

KING COUNTY SUPERIOR COURT

In Re the Guardianship of)
)
OMANA THANKAMMA,) No. 18-4-05231-6 SEA
)
An Alleged Incapacitated Person.)
)
-----)
)
In the Matter of:)
)
OMANA THANKAMMA,) No. 19-2-26860-3 SEA
)
A Vulnerable Adult)
)
 v.)
)
CHANNA COPELAND,)
)
Respondent.)

VERBATIM REPORT OF PROCEEDINGS
BEFORE THE HONORABLE JOHN MCHALE

December 11, 2019

APPEARANCES:

JAYAKRISHNAN NAIR appearing pro se

On Behalf of Channa Copeland:
ERMIN CIRIC

On behalf of DSHS:
JENNIFER BOHARSKI

REBECCA E. DONLEY, CCR 3184
Casey & Donley, Inc.
1053 Northeast Rindal Court
Poulsbo, Washington 98370
(509) 539-6153
E-mail: Rdonley@caseydonley.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

	PAGE
ARGUMENT BY MR. NAIR	6
ARGUMENT BY MR. CIRIC	21
ARGUMENT BY MR. NAIR (IN REBUTTAL)	32
RULING BY THE COURT	41

1 (Proceedings commenced at 1:38:21 p.m.)

2 THE COURT: Good morning, everyone. Or good
3 afternoon, everyone. You may be seated. A lot of material,
4 so let me get set up here and then we'll get into it.

5 We all are here before the Court on a motion for
6 revision in the Matter of the Guardianship of Omana
7 Thankamma under Cause No. 18-4-05231-6 with a Seattle
8 designation. Before I have you all introduce yourselves for
9 this, I want to clear up what may be some confusion on this
10 as to what we're actually here to address today. So we're
11 here on that cause number that I just represented, and that
12 is the guardianship. On the same date or in the same
13 hearing when this was last considered before Commissioner
14 Velategui, which was November 14th, there was also a
15 vulnerable adult protection order that was considered, and
16 that was denied. And that was under a different cause
17 number, 19-2-26860-2. That number was not assigned to this
18 court for purposes of this revision. However, I have
19 reviewed everything that went into that hearing, I've read
20 everything that's been presented to me. I have listened to
21 the complete hearings of November 6th, 2014, and November
22 14th, 2019 as well. I may have said '14 before.

23 What is not before me for sure is -- I received a
24 notice of appearance today with regard to the vulnerable
25 adult protection order that is under Cause No. 18-2-20186-1

1 with a Seattle designation. That is the vulnerable
2 protection order that was entered against Mr. Nair, from
3 which some of the direction in the guardianship of appears
4 to come from. And so with that I received an objection from
5 the Department, in particular from Counsel Ms. Boharski, who
6 I think is here, indicating that they objected to a motion
7 to shorten time to hear a CR 60 motion.

8 So that matter was not something that was
9 considered by Judge Velategui on November the 14th, and so
10 that was not assigned to me, and that is not a matter that
11 will be addressed here today. This -- my belief is that it
12 should go back to the ex parte department where this matter
13 was initially considered and see what takes place from
14 there. So that one is not being considered.

15 With all that said as an introduction, before we
16 get into the substance of this, although I think I know who
17 you are sitting in front of me, for the record, with
18 everything being recorded here, I'll have the parties
19 introduce themselves, starting on my right, your left,
20 Mr. -- do you pronounce it "NAY-uhr" or "NYE-uhr"?

21 MR. NAIR: My name is Jayakrishnan Nair.

22 THE COURT: Okay, Mr. Nair.

23 MR. NAIR: Yes, but I go by Jay.

24 THE COURT: Okay, and then moving to his side?

25 MR. CIRIC: Good afternoon, Your Honor. Ermin

1 Ciric here on behalf of the guardian who's here to my right,
2 Channa Copeland.

3 THE COURT: Okay, thank you. And although I just
4 said you're -- there's not a reason to be here for purposes
5 of your cause number, but for the record, if you could
6 introduce yourself.

7 MS. BOHARSKI: Good afternoon, Your Honor.
8 Jennifer Boharski, Assistant Attorney General representing
9 the Department.

10 THE COURT: Okay. So with all that said, Mr.
11 Nair, in a motion for revision such as this, under the rules
12 each side gets 10 minutes to argue, and you can reserve some
13 of your time for rebuttal. Most significantly on this --
14 and again, I've read everything, and I probably read more
15 than what I should consider, because in these hearings the
16 Court can only consider what was before the commissioner at
17 the time. So what I would hope that you would focus on
18 is -- and I look at this as a motion for revision de novo.
19 So what that means is, I'm looking at it in the same way
20 that the commissioner did at the time. I'm not just seeing
21 if he or -- he in this case abused their discretion. I'm
22 looking at it all anew. So if you could focus on, at least
23 as I've read it, why the guardianship should be terminated,
24 that would probably help me most. So you'll get a chance,
25 and then after that, I'll turn to the guardian and they'll

1 respond, and you get one more chance to reply, okay? All
2 right, and you all are free to make your arguments from
3 counsel table with papers spread out, if you like. So okay,
4 so you can begin.

5 MR. NAIR: Good afternoon, Your Honor. First and
6 foremost, I want to apologize if I have any omissions or
7 commissions on my side which is -- I'm not a lawyer, I'm a
8 pro se. I'm a computer engineer. I quit my profession to
9 take care of my mother who had a stroke. And we actually --
10 I mean, I was spending so much money for taking care of my
11 mother at home that we thought it was a blessing in disguise
12 to have the State take care of her, and so that's why we --
13 it was an agreed, stipulated agreement with Ms. Boharski and
14 my lawyer at the time, Mr. McBroom (phonetic) to bring in a
15 guardian.

16 But what we did not expect was that she would be
17 dumped into the worst hellhole in the whole of the nation, a
18 (inaudible) home with a terrible, drastic record of human
19 rights abuses and murders and so forth that can be seