visitation schedule
4 with her family or visitation restrictions early in the guardianship. Yet, this Court again
5 disregarded June's express wishes and went so far as to appoint a guardian ad litem to determine
6 what is in June's best interests. The Court then proceeded to hold an evidentiary hearing
7 regarding visitation ("Visitation Hearing"), which June also objected.
8

9 This Court set the Visitation Hearing via a Minute Order dated May 12, 2021. The
10 Minute Order instructed, "an Evidentiary Hearing relative to the Petitions for Visitation, Petition
11 to Approve Proposed Visitation Schedule, and Oppositions SHALL be set..."³

12 The Court held the Visitation Hearing on June 8, 2021. On that date, the Court set the
13 scope of the hearing as "whether or not Kimberly unlawfully restricted communication,
14 visitation or interaction between the protected person and Donna and Robyn⁴ pursuant to the
15 protected person's bill of rights and the portions of the guardian statutes which govern
16 communication, visitation and interaction between the protected person and relatives."⁵
17

18 On December 6, 2021, this Court issued its Findings of Fact and Conclusions of Law and
19 Order Regarding Visitation, First Annual Accounting, Guardian's Fees, Caretaking Fees,
20 Attorney's Fees and Costs, and Removal of the Guardian ("Order for Removal of Guardian")
21 based upon the June 8, 2021 evidentiary hearing.⁶ Despite the narrow scope of the evidentiary
22 hearing and no Petition to Remove the Guardian having been filed, the Court ordered, "that the
23
24

25 ³ See Minute Order dated May 12, 2021 on file herein.

26 ⁴ Robyn Friedman and Donna Simmons are also the daughters of June.

27 ⁵ See video of Case No. G-19-052263-A, June 8, 2021 at 28:13.

28 ⁶ The Order Appointing Successor General Guardian of the Person and Estate and for Issuance of Letters of
General Guardianship filed on December 7, 2021 incorporated the December 6, 2021 Findings of Fact presumably
for ease of use while acting as guardian with third parties.

1 request to remove Kimberly Jones as guardian of the person and estate is GRANTED”.⁷ The
2 Court then appointed Robyn Friedman (“Robyn”) as successor guardian. This Order is a
3 violation of NRS 159.1853, NRS 159.1855 and NRS 159.328.

4 June filed her Notice of Appeal on December 15, 2021. This Motion seeks a stay of the
5 Orders Removing Guardian and Appointing Successor Guardian while the appeal is pending
6 in the Nevada Supreme Court.

8 II. STANDARD OF REVIEW

9 Typically, a party must first move in the district court for stay of an order pending appeal
10 before it can request a stay from the appellate court. NRAP 8(a)(1)(A). When determining
11 whether to grant a request for stay, the Court must consider the following factors:

12 (1) whether the object of the appeal will be defeated if the stay is denied; (2) whether
13 appellant will suffer irreparable or serious injury if the stay is denied; (3) whether respondent
14 will suffer irreparable or serious injury if the stay is granted; and (4) whether appellant is likely
15 to prevail on the merits in the appeal. *Mikohn Gaming Corp. v. McCrea*, 120 Nev. 248, 251, 89
16 P.3d 36, 38 (2004). No one factor carries more weight than another, but the Nevada Supreme
17 Court has recognized that if one or two factors are especially favorable to the appellant, they
18 may counterbalance other weak factors. *See id.* (citing *Hansen v. Eighth Judicial Dist. Court*,
19 116 Nev. 650, 659, 6 P.3d 982, 987 (2000)).

20 Consideration of these factors weighs heavily in favor of granting June’s request for a
21 stay of the Orders for Removal of Guardian and Appointing Successor Guardian. If the Court
22 does not grant the stay and allows the Orders for Removal of Guardian and Appointing Successor
23 Guardian to be enforced, the potential violation of June’s rights and damage to June’s emotional
24
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28 ⁷ See Findings of Fact and Conclusions of Law and Order Regarding Visitation, First Annual Accounting,
Guardian’s Fees, Caretaking Fees, Attorney’s Fees and Costs, and Removal of the Guardian, filed December 6,
2021 at page 43 on file herein.

1 well-being is serious and irreparable. On the other hand, if the Nevada Supreme Court denies the
2 relief requested in the Appeal, this Court can easily lift the stay.

3 June is likely to prevail on the merits of her appeal because the failure of this Court to
4 require a Petition for Removal of Guardian and issuance of a Citation has denied June her right
5 to object and be heard as provided by the Protected Persons' Bill of Rights, NRS 159.1853 and
6 NRS 159.1855. Therefore, for these reasons, as discussed in more detail below, this Court should
7 stay the Orders for Removal of Guardian and Appointing Successor Guardian pending resolution
8 of the appeal by the Nevada Supreme Court.
9

10 **III. ARGUMENT**

11 **A. The Object of the Appeal Will Be Defeated if the Stay is Denied.**

12 The object of the appeal is 1) to prevent the removal of June's preferred guardian, which
13 occurred without due process; and 2) for the district court to allow June's preferred guardian to
14 remain pursuant to the Protected Person's Bill of Rights. If this Court denies the stay, June's
15 rights will continue to be violated; June will be subjected to the removal of her preferred guardian
16 and forced to instead accept the Court's preferred guardian in violation of this State's person-
17 centered planning policy. It is, therefore, clear that the object of the appeal will be defeated if the
18 stay is denied. Accordingly, June clearly prevails on the first factor in NRAP 8(c).
19
20
21

22 **B. The Balancing of Potential Harms Favors June.**

23 The next two factors in NRAP 8(c) create a balancing test of the potential harms to the
24 parties should the stay be granted or denied. In this case, the balancing of these factors weighs
25 heavily in June's favor.
26

27 On one hand, June, the petitioner, will suffer irreparable or serious injury if this Court
28 denies the stay of the Orders Removing Guardian and Appointing Successor Guardian.

1 June has been clear about her desire for Kimberly to remain her guardian. Forcing the
2 removal of Kimberly as guardian, without following the proper procedure as set out in NRS
3 159.1853 and NRS 159.1855, strips June of her due process rights. Additionally, it violates her
4 rights as set out in the Protected Person's Bill of Rights including the right to have due
5 consideration given to her personal desires, to have her preference honored regarding her
6 residence⁸, to be granted the greatest degree of freedom possible and most importantly, to be
7 treated with respect and dignity.
8

9 On the other hand, there is very little, if any, injury to any other parties if the Court grants
10 the Stay. The only annoyance Robyn might have to endure is the inability to ride roughshod
11 over June and her wishes.

12 It is clear that June prevails on the next two factors in NRAP 8(c).
13

14 C. **June is likely to prevail on the merits of her appeal as the Court has ignored**
15 **the requirements of NRS 159.1853 and NRS 159.1855 denying June the**
16 **opportunity to object to the removal and present evidence at a properly**
17 **noticed citation hearing. Further, June is likely to prevail on the merits of**
her appeal, as the court has not properly scrutinized the successor guardian
pursuant to NRS 159.044 and NRS 159.1852.

18 NRS 159.1853 requires that should one wish to remove a guardian they must file a
19 petition and state with particularity the reasons for removing the guardian; and show cause for
20 the removal. NRS 159.1855 requires that once the petitioner files to remove the guardian the
21 Court **shall** issue and serve a citation on the guardian and on all other interested persons.
22

23 Although Donna and Robyn may have requested at different hearings throughout the
24 course of this case to remove Kimberly, they never filed a Petition for Removal as required by
25 statute. Further, even if the Court could accept oral demands or arguments tacked onto the end
26

27 ⁸ Kimberly has been residing with June and June wishes for this living arrangement to continue. The Court
28 prohibited the successor guardian from moving June without permission but it appears the successor guardian has
found a loophole. The successor guardian, Robyn, is now in the process of evicting Kimberly from the home she
is sharing with June.

1 of other briefings as a proper petition satisfying NRS 159.1853, removal of a guardian requires
2 the Court to issue and serve a citation on all interested persons as required by NRS 159.1855.
3 None of the proper procedures in removing a guardian was followed in this case, in clear
4 violation of June's statutory rights.

5 The Nevada Legislature amended NRS Chapter 159 regarding adult guardianships in
6 2017 to move toward a more person-centered model after well-publicized abuses in a
7 guardianship system that gave protected persons absolutely no voice in matters that concerned
8 all aspects of their life. These amendments were based on recommendations of the Nevada
9 Supreme Court's Commission to Study the Administration of Guardianships ("Commission"),
10 which expressly stated in its Policy Statement of Support "[t]he Commission adopts a policy
11 statement that the Commission is in favor of acknowledging the purposes and tenets behind
12 'person-centered planning'..."⁹ The Protected Person's Bill of Rights, codified at NRS 159.328
13 in 2017, reflects the intent of the legislature to give protected persons input into their lives to the
14 greatest extent possible.
15
16

17 This person-centered planning policy means that when a protected person can make
18 decisions, that are not causing harm to themselves or others, the role of those involved, including
19 the Court, should be supportive.¹⁰ The Court's preferences, desires, or biases should never
20 supplant those of a protected person who is able, as June is, to make and communicate their own
21 wishes. The Court has violated this policy and denied June the right to be involved in the
22 decision making process by removing the only avenue that would have allowed June's voice to
23 be heard, the requirement of a Petition and Citation hearing.
24

25 Further, June is likely to prevail on the Appeal as the Court failed to vet properly the
26
27

28 ⁹ Final Report of Nevada Supreme Court's Commission to Study the Administration of Guardianships in Nevada's
Courts [Administrative Docket Number 5071, filed September 29, 2016, page 5.

¹⁰ See *Id.* at 215.

1 successor guardian pursuant to NRS 159.044, NRS 159.0613, and NRS 159.1852. Although
2 Robyn was one of June's temporary guardians from September 23, 2019 through October 15,
3 2019, it is unclear if she would still qualify. Robyn may no longer qualify if she has been
4 convicted of a felony or a gross misdemeanor, has filed for protection under the federal
5 bankruptcy laws, has had her driver's license suspended, revoked or cancelled for nonpayment
6 of child support, has been suspended from the practice of a profession which requires licensure
7 or any profession which involves the management or sale of money, investments, securities or
8 real property, or has had a judgment entered against her for misappropriation of funds or assets.
9 Further, persons entitled to notice might object to the appointment of Robyn as successor
10 guardian but were denied an opportunity to do so, just as June was not provided such opportunity.
11 We cannot know what June and other interested persons would have done if provided the
12 opportunity to be heard regarding the removal of Kimberly as guardian because the Court wholly
13 disregarded the statutory process.
14

15
16 As the Court has failed to adhere to the statutes regarding the removal of a guardian and
17 the suitability and qualifications of a proposed successor guardian, it could not have properly
18 removed Kimberly as guardian nor could it have properly determined that Robyn was suitable
19 and qualified to serve as successor guardian before appointing her.
20
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1
2 **IV. CONCLUSION**

3 Based on the foregoing, June respectfully requests that this Court stay its Orders
4 Removing Guardian and Appointing Successor Guardian pending the Nevada Supreme Court's
5 ruling on the appeal.

6 DATED this 22nd day of December 2021.

7
8 **LEGAL AID CENTER OF
SOUTHERN NEVADA, INC.**

9 /s/Elizabeth R. Mikesell

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19 *Attorneys for Kathleen June Jones, Protected*
20 *Person*
21
22
23
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28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 22nd day of December 2021, I deposited in the United States Mail at Las Vegas, Nevada, a copy of the foregoing document entitled **MOTION TO STAY ORDER FOR REMOVAL OF GUARDIAN AND ORDER APPOINTING SUCCESSOR GENERAL GUARDIAN OF THE PERSON AND ESTATE AND FOR ISSUANCE OF LETTERS OF GENERAL GUARDIANSHIP** in a sealed envelope, mailed regular U.S. mail, upon which first class postage was fully prepaid, addressed to the following:

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AND I FURTHER CERTIFY that on the same date I electronically served the same document to the following via ODYSSEY, the Court's electronic filing system, pursuant to NEFCR 9:

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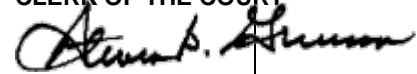
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14 /s/ Rosie Najera
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

IN THE MATTER OF THE GUARDIANSHIP)
OF THE PERSON AND ESTATE OF:)
Kathleen June Jones,)
An Adult Protected Person.)

Case Number: G-19-052263-A
Department: B

**GUARDIAN ROBYN FRIEDMAN AND INTERESTED PARTY DONNA SIMMONS'
OPPOSITION TO MOTION TO STAY ORDER FOR REMOVAL OF GUARDIAN AND
ORDER APPOINTING SUCCESSOR GENERAL GUARDIAN OF THE PERSON AND
ESTATE AND FOR ISSUANCE OF LETTERS OF GENERAL GUARDIANSHIP**

☒ NOTICES / SAFEGUARDS

- ☒ Blocked Account
☐ Bond Posted
☐ Public Guardian Bond

☒ GENERAL GUARDIANSHIP

- ☐ Person
☐ Estate
☒ Person and Estate
☐ Summary Admin.

Guardian, Robyn Friedman, and Interested Party, Donna Simmons (hereinafter "Robyn" and "Donna"), by and through their counsel at Michaelson Law, respectfully submit to this Honorable Court this *Opposition to Motion to Stay Order for Removal of Guardian and Order Appointing Successor General Guardian of the Person and Estate and for Issuance of Letters of*

1 *General Guardianship* that was filed by the Legal Aid Center of Southern Nevada (“LACSN”)
2 on behalf of the protected person on December 22, 2021 (hereinafter “Motion to Stay”); and
3 represent the following to this Honorable Court:

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 **A. Introduction**

6 1. This Motion to Stay is a false representation of the facts and law and is therefore meritless
7 in its entirety and should be denied. True to form, the legal aid attorney appointed in this case
8 files another document with this Court that removes all context, misstates the facts, rewrites the
9 law, and provides shallow to no analysis. Further, counsel demands that her statements overrule
10 all else (including the medical evidence and the Court’s wide discretion). She demands absolute
11 authority above questioning and investigation. To counsel, it is a violation of June’s due process
12 rights merely for this Court to question or look for independent verification of counsel’s
13 statements. This Court was to do nothing except sign orders making counsel’s statements the law
14 of the case. But that’s not all. Because the legal aid attorney says that June wants Kim as guardian,
15 then this Court was not to do any investigation into any allegations that Kim was doing anything
16 unlawful or wrong. Now, counsel seeks to exploit June to pursue LACSN’s own political agenda
17 with a meritless appeal (as she has done twice before in this matter with a meritless appeal and
18 petition for writ of mandamus and writ of prohibition) that stands no chance before the appellate
19 court. To do so, counsel asks this Court to throw June into turmoil and chaos by maintaining a
20 status quo that this Court already found to be harming June. Counsel fails to meet any and all
21 factors in NRAP 8 and therefore this Court should deny the Motion to Stay.
22

23 ///

B. Statement of Facts

2. It is important to understand the complex context of this matter because without context the NRAP 8 factors cannot be evaluated. Since June's counsel provided a Motion to Stay devoid of all context, Robyn and Donna provide the context in its full.

3. The context proves that this Court had to appoint a guardianship to protect June because 1) the medical evidence showed that June could not care for herself (financially, legally, and medically); 2) her lack of capacity, June was actively being exploited by others; and 3) her executed Power of Attorney was inadequate to protect her against the exploiters. The context shows that the Court tried to reasonably follow June's preferences by initially appointing Kim as guardian. But once appointed, Kim violated June's bill of rights by isolating her and restricting visits between June and her children (visits that June wants to have but is mentally incapable of coordinating and scheduling on her own). The context proves that this Court went through great lengths to investigate the allegations of wrongdoing by the guardian and that ultimately the Court determined that the guardian's unlawful conduct was so extensive and harming June so greatly that the Court was left with no other choice but to remove Kim sua sponte. In doing so, the Court appointed Robyn as successor guardian after earlier vetting Robyn as temporary guardian and finding her qualified to serve as guardian.

i. June is a Protected Person because Medical Evidence Shows that June Lacks Capacity to Care for Herself and to Direct Her Legal Affairs

4. June's court-appointed counsel is the only individual in this matter claiming that June has the capacity to direct her legal affairs. Counsel's insistence that June has capacity to direct counsel point-blank contradicts all of the medical evidence in this matter.

1 5. In 2019, Robyn and Donna provided medical evidence and evaluations showing that June
2 is very limited in her ability to care for herself, manage her affairs, and process decision making.
3 *See Confidential Physician's Certificate* filed on September 19, 2019. Dr. Gregory Brown stated
4 that he reviewed a June 2016 Mini-Cog *Id.* examination wherein June scored a 1, "a score
5 indicative of a dementing condition." *Id.* Dr. Brown also reviewed a February 17, 2016, record
6 that indicated that June was diagnosed with Alzheimer's dementia and a September 5, 2019 letter
7 from Dr. Sabbagh that said June "had a degenerative neurological condition which led her to be
8 unable to manage her own affairs including medical, financial, and legal decisions." *Id.*

9 6. Dr. Brown found that June suffered from "profound deficits in long-term memory and
10 general recall of overall life historical data, with a general paucity of detail." *Id.* Specifically, Dr.
11 Brown found that even back in 2019 June:

- 12 a. Was unable to provide basic information about her life including the number
13 of marriages that she had, how many children and grandchildren she has, the
14 location or title of any of the jobs she held as an adult;
- 15 b. Unable to understand paying her bills independently;
- 16 c. Had an inaccurate assessment of both the nature and extent of her estate;
- 17 d. Was completely unaware of her own medical history and her husband's
18 medical condition; and
- 19 e. Was unaware of her prescribed medications and the reasons for them.

20 7. Dr. Brown concluded, "This lack of information would prevent her from being able to
21 reasonably process decision making in multiple domains in life." *Id.*

1 8. Kim opposed and objected to the need for a guardianship, and alternatively, counter-
2 petitioned to be general guardian. *See* Kim's Opposition and Counter-Petition filed on October 2,
3 2019. However, Kim was appointed as guardian of the person and estate of June when she finally
4 agreed to serve as guardian and Robyn and Donna stepped aside to allow her to serve. *Id.*
5 Consistent with all the medical evidence, even Kim has acknowledged several times and in
6 multiple pleadings June's profound lack of capacity. In contrast, LACSN doubles down, arguing
7 to June's detriment and against every piece of medical evidence, the opinion of every member of
8 June's family and the report and testimony provided by the guardian ad litem, over and over again,
9 that June is able to direct her own affairs and even files appeal after appeal that is staggeringly
10 costly to June both in terms of potential cost to her estate and the emotional and financial toll
11 these proceedings cause to her children. Put simply, LACSN is ruining June's life.

12 9. Since being appointed as Successor Guardian, Robyn had Dr. Brown re-evaluate June on
13 December 28, 2021, wherein Dr. Brown found that June's mental situation has only further
14 declined since 2019. *See* Confidential Medical Records filed on January 4, 2022. Dr. Brown stated
15 in his latest report:
16

17 [June] demonstrated an additional decline in mental functioning as demonstrated
18 by a 2 point addition drop in the Folstein MMSE. Her long term memory
19 demonstrated marked deterioration over the past two years. Her ability to correctly
20 identify current responsibilities [bill paying], medications, medical conditions,
21 financial resources, etc. is greatly diminished and largely not accurate. Although
she may assent to various activities, her current functioning would suggest the
inability to reasonably [weigh] the costs and benefits of many decisions. MMSE
likely over represents ability based upon other deficits.

22 10. Dr. Brown further concluded that June "has a sufficient loss of executive function
23 resulting in a barrier to meaningful understanding or rational response," "is unable to execute on
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1 desires, preferences, or stated goals, preventing the ability to pursue [June's] own best interest,"
2 and "is unable to make or communicate decisions to such an extent that [June] lacks the ability to
3 meet essential requirements for physical health, safety, or self-care without proper assistance."
4 *Id.* at PDF p. 3. Dr. Brown opined that June requires 24-hour supervision and either requires
5 substantial or total care in almost every aspect of her life from self-care to finances to medical
6 care. *Id.* at PDF p. 5-6. Dr. Brown opined that June lacks capacity to enter into a contract, financial
7 commitment, or lease arrangement, make or modify a will or power of attorney, or participate in
8 mediation. *Id.* at PDF p. 6.

9 11. June's mental status has deteriorated so far that she told Dr. Brown that she has never
10 heard of Legal Aid Center of Southern Nevada and stated, "I have no attorney." *Id.* at PDF p. 12.
11 June further guessed that she speaks with an "Anna Marie" from time to time. *Id.* June reported
12 to Dr. Brown that she has no idea what appeals are in general or in specific relative to her case.
13 *Id.* She stated having no idea who Elizabeth Brickfield is or ever meeting with her. *Id.* She further
14 stated having never met or seen Dr. Brown before in the past. *Id.*

15 12. June believes she is still paying all her own bills on her own though she could not state
16 what bank she uses or what bills she pays. *Id.* She has no idea how much money she has and states
17 that her Anaheim home is only valued at \$125,000. *Id.*

18 13. Her lack of capacity is so profound that she denied taking any medications and does not
19 think she has any medical conditions even though she currently takes nine medications per day
20 for various medical conditions. *Id.*

21 14. Dr. Brown opined that June lacks capacity to "provide reasonable detailed responses to
22 questions" and has an "inability to hold information in awareness long enough to weigh the risks,
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1 the benefits, and outcomes of decisions.” *Id.* at PDF p. 13. Dr. Brown concluded that June “would
2 have less ability to defend her own interests from the interests of others and thus have increased
3 susceptibility to undue influence of others.” *Id.*

4 **ii. This Guardianship was Necessary to Protect June from Exploitation**

5 15. On September 19, 2019, Robyn and Donna filed a petition for, among other relief, a
6 temporary and general guardianship for June. In the Petition for Temporary Guardianship, Robyn
7 and Donna alleged that June was: (1) unable to care for herself medically, financially, and legally
8 without assistance; and (2) harmed by other individuals related by marriage ignoring June’s
9 Financial and Healthcare Power of Attorney (“POA”) documents that appointed Kim as June’s
10 attorney-in-fact and exploiting June. *See* Ex Parte Petition filed on September 19, 2019. This
11 alleged exploitation included: (a) transferring June’s ownership interest in her home to the alleged
12 exploiters for far less than market value, (b) the same individuals forcibly preventing Kim from
13 bringing June home from a visit to see them in Arizona, (c) then-husband cancelling June’s
14 medical appointments, (d) the initiation of eviction proceedings against Kim who had moved into
15 June’s home to care for June, and (e) missing funds from June’s bank accounts. *Id.* All while
16 Robyn and Donna were made aware by medical professionals that June required 24/7 medical
17 care and lacked testamentary and contractual capacity. *Id.* For these reasons, this Court granted
18 and later extended the temporary guardianship. At the time, this Court fully vetted Robyn as
19 guardian. Robyn’s petition for temporary and general guardianship included all factors required
20 by statute about her qualifications to act as guardian and the Court found that she was qualified
21 to be temporary guardian. *Id.*
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1 16. Through this guardianship, the pre-guardianship exploitation ceased. Moreover, June was
2 able to receive some remedies including a settlement from a civil lawsuit pursued by Kim as
3 guardian and negotiated the issue with the dogs. Those are two major issues that were never going
4 to be resolved had this guardianship never been appointed.

5 **iii. Once Appointed as Guardian, Kim Violated June's Bill of Rights by Isolating**
6 **her from her Family Members and Failing to Provide Statutorily Required**
7 **Information to this Court, June, and Interested Parties**

8 17. On December 30, 2020, Robyn and Donna filed a Verified Petition for Communication,
9 Visits, and Vacation Time with Protected Person ("Visit Petition") after enduring nearly a year
10 of absolutely inappropriate and cruel stonewalling about visitation and other matters from the
11 guardian. *See* Visit Petition on file herein. In the Visit Petition, Robyn and Donna stated that
12 they were forced to bring the Visit Petition "to compel Kim, as guardian, to be more humane"
13 and "provide the same kind of logistical support to Ms. Jones' family as Kim provides to Ms.
14 Jones' medical professionals, legal aid attorney, this Court, friends, neighbors, gardeners, dry
15 cleaners, the veterinarian and the dog groomer." *Id.* at p. 2-3. Robyn and Donna requested a
16 "course correction for Kim, as the guardian of [June], to help Kim follow through with protecting
17 [June's] right, among others, as recognized in the Protected Person's Bill of Rights, to 'receive
18 telephone calls and personal mail and have visitors.'" *Id.* at p. 3 (quoting NRS 159.328(1)(n)).
19 Robyn and Donna had and have no "desire to compel [June] to visit with them. Rather, they seek
20 a routine or series of windows of opportunity so that all sides can plan to be available to
21 accomplish the visits" if and only if June wants the visit to happen. *Id.* (emphasis added).
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1 18. The Visit Petition provided numerous examples and evidence of how Kim would restrict
2 visits and communication with June. The examples usually began when June voiced her desire to
3 visit with Robyn on the phone. *Id.* at p. 4. “When Robyn asks when they can meet, [June] hesitates
4 and then says she will call Robyn to set something up. However, invariably, [June] does not call,
5 possibly because she simply does not remember to do so. When Robyn appeals to Kim for
6 assistance in coordinating the meetings, Kim typically ignores the communications for a time and
7 then eventually tersely refers Robyn back to their mother . . . to make the arrangements directly
8 as if [June] realistically can carry through on any planning to set up a visit – continuing the cruel
9 cycle.” *Id.*

10 19. Moreover, Kim did not adhere to a prior agreement with Robyn and Donna for Kim’s
11 assistance with communication and visits with June. *Id.* at p. 8. The agreement was painstakingly
12 negotiated at great expense to Robyn and Donna. Some of Kim’s failures included disabling
13 FaceTime on June’s phone, yelling at June and Robyn in front of Robyn’s child about whether
14 June wanted to go on a vacation with Robyn, and Kim taking June to Arizona on the exact dates
15 in July 2020 that were set apart in the agreement for Robyn to take June on vacation with no
16 advance notice to Robyn that Kim was effectively precluding the pre-planned trip. *Id.* Kim did
17 the same thing to Donna – took June to Arizona at the exact time when Kim knew that Donna,
18 who lives in California, was going to travel to Las Vegas to see June without notifying Donna
19 until Donna was already in Las Vegas. *Id.* at p. 10-11.

21 20. Robyn and Donna provided further evidence showing that Kim restricted visits and
22 communication between June and Robyn on October 10, 2020, with a last-minute unplanned offer
23 from Kim to drop June off at Robyn’s home. *Id.* at p. 15. Desperate to see her mother, Robyn
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1 dropped everything she was doing with her business that day to see June with no notice only to
2 have Kim stop responding to text messages and resort to Kim's "just call June" doctrine so that
3 the visit was very limited and short by the time Kim finally relented and allowed Robyn to see
4 her mother that day. *Id.* Kim's "just call mom" doctrine also restricted visits on October 13, 2020,
5 October 30, 2020, December 3, 2020, and December 14, 2020. *Id.* at p. 17-19. The "just call
6 June" doctrine is a ruse enforced by Kim and supported by the LACSN attorney whereby family
7 members were refused logistical help, coordination or cooperation by the then-guardian Kim and
8 were instead accused of treating June like a child for attempting to coordinate with June's
9 guardian, Kim. Kim would cruelly demand family members to coordinate all their visits directly
10 with June who could not do so. When family members would occasionally get very brief
11 moments on the phone with June, June would invariably say she wants to visit, but to call back
12 later. When family members repeatedly tried calling later, June would say the same things and
13 the cycle would repeat. Kim would not help to break the cycle. She would say "just call June".

14
15 21. Robyn and Donna alleged that Kim coordinates visits between June and her other daughter
16 Teri Butler who lives in Arizona, with whom she agrees, but other family members get last-minute
17 notice, if any at all, terse, vague text messages, and short phone calls. *Id.* at p. 5. Clearly Kim
18 was able to make appointments with numerous individuals and institutions, especially some
19 family members with whom she agreed. Obviously, calendars were utilized, and a certain level
20 of communication was employed to accomplish the visit or appointment. But when it came to
21 Robyn and Donna, there Kim refused to assist June in seeing her daughters.

22 22. June's court-appointed counsel filed an Opposition to the Visit Petition that did not
23 acknowledge the myriad of allegations that Kim was restricting visits and communication in
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1 violation of June's rights. *See* June's Opposition filed on January 25, 2021. Instead, the
2 Opposition stated that June did not "want an imposition of anything that looks like a visitation
3 schedule ." *Id.* at p. 2. Unintuitively, June's Counsel's logic was that "[a]n additional
4 communication tool will only isolate June from her own family." *Id.* Counsel made these
5 representations even while acknowledging a "never-ending tug-of-war communication battle"
6 among June's daughters wherein the daughters should be "sent to mandatory mediation to work
7 out their communication problems" because June has paid "such a high price" for the battle. *Id.*
8 at p. 3. Moreover, counsel acknowledged that "the only issue here is that grown women refuse to
9 work together with what should be simple logistics for setting up communication when June
10 wishes to see a family member." *Id.* at p. 6. Eerily, counsel remained adamant that the court
11 should take no action to resolve the "tug-of-war communication battle" even in light of the high
12 price June was and is paying. *Id.*

13
14 23. Kim also filed an Opposition to the Visit Petition that asked the Court not to impose any
15 time-consuming procedures on her. *See* Kim's Opposition on file herein on January 25, 2021.
16 Kim refused to speak directly to Robyn and Donna's allegations, but instead swept aside the
17 allegations by contending that Robyn and Donna did not provide any evidence (defined as limited
18 to records showing that Kim or June constantly ignored phone calls or that June had not seen or
19 communicated with family) to support the allegations that Kim restricted access to June. *Id.* at p.
20 5.

21 24. In Reply, Robyn and Donna reiterated that they did not want June "to do things that she
22 does not want to do" or "disregard[] [her] wishes." *See* Reply filed on February 1, 2021 at p. 4.
23 But rather, they sought simple logistics including a framework of preset opportunities to assist
24

1 June “when she expresses her desires to her daughters that she wants to see them.” *Id.* Robyn and
2 Donna have always maintained that June should never be forced to visit with them or anyone else.
3 Despite this, and despite the Court recognizing this, Robyn and Donna are accused in virtually
4 every pleading by Kim and the LACSN attorney of trying to force their mother to visit with them
5 and others. Robyn and Donna also alleged that Kim was playing favorites—if a family member
6 agreed with Kim’s position that the guardianship needed to terminate and revert back to the POA,
7 then the family member received Kim’s assistance, but family members that disagreed with Kim
8 did not get any assistance at all—effectively weaponizing Kim’s position as guardian against her
9 own family. *Id.* at p. 8-9.

10 25. Moreover, the Reply detailed a “strong disconnect between reality and what counsel
11 represents” to the Court. *Id.* at p. 3. The Reply provided verified statements and photographs
12 showing that June enjoys the time she spends with Robyn’s family. *Id.*; *see also* Supplement filed
13 on February 3, 2021. The Reply also provided a transcript from a recording of June struggling
14 and failing to use her own cell phone to call Kim. *See* Reply, Exhibit B. Obviously, if June can’t
15 call Kim who is with her every day, she can’t call anyone reliably. The Reply further alleged that
16 statements from June’s counsel and Kim are examples of the disconnect. *Id.* at p. 4. “For example,
17 Ms. Parra-Sandoval [the LACSN attorney] repeatedly states to the Court that [June] continues to
18 forget that she lost [her home] and that Ms. Parra-Sandoval informed this Court that she is the
19 one that informed [June] that her husband died.” *Id.* Due to the disconnect, Robyn and Donna
20 asked the District Court to utilize its other available tools to investigate allegations of isolation of
21 June by the guardian. *Id.* at p. 5.
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1 26. At a hearing on February 11, 2021, the Court acknowledged the disconnect between
2 June's counsel's representations and Robyn and Donna's representations. June's counsel
3 continued to represent to the court that no further investigation was necessary because June is
4 able to direct her counsel in these legal proceedings and does not want any schedule or framework
5 for visitation. *See* Transcript of the February 11, 2021 hearing, at p. 9-11. At the hearing, Robyn
6 and Donna's counsel argued that Robyn and Donna tried the "just call June train" and "it doesn't
7 work. She does not have the ability to schedule and call back on her own." *Id.* at p. 13. Further, it
8 was explained to the court that June's other daughter Teri Butler "gets visitation" because
9 "Kimberly arranged it. She facilitated. She helps out with that like a normal person." *Id.* at p. 13-
10 14.

11 27. Additionally, Robyn and Donna stated that Legal Aid's position (including the pending
12 appeal in Case No. 81799) undermined and was in opposition to the position taken by the guardian
13 in the related civil case action to recover June's home. The undersigned counsel contended that
14 any appeal in Case No. 81799 should have been brought and directed by the guardian, but that
15 "the guardian didn't do it in this case because they recognized that saying that [June] can direct
16 [an] appeal, it factors into whether she can consent to her house being transferred." *Id.* at p. 16.
17 Again, taking this position in opposition to the medical evidence that June lacked the capacity to
18 direct her legal affairs.

19 20 28. Around Mother's Day 2021, Robyn and Donna filed a Petition for a court-ordered
21 Mother's Day visit ("Mother's Day Petition") to allow Robyn, Donna, and other family members
22 to have a day-long celebration with June free of worry that Kim might spoil the celebration. *See*
23 *generally*, Mother's Day Petition on file herein. The Mother's Day Petition alleged that the order
24

1 was necessary because Kim precluded and restricted Robyn and Donna from visiting with June a
2 month earlier around Easter while simultaneously relocating June out of her Las Vegas home to
3 Anaheim, California before the district court authorized the move. *Id.* at pp. 4-9.

4 29. Sadly, on May 5, 2021, the LACSN attorney filed a tone-deaf Petition to Approve the
5 Protected Person's Proposed Visitation Schedule. *See* Schedule Petition on file herein. The
6 proposed visitation schedule filed by LACSN included: any visitors who wanted to see June could
7 only do so between 10:00 a.m. and 12:00 p.m. on Fridays with only one visitor per hour. *Id.* at p.
8 4. If family members wanted to see June but could not do so during the proposed two-hour time
9 block, then they were to text Kim by Thursday morning wherein Kim would help June with a
10 phone call during the Friday time block to the family member. *Id.* at p. 5. Any visitors had to
11 confirm with the guardian 24 hours before the visit. *Id.* And there were to be no more overnight
12 vacations with June. *Id.* And visits were only to take place at June's home (or volunteered Donna's
13 home as a potential second place for visits). *Id.* at p. 4. At a later evidentiary hearing, every
14 witness testified such an unworkable visitation schedule could not have been conceived by June
15 as they knew her through her life.
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17 **iv. This Court Exercised its Wide Discretion to Implement Multiple Tools Available**
18 **to it to Investigate Allegations that Kim was Harming June and violating June's**
19 **Bill of Rights**

20 30. In response to the serious allegations, the district court implemented multiple tools to
21 investigate the allegations that the guardian was restricting visits between the protected person
22 and her family in violation of NRS 159.332 and the Protected Person's Bill of Rights—NRS
23 159.328.
24

1 31. At the February 11, 2021, hearing, the district court appointed the guardian ad litem and
2 investigator after stating that there was a disconnect between the medical reports and the
3 statements from June's counsel, "I haven't been provided any evidence or suggestion that [June]
4 is able to execute, facilitate, plan, schedule time with [Robyn and Donna]." *See* Transcript of
5 February 11, 2021, hearing at p. 22. Further, "we have heard that she loves all of her daughters;
6 that she wants to direct her day." *Id.* The Court stated that it was "not considering necessarily a
7 visitation schedule that is an order that the protected person participate in or attend, but a
8 scheduled opportunity to facilitate visitation if the protected person [would] like to take
9 advantage." *Id.* at p. 23. To do that, the Court needed more information to determine whether
10 things changed since the appointment of the guardianship to "make a determination about how
11 much facilitation, how much prompting, how much encouragement, scheduling and participating
12 and execution is appropriate given the protected person's wants." *Id.* at p. 24.

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14 32. On February 12, 2021, the Court entered its order appointing the State Guardianship
15 Compliance Officer to meet with all parties about the "visitation, time together, communications,
16 and their needs, requests, and concerns regarding the Protected Person." Further, the Court asked
17 the investigator to review all records of conversations and text messages "to assist the Court in
18 determining if the Guardian has been acting unreasonably under statute."

19 33. On February 16, 2021, the Court entered its order appointing Elizabeth Brickfield, Esq.
20 as the guardian ad litem for June. The Court asked the guardian ad litem to speak with the
21 protected person and her children about "whether the Guardian has an obligation to facilitate,
22 prompt, encourage, plan, schedule, and/or create an environment that promotes an opportunity
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1 for continued communication between Protected Person and her adult daughters based upon the
2 current level of care and needs of the Protected Person.

3 34. On March 29, 2021, the Guardian ad Litem provided her report and stated that June wants
4 to visit and communicate with her family, but “lacks the ability to manage, initiate or plan these
5 communications or visits.” *See* Report on file herein at p. 2. Specifically, “Ms. Jones’ mental
6 decline is more advanced than her physical decline, that she lacks the ability to comprehend or
7 answer compound questions and that she lacks decision making ability or schedule management.”
8 *Id.* Although June expressed a desire not to have a schedule, Ms. Brickfield believed it is in June’s
9 best interest to have a caregiver or guardian who encourages and arranges for such visiting
10 because June lacks the ability to initiate telephone calls or schedule and/or actually carry out
11 visits. *Id.* at p. 3.

12 35. On May 12, 2021, the Court scheduled an evidentiary hearing upon determining that
13 “there remain issues of fact that must first be determined by the Court at an Evidentiary Hearing
14 before the Court can enter an order relative to Robyn Friedman and Donna Simmons’ request for
15 communication, access, and time with their mother, the Protected Person, pursuant to NRS
16 159.332 through NRS 159.337, and NRS 159.328.” The Court ordered all parties to file a pre-
17 trial memorandum that focused on legal points and authorities.

18 36. LACSN did not object to or petition for clarification of the scope of the evidentiary
19 hearing or request that June not be required to testify at the evidentiary hearing. LACSN filed a
20 Pre-Trial Memo that continued to object to a visitation schedule, but did not object to the
21 evidentiary hearing or the scope thereof. Instead, June’s LACSN attorney filed the Writ Petition
22 on the eve of the evidentiary hearing and a Motion to Stay the evidentiary hearing. *See* Motion to
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1 Stay filed on June 2, 2021. Counsel contended that the stay was necessary to ensure that June
2 would not be subjected to cross-examination and incur additional attorney's fees. *Id.* at p. 5.

3 37. On June 7, 2021, the district court entered an Order Denying Petition for Stay. The Court
4 stated that June's Counsel asked the Court to "order a rather complicated and specific schedule."
5 *See* Order at p. 4. Moreover, the Court took issue with June's counsel's "misleading" assertions
6 that the Visit Petition was "simply a request for visitation orders." *Id.* at p. 5. Instead, "the
7 allegations are that the Guardian has restricted communication, visitation and/or interaction
8 between the Protected Person and two of her daughters in violation of NRS 159.334." *Id.* The
9 Court was concerned that this Writ Petition "fails to reference the ramifications of a finding of
10 restriction or refer to the statutory process allowed to a relative who believes access has been
11 restricted." *Id.* The Court noted that the Motion to Stay was worried about whether "the Court
12 might canvass the Protected Person or the Court might allow the daughters to cross-examine their
13 mother during the Evidentiary Hearing" but the Protected Person's worries had "not been properly
14 raised before the District Court" and "would have been an appropriate issue to be raised in the
15 additional legal briefs the Court previously ordered." *Id.* at p. 8.

17 38. The Court proceeded with the evidentiary hearing on June 8, 2021. June's counsel did not
18 have June appear and objected to June testifying at the hearing. The Court ruled that June would
19 not be forced to attend or testify at the hearing.

20 39. Additionally, Kim has repeatedly failed to meet the statutory requirements for the first
21 annual accounting that was initially due in December 2020. The initial Accounting submitted had
22 numerous deficiencies. Over the last year, this Court provided Kim numerous opportunities to
23 correct the deficiencies. She failed to do so with each supplement continually failing to meet the
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1 statutory requirements and alleviate concerns from the Guardianship Compliance Office. Then,
2 this Court ordered Kim to provide all receipts to support the Accounting. She did not. Instead,
3 she turned over certain bank account statements. The Guardianship Compliance Office noted
4 many issues with this latest supplemental accounting including thousands of dollars of
5 transactions that the investigator could not tell whether they were for the benefit of June (for
6 example, thousands of dollars paying a Citibank credit card not in June's name and over \$8,000
7 in cash withdrawals).

8 **v. Robyn and Donna Petitioned and Requested for this Court to Consider**
9 **Exercising its Sua Sponte Authority to Remove Kim as Guardian**

10 40. Due to the serious nature of what Kim was doing, Robyn asked for this Court to sua sponte
11 remove Kim. On April 5, 2021, Robyn and Donna filed an Opposition to Kim's Petition to
12 Relocate Protected Person and Transfer Guardianship. In that Opposition, Robyn and Donna
13 detailed how Kim pre-maturely relocated June out of state to Anaheim, California, without this
14 Court's authorization and willingly chose not to provide notice to interested parties in violation
15 of Nevada law. It is important to note that Kim claims an advanced degree is geriatric care and
16 claims to have been involved in hundreds of court proceedings similar to this guardianship matter.
17 The Opposition went into great detail about how the unauthorized relocation of June happened,
18 how Robyn and Donna learned of it, and supported by emails between counsel and statements
19 from neighbors in Anaheim that they had spoken to Kim's boyfriend Dean over the weekend in
20 question who confirmed that he and Kim were moving into the home. Kim's boyfriend has had
21 altercations with several family members and his presence in June's home is a major stumbling
22 block to family visiting with their mother and grandmother, June. The Opposition further
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1 discussed how Kim has failed since being appointed guardian to provide the information required
2 for a budget, inventory, and care plan, and that the Petition to Relocate failed to provide the
3 statutory required information. Based on Kim's unlawful conduct, Robyn and Donna asked this
4 Court to consider exercising its power and authority to sua sponte remove Kim as guardian.
5 LACSN did not file anything in response to the Opposition or otherwise responding to the request
6 for sua sponte removal.

7 41. On April 23, 2021, Robyn and Donna filed a Petition for Visitation with the Protected
8 Person for a scheduled visit for Mother's Day. Robyn and Donna requested that if Kim failed to
9 allow the visit to occur, that the Court should also consider removing Kim as guardian. LACSN
10 did not file an opposition or response to the Petition for Visitation.

11 42. On June 18, 2021, Robyn and Donna filed their Closing Brief for the Evidentiary Hearing
12 wherein they requested that this Court consider removal pursuant to NRS 159.185 if this Court
13 was persuaded that Kim weaponized her power as guardian or in other ways harmed June or
14 depleted June's estate.

15 43. On July 15, 2021, Robyn and Donna filed an Objection to Kim's Accounting and First
16 Amended Accounting. Again, Robyn and Donna asked this Court to sua sponte remove Kim as
17 guardian for her failures to adhere to her duties, her dishonesty with the Court, June, and interested
18 parties, and her absolute flouting of the rules and laws governing guardianship. June's counsel
19 filed nothing in response to this request. Indeed, LACSN has taken virtually no action or stance
20 against Kimberly in this matter and even advised the Court against allowing Robyn and Donna to
21 produce additional text messages when it was discovered that Kim had deleted them from her
22 doctored disclosures to both the Court and the guardianship compliance office.
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1 **C. Legal Argument**

2 44. NRAP 8(c) reads as follows:

3 **Rule 8. Stay or Injunction Pending Appeal or Resolution of Original Writ Proceedings**

4 **(c) Stays in Civil Cases Not Involving Child Custody.** In deciding whether to issue a
5 stay or injunction, the Supreme Court or Court of Appeals will generally consider the
6 following factors:

7 (1) whether the object of the appeal or writ petition will be defeated if the stay or
8 injunction is denied;

9 (2) whether appellant/petitioner will suffer irreparable or serious injury if the stay or
10 injunction is denied;

11 (3) whether respondent/real party in interest will suffer irreparable or serious injury if
12 the stay or injunction is granted; and

13 (4) whether appellant/petitioner is likely to prevail on the merits in the appeal or writ
14 petition.

15 **i. LACSN has no chance of prevailing in the appeal.**

16 45. Underlying all of LACSN's argument it intends to pursue on appeal is LACSN's
17 contention that June has capacity to direct her court-appointed counsel. This is meritless. All of
18 the medical evidence in this case shows that June lacks capacity to care for herself in nearly every
19 facet of life including directing legal affairs. Back in 2019, Dr. Brown found that June's mental
20 capacity was in serious decline requiring a guardianship to protect her from undue influence. Now
21 on December 28, 2021, Dr. Brown found that June's mental capacity has severely deteriorated
22 even more over the last two years. June lacks capacity to direct her legal affairs, manage her
23 finances, and otherwise take care of herself. She requires 24/7 care and supervision. Her mental
24 capacity is so deteriorated that she cannot weigh the costs and benefits of decisions and cannot
25 retain information long enough to make decisions. She does not think she is taking any
medications (even though she's taking nine of them) nor does she think she has any current

1 medical conditions (even though she is suffering from numerous conditions). She does not think
2 she has an attorney. She does not know what an appeal is generally or what appeals are being
3 filed on her behalf specifically. All of the medical evidence proves that June cannot be directing
4 her counsel because she literally and quite severely cannot mentally grasp what is being presented
5 to her long enough to make decisions. June's counsel has never provided any contradictory
6 medical evidence. Without capacity to direct her legal affairs, June cannot and is not directing
7 LACSN to, among other things, direct an appeal.

8 46. Second, LACSN contends that June's due process rights have been violated because the
9 Court is not listening to counsel. This is meritless because it is June's counsel – not the Court –
10 that has precluded June from appearing before this Court at hearings and the evidentiary hearing.
11 June's counsel received notice of all the filings in this case. She was also notified and attended
12 all the hearings. She stopped June from appearing or from speaking directly with the Court. And
13 there have been many hearings in this case – plenty of opportunities for June to be heard – all
14 denied by June's counsel; not the Court. Moreover, LACSN is misuses “due process” without any
15 definition or legal authority supporting the assertions.
16

17 47. Third, LACSN contends that June's “due process” rights and bill of rights were violated
18 when this Court appointed a guardianship rather than allowing the Power of Attorney to stand.
19 However, it is also undisputed by June's counsel that June was being exploited prior to the
20 appointment of guardianship in this matter. In every document filed before this Court, June's
21 counsel has never denied that June lost the Kraft home for less than market value, had June's dogs
22 taken from her, or any of the other serious allegations that were presented before this Court in
23 2019. All of which occurred while the Power of Attorney in question controlled. The Power of
24

1 Attorney was insufficient to protect June. Therefore, June's counsel has never provided this Court
2 any reason to even contemplate that June would have been protected had the Power of Attorney
3 continued to stand.

4 48. Fourth, LACSN contends that it was a violation of June's bill of rights for this Court to
5 investigate and contemplate a "visitation schedule." Such a contention is so narrow and lacks all
6 important context of what was really going on. Kim, as June's guardian, was restricting and
7 precluding visits and communication between June and her family in direct violation of June's
8 bill of rights. June's counsel never disputed Robyn and Donna's allegations that Kim was
9 isolating June and violating her bill of rights by restricting visits. June's counsel has never told
10 this Court that June denies having her visits and communication restricted by Kim. June's counsel
11 has never argued that Robyn and Donna made up all the numerous specific instances in which
12 Kim restricted or precluded visits and communication from occurring. June's counsel took no
13 position on other serious allegations such as Kim pre-maturely relocating June to Anaheim before
14 this Court authorized the temporary relocation. LACSN has also remained silent on Kim's
15 statutorily deficient or entirely missing accounting, budget, care plan, and inventories.
16 Accordingly, LACSN has never contended that Kim was not violating June's bill of rights.

18 49. Fifth, LACSN contends that this Court violated June's due process rights and bill of rights
19 by removing Kim as guardian because June wants Kim to be her guardian. It is important to note
20 that Robyn and Donna have repeatedly filed documents over the course of months with this Court
21 asking the Court to consider removing Kim as guardian sua sponte. June's counsel never
22 responded or objected to any of those requests. The requests also came up in numerous court
23 hearings that June's counsel attended. She never argued against the Court's ability to sua sponte
24

1 remove a guardian or that the issue was not properly before the Court. June's counsel has had
2 many opportunities to do so and did not. Additionally, the Motion to Stay still fails to contend or
3 even discuss the Court's authority to sua sponte remove a guardian. The Motion to Stay does not
4 contend that the Court lacks authority to do so and provides no legal authority against it.

5 50. Sixth, LACSN contends that June's due process rights and other guardianship statutes
6 were violated because the Court did not appropriately vet Robyn before appointing her as
7 successor guardian. But this Court already had. It is the law of the case that Robyn meets the
8 statutory requirements to be appointed as guardian.

9 51. Even further, LACSN has provided no legal authority supporting its legal conclusions.
10 When the LACSN attorney cites to Nevada law, counsel rewrites the statutes in dramatic fashion
11 that completely changes the statutes. Even the Nevada Court of Appeals acknowledge this and
12 declined counsel's invitation to rewrite the laws pertaining to when this Court may award
13 attorney's fees and costs. Moreover, June's counsel provides no authority contesting this Court's
14 wide discretion to schedule evidentiary hearings or appoint guardian ad litem. Additionally,
15 LACSN provides no authority showing that the Court had no right to investigate allegations that
16 Kim was violating June's bill of rights.
17

18 **ii. The object of the appeal will not be defeated if the stay is denied.**

19 52. The object of the appeal is to request that the Nevada Supreme Court legislate new law
20 from the bench that the word of counsel for a protected person is not to be questioned or verified.
21 The object of the appeal is to elevate counsel for protected persons above all else – including the
22 Court. The object of the appeal is to remove this Court's discretion in appointing guardian ad
23 litem, scheduling evidentiary hearings, and investigating allegations that the court-appointed
24

guardian is violating Nevada law, isolating the protected person, and violating a protected person's Bill of Rights. The object of the appeal has little to do with June and everything to do with LACSN pushing its own political agenda that its attorneys' word should be supreme and unreviewable. That object will not be defeated if this Court denies the stay.

iii. June will not suffer irreparable or serious injury if the stay is denied.

53. Since Robyn has been Successor Guardian, June has been thriving and doing very well. She had a Christmas celebration with more of her family around her than she would have had with Kim as guardian – certainly more of a Christmas celebration than she would have had had this Court granted counsel's petition for a Friday morning only visitation schedule. June was also able to celebrate Donna's birthday with Donna and the rest of her family. June was smiling and having a good time during those celebrations. Additionally, Robyn learned that Kim was giving June medications off schedule from what the doctors prescribed. That mistake has been corrected and June is receiving the appropriate medications at the appropriate intervals. June is doing well with Robyn as guardian.

54. Robyn also has significant concerns whether counsel even consulted with June before filing the appeal and Motion to Stay because counsel has not reached out to Robyn to coordinate any meeting or phone call between counsel and June since Robyn has been guardian. Robyn does not know how counsel could say she was directed by June to file the appeal and Motion to Stay when: 1) counsel did not discuss this first with June and 2) June lacks the mental ability to understand what is going on. As Dr. Brown further noted, June does not even think she has an attorney and does not know what an appeal is generally or what appeals are being filed on her behalf specifically.

iv. Robyn will suffer irreparable harm should the stay be granted.

55. Since being appointed successor guardian, Robyn has incurred significant cost and time taking over the guardian duties and responsibilities from Kim. She spent a significant amount of time in California away from her husband and son. She spent a significant amount of time and money caring for June, coordinating in-home care, and undoing the mess left behind and created by Kim (including medications and finances). She has completely taken over all of the duties and responsibilities for caring for June. Accordingly, both June and Robyn would suffer extreme irreparable harm should she be required to go back to the status quo and turn everything back over to Kim. Robyn would also note that Kim has not filed a joinder to this and has not asked in any way to return to the prior status quo with her as guardian. This draws into question whether Kim even wants to return to her responsibilities as guardian.

v. The Motion to Stay includes multiple incorrect statements.

56. Appointed Counsel's statement on page 2 of the Motion to Stay is incorrect that this Court has continually ignored June's due process rights and her rights under the Protected Person's Bill of Rights. As was shown early in these proceedings, the steps June took to not have a guardian appointed, including June's Power of Attorney documents, were not sufficient to keep June or her finances secure. To remedy the insufficiency of the Power of Attorney documents, this Court properly appointed Temporary Guardians, and then a General Guardian to keep June and her assets secure.

57. Appointed Counsel's statement on page 2 of the Motion to Stay is inaccurate and misleading that this Court disregarded the plan June put into place, prior to any claim of a lack of capacity. This Court did not simply disregard June's plan. Rather, this Court, after careful

1 consideration of the record created appointed Temporary Guardians, and then a General Guardian
2 because June's plan was not keeping her or her assets secure.

3 **D. Conclusion**

4 WHEREFORE, based on the foregoing, Robyn and Donna respectively request that the
5 Court:

- 6 1. Deny the relief requested in the Motion for Stay; and
- 7 2. Order such other and further relief as it deems appropriate.

8 DATED: January 5, 2022.

9 MICHAELSON LAW

10
11 /s/ John P. Michaelson

12 John P. Michaelson, Esq.

13 Nevada Bar No. 7822

14 Ammon E. Francom, Esq.

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16 1746 W. Horizon Ridge Parkway

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CERTIFICATE OF SERVICE

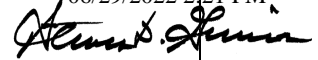
Pursuant to NRCP 5 and NEFCR 9, the undersigned hereby certifies that on January 5, 2022, a copy of the foregoing GUARDIAN ROBYN FRIEDMAN AND INTERESTED PARTY DONNA SIMMONS' OPPOSITION TO MOTION TO STAY ORDER FOR REMOVAL OF GUARDIAN AND ORDER APPOINTING SUCCESSOR GENERAL GUARDIAN OF THE PERSON AND ESTATE AND FOR ISSUANCE OF LETTERS OF GENERAL GUARDIANSHIP was e-served to the following individuals and entities at the following addresses:

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MICHAELSON LAW

/s/ Matthew Whittaker
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DISTRICT COURT

CLARK COUNTY, NEVADA

IN THE MATTER OF THE GUARDIANSHIP
OF THE PERSON AND ESTATE OF:

Kathleen June Jones,

An Adult Protected Person.

Case Number: G-19-052263-A
Department: B

Date of Hearing: 01/27/2022
Time of Hearing: 11:30 a.m.

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER DENYING
MOTION TO STAY ORDER FOR REMOVAL OF GUARDIAN AND ORDER
APPOINTING SUCCESSOR GENERAL GUARDIAN OF THE PERSON AND
ESTATE AND FOR ISSUANCE OF LETTERS OF GENERAL GUARDIANSHIP**

THIS MATTER came before the Court on January 27, 2022, for a hearing on the following:

1. The Protected Person, Kathleen June Jones' ("Protected Person" or "Ms. Jones") Motion to Stay Order for Removal of Guardian and Order Appointing Successor General Guardian of the Person and Estate and for Issuance of Letters of General Administration filed December 22, 2021 ("Motion to Stay"); and

2. The Guardian Robyn Friedman ("Robyn") and Interested Party Donna Simmons' ("Donna") Opposition to Motion to Stay Order for Removal of Guardian and Order Appointing

1 Successor General Guardian of the Person and Estate and for Issuance of Letters of General
2 Guardianship.

3 The Court considered the pleadings and papers on file herein, heard oral arguments from
4 counsel and interested parties at the hearing, examined the evidence, and has been fully informed
5 on the matter. It appears to the Court that proper notice has been given to all interested parties.
6 The Court hereby finds, concludes, and orders as follows:

7 **I. APPEARANCES**

8 3. Elizabeth Mikesell, Esq. on behalf of Maria L. Parra-Sandoval, Esq., court-
9 appointed counsel for the Protected Person.

10 4. John P. Michaelson, Esq. of Michaelson Law on behalf of the Successor
11 Guardian, Robyn Friedman, and Interested Party, Donna Simmons.

12 5. Successor Guardian, Robyn Friedman, along with Ms. Jones and Robyn's
13 husband Perry Friedman.

14 6. Former Guardian, Kimberly Jones ("Kimberly").

15 7. Supreme Court Guardianship Compliance Financial Forensic Specialist, Sonia
16 Jones.

17 8. Ty Kehoe, Esq. on behalf of non-interested parties Dick and Kandi Powell.

18 9. Protected Person's son-in-law, Jack Butler.

19 **II. FINDINGS OF FACT**

20 10. On September 19, 2019, Robyn and Donna filed a petition for, among other relief,
21 a temporary and general guardianship for Ms. Jones, alleging Ms. Jones was: (1) unable to care
22 for herself medically, financially, and legally without assistance; and (2) harmed by other
23
24
25

1 individuals related by marriage that were ignoring Kimberly as Ms. Jones' designated agent in
2 Ms. Jones' Financial and Healthcare Powers of Attorney ("POA") and exploiting Ms. Jones.

3 11. The alleged exploitation included: (a) transferring Ms. Jones' ownership interest
4 in her home to the alleged exploiters for far less than market value, (b) the same individuals
5 forcibly preventing Kimberly from acting as Ms. Jones' attorney-in-fact both for financial and
6 medical decisions and not bringing Ms. Jones home from a visit to see them in Arizona, (c) then-
7 husband cancelling Ms. Jones' medical appointments, (d) the initiation of eviction proceedings
8 against Kimberly who had moved into Ms. Jones' home to care for her, and (e) missing funds
9 from Ms. Jones' bank accounts; all while medical professionals informed Robyn and Donna that
10 Ms. Jones required 24/7 medical care and lacked testamentary and contractual capacity. For these
11 reasons, this Court granted and later extended the temporary guardianship.

12 12. At the time of her appointment, this Court fully vetted Robyn as guardian.
13 Robyn's petition for temporary and general guardianship included all factors required by statute
14 about her qualifications to act as guardian and this Court found that she was qualified to be
15 temporary guardian.

16 13. Robyn and Donna provided medical evidence and evaluations from Dr. Gregory
17 Brown showing that Ms. Jones is very limited in her ability to care for herself, manage her affairs,
18 and in her process decision making.

19 14. Dr. Brown stated that he reviewed a 2016 Mini-Cog examination wherein Ms.
20 Jones scored a 1, "a score indicative of a dementing condition." Dr. Brown also reviewed a
21 February 17, 2016, record that indicated that Ms. Jones was diagnosed with Alzheimer's
22 Dementia and a September 5, 2019, letter from Dr. Sabbagh that said Ms. Jones "had a
23 degenerative neurological condition which led her to be unable to manage her own affairs
24 including medical, financial, and legal decisions."
25

1 15. Dr. Brown found that Ms. Jones suffered from “profound deficits in long-term
2 memory and general recall of overall life historical data, with a general paucity of detail.”
3 Specifically, Dr. Brown found that even back in 2019, Ms. Jones:

- 4 a. Was unable to provide basic information about her life including the number of
5 marriages that she had, how many children and grandchildren she has, the location
6 or title of any of the jobs she held as an adult;
7 b. Unable to understand paying her bills independently;
8 c. Had an inaccurate assessment of both the nature and extent of her estate;
9 d. Was completely unaware of her own medical history and her husband’s medical
10 condition; and
11 e. Was unaware of her prescribed medications and the reasons for them.

12 16. Dr. Brown concluded, “[t]his lack of information would prevent her from being
13 able to reasonably process decision making in multiple domains in life.”

14 17. Kimberly also provided medical evidence that Ms. Jones lacked capacity to care
15 for herself and manage her medical, financial, and legal decisions. In addition, Kimberly has
16 acknowledged several times, and in multiple pleadings, Ms. Jones’ profound lack of capacity
17 and inability to make choices on her own.

18 18. Kimberly opposed and objected to the need for a guardianship, and alternatively,
19 counter-petitioned to be general guardian. However, the Court appointed Kimberly as guardian
20 of the person and estate of Ms. Jones on October 15, 2019, because: 1) Ms. Jones preferred
21 Kimberly to be appointed guardian; 2) Kimberly finally agreed to serve as guardian; and 3)
22 Robyn and Donna voluntarily stepped aside to follow Ms. Jones’ preference once a guardianship
23 was initiated to ensure transparency and security in the care of Ms. Jones’ person and estate.

24 19. However, following Kimberly’s appointment as guardian, Robyn and Donna
25 began claiming that Kimberly was violating the Protected Person’s rights including allegations
that Kimberly restricted visits and communication between the Protected Person and her
immediate family in violation of NRS 159.332.

1 20. On December 30, 2020, Robyn and Donna filed a Verified Petition for
2 Communication, Visits, and Vacation Time with Protected Person (“Visit Petition”). In the Visit
3 Petition, Robyn and Donna stated that they were forced to bring the Visit Petition “to compel
4 Kimberly, as guardian, to be more humane” and “provide the same kind of logistical support to
5 Ms. Jones’ family as Kimberly provides to Ms. Jones’ medical professionals, legal aid attorney,
6 this Court, friends, neighbors, gardeners, dry cleaners, the veterinarian and the dog groomer.”
7 Robyn and Donna requested a “course correction for Kimberly, as the guardian of [the Protected
8 Person], to help Kimberly follow through with protecting [the Protected Person’s] right, among
9 others, as recognized in the Protected Person’s Bill of Rights, to ‘receive telephone calls and
10 personal mail and have visitors.’” Robyn and Donna had and have no “desire to compel [the
11 Protected Person] to visit with them. Rather, they seek a routine or series of windows of
12 opportunity so that all sides can plan to be available to accomplish the visits” if and only if Ms.
13 Jones wants the visits to happen.

14 21. The Visit Petition provided numerous examples and evidence of how Kimberly
15 used her “just call mom” doctrine to restrict visits and communication with the Protected Person.
16 The examples of the “just call mom” doctrine usually began when Ms. Jones voiced her desire
17 to visit with Robyn on the phone. “When Robyn asks when they can meet, [the Protected Person]
18 hesitates and then says she will call Robyn to set something up. However, invariably, [the
19 Protected Person] does not call, possibly because she simply does not remember to do so. When
20 Robyn appeals to Kimberly for assistance in coordinating the meetings, Kimberly typically
21 ignores the communications for a time and then eventually tersely refers Robyn back to their
22 mother . . . to make the arrangements directly as if [the Protected Person] realistically can carry
23 through on any planning to set up a visit – continuing the cruel cycle.”

24 22. Moreover, Kimberly did not adhere to a prior agreement hammered out at great
25 cost to Robyn and Donna through numerous communications between counsel for Robyn and

1 Donna, and counsel for Kimberly, including in-person informal settlement conferences. This
2 agreement was hammered out to secure what should have been obvious and intuitive —
3 Kimberly's assistance with communication and visits with Ms. Jones. Some of Kimberly's
4 failures included disabling FaceTime on Ms. Jones' phone, yelling at Ms. Jones and Robyn in
5 front of Robyn's child about whether Ms. Jones wanted to go on a vacation with Robyn, and
6 Kimberly taking Ms. Jones to Arizona on the exact dates in July 2020 that were set apart in the
7 agreement for Robyn to take Ms. Jones on vacation with no advance notice to Robyn that
8 Kimberly was effectively precluding the pre-planned trip. Kimberly did the same thing to Donna
9 — took Ms. Jones to Arizona at the exact time when Kimberly knew that Donna, who lives in
10 California, was going to travel to Las Vegas to see Ms. Jones without notifying Donna until
11 Donna and other members of the protected person's family were already in Las Vegas.

12 23. Robyn and Donna provided further evidence showing that Kimberly restricted
13 visits and communication between Ms. Jones and Robyn on October 10, 2020, with a last-minute
14 unplanned offer from Kimberly to drop Ms. Jones off at Robyn's home. Desperate to see her
15 mother, Robyn dropped everything she was doing with her business that day to see Ms. Jones
16 with no notice only to have Kimberly stop responding to text messages and resort to Kimberly's
17 "just call mom" doctrine so that the visit was very limited and short by the time Kimberly finally
18 relented and allowed Robyn to see her mother that day. Kimberly's "just call mom" doctrine also
19 restricted visits on October 13, 2020, October 30, 2020, December 3, 2020, and December 14,
20 2020. Kimberly would demand family members to coordinate all their visits directly with Ms.
21 Jones who could not do so. When family members would occasionally get very brief moments
22 on the phone with Ms. Jones, Ms. Jones would invariably say she wants to visit, but to call back
23 later. When family members repeatedly tried calling later, Ms. Jones would say the same things
24 and the cycle would repeat. Kimberly would not help to break the cycle. She would say "just
25 call mom."

1 24. Robyn and Donna alleged that Kimberly coordinates visits between Ms. Jones
2 and her other daughter Teri Butler who lives in Arizona, with whom Kimberly agrees, but other
3 family members get last-minute notice, if any at all, terse, vague text messages, and short phone
4 calls. Clearly Kimberly was able to make appointments with numerous individuals and
5 institutions, especially some family members with whom she agreed. Obviously, calendars were
6 utilized, and a certain level of communication was employed between Kimberly and these
7 individuals and institutions to accomplish the visits or appointments. But when it came to Robyn
8 and Donna, Kimberly refused to assist Ms. Jones in seeing her daughters.

9 25. Ms. Jones' court-appointed legal aid attorney filed an Opposition to the Visit
10 Petition that did not acknowledge the myriad of allegations that Kimberly was restricting visits
11 and communication in violation of Ms. Jones' rights. Instead, the Opposition stated that Ms.
12 Jones did not "want an imposition of anything that looks like a visitation schedule." Court-
13 appointed counsel's logic was that "[a]n additional communication tool will only isolate the
14 Protected Person from her own family." Court-appointed counsel made these representations
15 even while acknowledging a "never-ending tug-of-war communication battle" among Ms. Jones'
16 daughters wherein the daughters should be "sent to mandatory mediation to work out their
17 communication problems" because Ms. Jones has paid "such a high price" for the battle.
18 Moreover, court-appointed counsel acknowledged that "the only issue here is that grown women
19 refuse to work together with what should be simple logistics for setting up communication when
20 the Protected Person wishes to see a family member." Curiously, court-appointed counsel
21 remained adamant that the court should take no action to resolve the "tug-of-war communication
22 battle" even in light of the high price Ms. Jones was and is paying. Court-appointed counsel did
23 not address the many specific allegations of abuse and isolation by Kimberly.

24 26. Kimberly also filed an Opposition to the Visit Petition that asked the Court not to
25 impose any "time-consuming" procedures on her. Like court-appointed counsel, Kimberly did

1 not address Robyn and Donna’s detailed claims of abuse and isolation, but instead swept aside
2 the numerous allegations *en masse* by contending that Robyn and Donna did not provide any
3 evidence to support the arguments that Kimberly restricted access to Ms. Jones.

4 27. In Reply, Robyn and Donna reiterated that they did not want Ms. Jones “to do
5 things that she does not want to do” or “disregard[] [her] wishes.” But rather, they sought simple
6 logistics including a framework of preset opportunities to assist Ms. Jones “when she expresses
7 her desires to her daughters that she wants to see them.” Robyn and Donna have always
8 maintained that Ms. Jones should never be forced to visit with them or anyone else.¹ Robyn and
9 Donna also alleged that Kimberly was playing favorites—if a family member agreed with
10 Kimberly’s position that the guardianship needed to terminate and care of Ms. Jones should
11 revert back to being handled by Kimberly pursuant to a POA, and that Kimberly need not provide
12 an accounting and that no investigation of Kimberly’s conduct should happen, then the family
13 member received Kimberly’s assistance with visitation and access to Ms. Jones, but family
14 members that questioned or disagreed with Kimberly did not get any assistance at all—
15 effectively weaponizing Kimberly’s position as guardian against her own family.

16 28. Moreover, the Reply detailed a “strong disconnect between reality and what
17 counsel represents” to the Court. The Reply provided verified statements and photographs
18 showing that Ms. Jones enjoys the time she spends with Robyn’s family. The Reply also
19 provided a transcript from a recording of Ms. Jones struggling and failing to use her own cell
20 phone to call Kimberly – showing Ms. Jones likely cannot even call Robyn or Donna without
21 assistance, let alone initiate and coordinate calendaring of visitation with the many members of
22 her family. The Reply further alleged that statements from Ms. Jones’ counsel and Kimberly are
23 examples of the disconnect between their assertions that Ms. Jones can fully handle her own
24

25 ¹ In virtually every hearing, both Kimberly and Ms. Jones’ court-appointed counsel have claimed
that Robyn and Donna are seeking to impose visitation on Ms. Jones against her wishes.

1 affairs and the reality of Ms. Jones condition. “For example, Ms. Parra-Sandoval repeatedly
2 states to the Court that [the Protected Person] continues to forget that she lost [her home] and
3 that Ms. Parra-Sandoval informed this Court that she is the one that informed [the Protected
4 Person] that her husband died.” Due to the disconnect, Robyn and Donna asked the District Court
5 to utilize its other available tools to investigate allegations of isolation of Ms. Jones by the
6 guardian.

7 29. At a hearing on February 11, 2021, the Court acknowledged the disconnect
8 between Ms. Jones’ counsel’s representations and Robyn and Donna’s representations. Court-
9 appointed counsel continued² to represent to this Court that no further investigation was
10 necessary because Ms. Jones is able to direct her in these legal proceedings and does not want
11 any schedule or framework for visitation. At the hearing, Robyn and Donna’s counsel argued
12 that Robyn and Donna tried the “just call June train” and “it doesn’t work. She does not have the
13 ability to schedule and call back on her own.” Further, it was explained to the Court that Ms.
14 Jones’ other daughter Teri Butler “gets visitation” because “Kimberly arranged it. She facilitated.
15 She helps out with that like a normal person.”

16 30. Additionally, Robyn and Donna stated that the Protected Person’s counsel’s
17 position (including the pending appeal in Case No. 81799) undermined and was in opposition to
18 the position taken by then guardian, Kimberly Jones, in the related civil case action to recover
19 the Protected Person’s home. The undersigned counsel contended that any appeal in Case No.
20

21 ² It’s one thing for court-appointed counsel to adhere to and advocate a client-directed model.
22 But in the context of a guardianship proceeding with a protected person who has been shown to
23 have limitations on capacity, it’s another thing to adamantly oppose the introduction of any other
24 eyes and ears or methodologies to assist the Court, or to oppose the introduction of evidence
25 such as missing text messages or criminal records that could show the protected person’s rights
may be being violated.

1 81799 should have been brought and directed by the guardian (Kimberly Jones), not the legal
2 aid attorney appointed to protect Ms. Jones' interests. However, the guardian did not bring the
3 appeal because she recognized that saying that [the Protected Person] can direct [an] appeal
4 factors into whether the Protected Person can consent to her house being transferred. In other
5 words, the court-appointed counsel's contentions that Ms. Jones can and has been fully
6 understanding and directing the various appeals in this matter and that she can also fully
7 appreciate who her family members are and facilitate complex calendaring and visitation on her
8 own without assistance from the guardian, undermines Ms. Jones' position in the related civil
9 court litigation that her paid for property was unlawfully taken from her because she lacked the
10 capacity to understand and get help to stop the transfer of the property for far less than market
11 value.

12 31. Around Mother's Day 2021, Robyn and Donna filed a Petition for a court-ordered
13 Mother's Day visit ("Mother's Day Petition") to allow Robyn, Donna, and other family members
14 to have a day-long celebration with Ms. Jones. The Mother's Day Petition alleged that the order
15 was necessary because Kimberly had once again precluded and restricted Robyn and Donna from
16 visiting with their mother around Easter, a month earlier, while simultaneously relocating their
17 mother out of her Las Vegas home to Anaheim, California before this Court had authorized the
18 move.

19 32. On May 5, 2021, Ms. Jones' court-appointed legal aid attorney filed a Petition to
20 Approve her Proposed Visitation Schedule. The proposed visitation schedule included: any
21 visitors who wanted to see Ms. Jones could only do so between 10:00 a.m. and 12:00 p.m. on
22 Fridays with only one visitor per hour. If family members wanted to see Ms. Jones but could not
23 do so during the proposed two-hour time block, then they were to text Kimberly by Thursday
24 morning wherein Kimberly would help Ms. Jones with a phone call during the Friday time block
25 to the family member. Any visitors had to confirm with the guardian 24 hours before the visit.

1 There were to be no more overnight vacations with Ms. Jones. Visits were only to take place at
2 Ms. Jones' home (or volunteered Donna's home as a potential second place for visits). At a later
3 evidentiary hearing, every witness including Kimberly testified Ms. Jones could not have
4 conceived such an unworkable visitation schedule.

5 33. In response to the serious allegations raised in the pleadings and various hearings,
6 this Court implemented multiple tools to investigate the allegations that the guardian was
7 restricting visits between the protected person and her family in violation of NRS 159.332 and
8 the Protected Person's Bill of Rights—NRS 159.328.

9 34. At the February 11, 2021, hearing, this Court appointed a Guardian ad Litem and
10 an investigator due to the disconnect between the medical reports and the statements from Ms.
11 Jones' court-appointed counsel, stating "I haven't been provided any evidence or suggestion that
12 [Ms. Jones] is able to execute, facilitate, plan, schedule time with [Robyn and Donna]." Further,
13 "we have heard that she loves all of her daughters; that she wants to direct her day." The Court
14 stated that it was "not considering necessarily a visitation schedule that is an order that the
15 protected person participate in or attend, but a scheduled opportunity to facilitate visitation if the
16 protected person [would] like to take advantage." To do that, the Court needed more information
17 to determine whether things changed since the appointment of the guardianship to "make a
18 determination about how much facilitation, how much prompting, how much encouragement,
19 scheduling and participating and execution is appropriate given the protected person's wants."

20 35. On February 12, 2021, the Court entered its order appointing the State
21 Guardianship Compliance Officer to meet with all parties about the "visitation, time together,
22 communications, and their needs, requests, and concerns regarding the Protected Person."
23 Further, the Court asked the investigator to review all records of conversations and text messages
24 "to assist the Court in determining if the Guardian has been acting unreasonably under statute."
25

1 36. On February 16, 2021, the Court entered its order appointing Elizabeth Brickfield,
2 Esq. as the guardian ad litem for Ms. Jones. The Court asked the guardian ad litem to speak with
3 the protected person and her children about “whether the Guardian has an obligation to facilitate,
4 prompt, encourage, plan, schedule, and/or create an environment that promotes an opportunity
5 for continued communication between Protected Person and her adult daughters based upon the
6 current level of care and needs of the Protected Person.”

7 37. On March 29, 2021, the Guardian ad Litem provided her report and stated that
8 Ms. Jones wants to visit and communicate with her family, but “lacks the ability to manage,
9 initiate or plan these communications or visits.” Specifically, “Ms. Jones’ mental decline is more
10 advanced than her physical decline, that she lacks the ability to comprehend or answer compound
11 questions and that she lacks decision making ability or schedule management.” Although Ms.
12 Jones expressed a desire not to have a schedule, Ms. Brickfield believed it is in Ms. Jones’ best
13 interest to have a caregiver or guardian who encourages and facilitates such visiting because Ms.
14 Jones lacks the ability to initiate telephone calls or schedule and/or actually carry out visits.

15 38. On May 12, 2021, the Court scheduled an evidentiary hearing upon determining
16 that “there remain issues of fact that must first be determined by the Court at an Evidentiary
17 Hearing before the Court can enter an order relative to Robyn Friedman and Donna Simmons’
18 request for communication, access, and time with their mother, the Protected Person, pursuant
19 to NRS 159.332 through NRS 159.337, and NRS 159.328.” The Court ordered all parties to file
20 a pre-trial memorandum that focused on legal points and authorities.

21 39. The court-appointed attorney for the Protected Person did not object to or petition
22 for clarification of the scope of the evidentiary hearing or request that Ms. Jones not be required
23 to testify at the evidentiary hearing. Instead, the legal aid attorney for Ms. Jones filed a Pre-Trial
24 Memo that continued to object to a visitation schedule but did not object to the evidentiary
25 hearing or the scope thereof. Instead, court-appointed counsel filed a Writ Petition with the

1 appellate courts on the eve of the evidentiary hearing and a Motion to Stay the evidentiary
2 hearing. Counsel contended that the stay was necessary to ensure that Ms. Jones would not be
3 subjected to cross-examination and incur additional attorney's fees.

4 40. On June 7, 2021, this Court entered an Order Denying Petition for Stay. The Court
5 stated that the Protected Person's court-appointed counsel asked the Court to "order a rather
6 complicated and specific schedule." Moreover, the Court took issue with court-appointed
7 counsel's "misleading" assertions that the Visit Petition was "simply a request for visitation
8 orders." Instead, "the allegations are that the Guardian has restricted communication, visitation
9 and/or interaction between the Protected Person and two of her daughters in violation of NRS
10 159.334." The Court was concerned that the Writ Petition "fails to reference the ramifications of
11 a finding of restriction or refer to the statutory process allowed to a relative who believes access
12 has been restricted." The Court noted that the Motion to Stay concerned whether "the Court
13 might canvass the Protected Person or the Court might allow the daughters to cross-examine
14 their mother during the Evidentiary Hearing" but the court-appointed counsel's worries had "not
15 been properly raised before the District Court" and "would have been an appropriate issue to be
16 raised in the additional legal briefs the Court previously ordered."

17 41. The Court proceeded with the evidentiary hearing on June 8, 2021. Ms. Jones'
18 court-appointed counsel did not have Ms. Jones appear and objected to Ms. Jones testifying at
19 the hearing even though it could have been an opportunity for the Court to hear the Protected
20 Person's wishes first-hand. The Court ruled that Ms. Jones would not be forced to attend or
21 testify at the hearing.

22 42. The Court also had to investigate Kimberly's repeated failure to meet the statutory
23 requirements for the first annual accounting that was initially due in December 2020. The initial
24 Accounting submitted had numerous deficiencies. Over the last year, this Court provided
25 Kimberly numerous opportunities to correct the deficiencies. She failed to do so. Each

1 supplement continually failed to meet the statutory requirements and alleviate concerns from the
2 Guardianship Compliance Office. This was doubly concerning because Kimberly holds a
3 master's degree in geriatric care and professes to have been involved in hundreds of custody
4 and/or guardianship cases in the state of California. She of all people should know what is
5 expected of a guardian.

6 43. Subsequently, after failing repeatedly to complete her Accounting, this Court
7 ordered Kimberly to provide all receipts to support the Accounting. She did not. Instead, she
8 turned over certain bank account statements. The Guardianship Compliance Office noted many
9 issues with the latest supplemental accounting including thousands of dollars of transactions that
10 the investigator could not confirm were for the benefit of Ms. Jones (for example, thousands of
11 dollars paying a Citibank credit card not in Ms. Jones' name and over \$8,000 in cash
12 withdrawals).

13 44. Due to the serious nature of what Kimberly was doing, Robyn asked for this Court
14 to *sua sponte* remove Kimberly based on the record before the Court including numerous
15 pleadings and filings, many of which were from Kimberly herself, such as the seriously
16 inadequate accounting attempts. On April 5, 2021, Robyn and Donna filed an Opposition to
17 Kimberly's Petition to Relocate Protected Person and Transfer Guardianship. In that Opposition,
18 Robyn and Donna detailed how Kimberly pre-maturely relocated Ms. Jones out of state to
19 Anaheim, California, without this Court's authorization and willingly chose not to provide notice
20 to interested parties in violation of Nevada law. Concerns that Kimberly would do this were
21 raised in previous hearings and Kimberly was admonished not to move June out of state unless
22 and until authorized. The Opposition went into great detail about how the unauthorized
23 relocation of Ms. Jones happened, how Robyn and Donna learned of it, and was supported by
24 emails between counsel and statements from neighbors in Anaheim that they had spoken to
25 Kimberly's boyfriend Dean Loggans ("Dean") during the weekend in question and that Dean

1 confirmed that he and Kimberly were moving into the home. Kimberly's boyfriend Dean has
2 had altercations with several family members and his presence in Ms. Jones' home is a major
3 stumbling block to family visiting with their mother and grandmother. The Opposition further
4 discussed how Kimberly has failed since being appointed guardian to provide the information
5 required for a budget, inventory, and care plan, and that the Petition to Relocate failed to provide
6 the statutorily required information. Based on Kimberly's unlawful conduct, and ongoing
7 unwillingness and/or inability to act properly as a guardian, Robyn and Donna asked this Court
8 to consider exercising its power and authority to *sua sponte* remove Kimberly as guardian based
9 upon the record before the Court. Court-appointed counsel for the Protected Person did not file
10 anything in response to the Opposition including its request to remove Kimberly.

11 45. In the Mother's Day Petition, Robyn and Donna requested that if Kimberly failed
12 to allow the visit to occur, that the Court should also consider removing Kimberly as guardian.
13 Court-appointed counsel for Ms. Jones did not file an opposition or response to the Mother's
14 Day Petition including its request to remove Kimberly.

15 46. On June 18, 2021, Robyn and Donna filed their Closing Brief for the Evidentiary
16 Hearing wherein they requested that this Court consider removal pursuant to NRS 159.185 if
17 this Court was persuaded that Kimberly weaponized her power as guardian or in other ways
18 harmed Ms. Jones or depleted Ms. Jones' estate. Court-appointed counsel for Ms. Jones never
19 filed anything in response to the request to remove Kimberly.

20 47. On July 15, 2021, Robyn and Donna filed an Objection to Kimberly's Accounting
21 and First Amended Accounting. Again, Robyn and Donna asked this Court to *sua sponte* remove
22 Kimberly as guardian for her failures to adhere to her duties, her dishonesty with the Court, Ms.
23 Jones, and interested parties, and her absolute flouting of the rules and laws governing
24 guardianship, all of which was harming the June and causing great expense to all the parties. The
25 Protected Person's court-appointed counsel filed nothing in response to this request. Indeed,

1 court-appointed counsel for the Protected Person has taken virtually no action or stance against
2 Kimberly in this matter and even advised the Court against allowing Robyn and Donna to
3 produce additional text messages when it was discovered that Kimberly had deleted them from
4 her doctored disclosures to the Court and the guardianship compliance office.

5 48. Since being appointed as Successor Guardian, Robyn had Dr. Brown re-evaluate
6 Ms. Jones on December 28, 2021. Dr. Brown found that Ms. Jones' mental situation has only
7 further declined since 2019. Dr. Brown stated in his latest report:

8 [Ms. Jones] demonstrated an additional decline in mental functioning as
9 demonstrated by a 2 point addition drop in the Folstein MMSE. Her long term
10 memory demonstrated marked deterioration over the past two years. Her ability to
11 correctly identify current responsibilities [bill paying], medications, medical
12 conditions, financial resources, etc. is greatly diminished and largely not accurate.
Although she may assent to various activities, her current functioning would
suggest the inability to reasonably [weigh] the costs and benefits of many decisions.
MMSE likely over represents ability based upon other deficits.

13 49. Dr. Brown further concluded that Ms. Jones "has a sufficient loss of executive
14 function resulting in a barrier to meaningful understanding or rational response," "is unable to
15 execute on desires, preferences, or stated goals, preventing the ability to pursue [Ms. Jones'] own
16 best interest," and "is unable to make or communicate decisions to such an extent that [Ms.
17 Jones] lacks the ability to meet essential requirements for physical health, safety, or self-care
18 without proper assistance." Dr. Brown opined that Ms. Jones requires 24-hour supervision and
19 either requires substantial or total care in almost every aspect of her life from self-care to finances
20 to medical care. Dr. Brown opined that Ms. Jones lacks capacity to enter into a contract, financial
21 commitment, or lease arrangement, make or modify a will or power of attorney, or participate in
22 mediation.

23 50. Ms. Jones' mental status has deteriorated so far that she told Dr. Brown that she
24 has never heard of Legal Aid Center of Southern Nevada and stated, "I have no attorney." Ms.
25 Jones further guessed that she speaks with an "Anna Marie" from time to time. Ms. Jones

1 reported to Dr. Brown that she has no idea what appeals are in general or in specific relative to
 2 her case. She stated having no idea who Elizabeth Brickfield is or ever meeting with her. *Id.* She
 3 further stated having never met or seen Dr. Brown before in the past.

4 51. Ms. Jones believes she is still paying all her own bills on her own though she
 5 could not state what bank she uses or what bills she pays. She has no idea how much money she
 6 has and states that her Anaheim home is only valued at \$125,000.

7 52. Ms. Jones' lack of capacity is so profound that she denied taking any medications
 8 and does not think she has any medical conditions even though she currently takes nine
 9 medications per day for various medical conditions.

10 53. Dr. Brown opined that the Protected Person lacks capacity to "provide reasonable
 11 detailed responses to questions" and has an "inability to hold information in awareness long
 12 enough to weigh the risks, the benefits, and outcomes of decisions." Dr. Brown concluded that
 13 the Protected Person "would have less ability to defend her own interests from the interests of
 14 others and thus have increased susceptibility to undue influence of others."

15 III. CONCLUSIONS OF LAW

16 54. In deciding whether to issue a stay, the Court is to generally consider the
 17 following factors:

- 18 (1) whether the object of the appeal or writ petition will be defeated if the stay or
 injunction is denied;
- 19 (2) whether appellant/petitioner will suffer irreparable or serious injury if the stay
 or injunction is denied;
- 20 (3) whether respondent/real party in interest will suffer irreparable or serious injury
 if the stay or injunction is granted; and
- 21 (4) whether appellant/petitioner is likely to prevail on the merits in the appeal or
 22 writ petition.

23 *See* NRAP 8(c).

24 **NRAP 8(c)(1), Whether the object of the appeal or writ petition**
 25 **will be defeated if the stay or injunction is denied**

1 55. Denying the requested stay will not defeat the object of court-appointed counsel's
2 appeal. Under the guise of "due process" and the guardianship Bill of Rights, the object of
3 court-appointed counsel's appeal is to limit this Court's discretion in appointing Guardian ad
4 Litem to represent the best interests of protected persons, scheduling evidentiary hearings, and
5 investigating allegations that court-appointed guardians are violating Nevada law, isolating the
6 protected person, or violating a protected person's Bill of Rights. The object of the appeal has
7 little to do with the Protected Person and everything to do with a misguided attempt to change
8 the guardianship statutes by establishing a pattern or expectation that once a legal aid attorney
9 makes a representation of a protected person's wishes, all further inquiry, even by the Court,
10 must cease. Again, the object of the appeal (assuming it really is focused on due process) will
11 not be defeated if this Court denies the stay. To the contrary, court-appointed counsel has had
12 many opportunities to object to the removal of Kimberly but has simply chosen not to.

13 **NRAP 8(c)(2), Whether appellant/petitioner will suffer irreparable**
14 **or serious injury if the stay or injunction is denied**

15 56. Neither court-appointed counsel, nor Ms. Jones will suffer irreparable harm if the
16 requested stay is denied. Since Robyn has been Successor Guardian, Ms. Jones has been thriving
17 and doing very well. Robyn reports that Ms. Jones had a Christmas celebration with more of her
18 family around her than she would have had with Kimberly as guardian – certainly more of a
19 Christmas celebration than she would have had had this Court granted counsel's petition for a
20 Friday morning only visitation schedule. The Protected Person was also able to celebrate
21 Donna's birthday with Donna and the rest of her family. The Court has been informed that Ms.
22 Jones was smiling and having a good time during those celebrations. Additionally, Robyn
23 learned that Kimberly was giving the Protected Person medications off schedule from what the
24 doctors prescribed. Robyn corrected Kimberly's medication mistakes and the Protected Person
25

1 is receiving the appropriate medications at the appropriate intervals. The Protected Person does
2 not refute or deny Robyn's reports to the Court.

3 **NRAP 8(c)(3), Whether respondent/real party in interest will suffer**
4 **Irreparable or serious injury if the stay or injunction is granted**

5 57. Guardian, Robyn, and the Protected Person will suffer irreparable or serious
6 injury if the requested stay is granted. Since being appointed as successor guardian, Robyn has
7 incurred significant cost and time taking over the guardian duties and responsibilities from
8 Kimberly. She spent a significant amount of time in California away from her husband and son.
9 She spent a significant amount of time and money caring for the Protected Person, coordinating
10 in-home care, and beginning to undo the mess Kimberly created and left behind (including
11 medications and finances). Robyn has completely taken over all of the duties and responsibilities
12 for caring for the Protected Person. Accordingly, both the Protected Person and Robyn would
13 suffer extreme irreparable harm if the stay were granted and the guardianship were required to
14 go back to Kimberly's very poor financial and medical management.

15 58. Also, Kimberly has not filed a joinder to the request for stay and has not asked in
16 any way to return to being guardian. It is unknown whether Kimberly even wants or agrees to
17 resume her responsibilities as guardian. Granting the stay could simply place an unwilling
18 guardian back into a position of responsibility for the Protected Person, causing more harm to
19 the Protected Person.

20 **NRAP 8(c)(4), whether appellant/petitioner is likely to**
21 **prevail on the merits in the appeal or writ petition**

22 59. The appeal filed by court-appointed counsel for the Protected Person is not likely
23 prevail on the merits for the following reasons:

24 60. First, underlying the entire appeal is whether the Protected Person has capacity to
25 direct her court-appointed counsel. All of the medical evidence in this case shows that Ms. Jones
lacks capacity to care for herself in nearly every facet of life, including directing legal affairs.

1 Back in 2019, Dr. Brown found that Ms. Jones' mental capacity was in serious decline requiring
2 a guardianship to protect her from undue influence. On December 28, 2021, Dr. Brown found
3 that the Ms. Jones' mental capacity has severely deteriorated even more over the last two years.
4 Ms. Jones lacks capacity to direct her legal affairs, manage her finances, and otherwise take care
5 of herself. She requires 24/7 care and supervision. Her mental capacity is so deteriorated that she
6 cannot weigh the costs and benefits of decisions and cannot retain information long enough to
7 make decisions. She does not know what an appeal is generally or what appeals are being filed
8 on her behalf specifically. Ms. Jones' court-appointed counsel has never provided any medical
9 evidence to the contrary. Court-appointed counsel's contentions that Ms. Jones is directing her
10 legal affairs are unfounded—all the medical evidence establishes she cannot handle doing so.

11 61. Second, the appellate contention is not likely to prevail on appeal that Ms. Jones'
12 due process rights have been violated because the Court is not adhering to the representations of
13 her court-appointed counsel as the law of the case. Due process is satisfied where interested
14 parties are given an "opportunity to be heard at a meaningful time and in a meaningful manner."
15 *J.D. Constr., Inc. v. IBEX Int'l Grp., LLC*, 126 Nev. 366, 377, 240 P.3d 1033, 1041 (2010)
16 (*quoting Mathews v. Eldridge*, 424 U.S. 319, 333, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976)).

17 62. The required opportunity to be heard has been amply provided. This Court has
18 not precluded Ms. Jones or court-appointed counsel from any opportunity to be heard throughout
19 this matter. It is the court-appointed counsel for the Protected Person who has made decisions
20 for Ms. Jones to not personally appear before this Court during the numerous hearings held,
21 including the Evidentiary Hearing where this Court properly heard arguments and took evidence
22 pertaining to whether the guardian was violating Ms. Jones' rights.

23 63. Even though court-appointed counsel repeatedly insisted prior to the Evidentiary
24 Hearing, and insists subsequent to the Evidentiary Hearing, that Ms. Jones has full capacity to
25 initiate and calendar visitation schedules with her large family and also is actively directing

1 several appeals to the Nevada Supreme Court in this matter, oddly, just prior to the Evidentiary
2 Hearing, court-appointed counsel for Ms. Jones temporarily switched positions and argued
3 instead that Ms. Jones lacked capacity to testify and fought to preclude Ms. Jones from testifying
4 at the Evidentiary Hearing where Ms. Jones could have expressed her wishes directly to the
5 Court and all parties.

6 64. In a curious evolution of arguments Ms. Jones' court-appointed counsel now
7 claims due process has been violated because this Court does not unquestioningly follow court-
8 appointed counsel's decrees about what the Protected Person supposedly wants or what is best
9 for the Protected Person. However, having determined that Ms. Jones' rights were being
10 unlawfully violated by the guardian, this Court was required to and had wide discretion to protect
11 Ms. Jones from Kimberly's continued violations of her rights and the rights of Ms. Jones'
12 immediately family. The Court surely could not continue to allow Kimberly to unlawfully restrict
13 visits and communication between Ms. Jones and her family members. This Court weighed the
14 credibility of court-appointed counsel's representations of Ms. Jones' capacity and Ms. Jones'
15 wishes and found it not as compelling as the totality of medical evidence, pleadings and
16 testimony received by the Court. Court-appointed counsel chose to oppose allowing Mr. Jones
17 to express herself at the evidentiary hearing and also chose not to respond many times to requests
18 by other parties for the Court to remove Kimberly based on the record. Ms. Jones' due process
19 rights were not violated by the Court.

20 65. Third, court-appointed counsel contends that Ms. Jones' "due process" rights and
21 the Protected Persons Bill of Rights were violated when this Court found that guardianship
22 proceedings were a better means under the circumstances than a power of attorney in protecting
23 Ms. Jones and her estate. However, court-appointed counsel did not dispute that Ms. Jones was
24 being exploited prior to the appointment of guardian. Court-appointed counsel never denied that
25 Ms. Jones lost the Kraft home for less than market value, that Ms. Jones' dogs were taken from

1 her, nor has court-appointed counsel refuted any of the other serious allegations that were
2 presented before this Court in 2019. All of the instances of alleged abuse occurred while the
3 Power of Attorney in question was in operation. The Power of Attorney framework was
4 insufficient to protect Ms. Jones in the circumstances of this case. Court-appointed counsel never
5 showed this Court that the Protected Person would have been protected under the circumstances
6 had the guardianship proceedings been terminated, the legal aid attorney allowed to withdraw,
7 the Court's oversight and the guardianship compliance offices reviewed been suspended and the
8 Power of Attorney document reinstated.

9 66. Fourth, the Protected Person contends that it was a violation of the Bill of Rights
10 for this Court to investigate and contemplate a "visitation schedule." Such a contention
11 misleadingly narrows the situation before the Court. This Court found that Kimberly, as
12 guardian, was restricting and precluding visits and communication between Ms. Jones and her
13 family in direct violation of the bill of rights. Ms. Jones' court-appointed counsel never disputed
14 Robyn and Donna's allegations that Kimberly was isolating Ms. Jones and violating her rights
15 by restricting visits. Ms. Jones' court-appointed counsel has never told this Court that Ms. Jones
16 denies that Kimberly restricted her visits and communication. Ms. Jones' court-appointed
17 counsel has never argued that Robyn and Donna fabricated all the numerous specific instances
18 in which Kimberly restricted or precluded visits and communication from occurring. Ms. Jones'
19 court-appointed counsel took no position on other serious allegations such as Kimberly pre-
20 maturely relocating Ms. Jones to Anaheim before this Court authorized it. Ms. Jones' court-
21 appointed counsel has also largely remained silent on Kimberly's missing and/or statutorily
22 deficient accounting, budget, care plan, and inventories. Accordingly, Ms. Jones' court-
23 appointed counsel has never denied that Kimberly was violating Ms. Jones' rights.

24 67. Fifth, court-appointed counsel for the Protected Person contends that this Court
25 violated the Protected Person's due process rights and rights under the protected person's Bill of

1 Rights by removing Kimberly as guardian because Ms. Jones wants Kimberly to be her guardian.
2 It is important to note that Robyn and Donna have repeatedly filed documents over the course of
3 months asking the Court to consider removing Kimberly as guardian *sua sponte*. Court-
4 appointed counsel for Ms. Jones never filed a written objection or opposition to any of those
5 requests even though the request was made time and again.

6 68. Sixth, court-appointed counsel for the Protected Person contends that the
7 Protected Person's due process rights and other guardianship statutes were violated because the
8 Court did not appropriately vet Robyn before appointing her as successor guardian. But this
9 Court already had. It is the law of the case that Robyn meets the statutory requirements to be
10 appointed as guardian since the Court appointed Robyn as temporary guardian.

11 69. Seventh, Ms. Jones' court-appointed counsel provides no authority contesting this
12 Court's wide discretion to schedule evidentiary hearings or to appoint Guardians ad Litem.
13 Additionally, court-appointed counsel provides no authority showing that the Court had no right
14 to investigate allegations that Kimberly was violating Ms. Jones' bill of rights. The appeal is not
15 likely to prevail on the merits.

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IT IS HEREBY ORDERED, ADJUGED AND DECREED that the Motion to Stay Order for Removal of Guardian and Order Appointing Successor General Guardian of the Person and Estate and for Issuance of Letters of General Administration is hereby DENIED.

Juda Margolis

Respectfully submitted by:
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*Guardian, Robyn Friedman,
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1 **CSERV**2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**5
6 In the Matter of the Guardianship of: CASE NO: G-19-052263-A
7 Kathleen Jones, Protected DEPT. NO. Department B
8 Person(s)
910 **AUTOMATED CERTIFICATE OF SERVICE**11
12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Findings of Fact, Conclusions of Law and Judgment was served via the
14 court's electronic eFile system to all recipients registered for e-Service on the above entitled
15 case as listed below:

16 Service Date: 6/29/2022

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13		
14		

15 If indicated below, a copy of the above mentioned filings were also served by mail
16 via United States Postal Service, postage prepaid, to the parties listed below at their last
17 known addresses on 6/30/2022

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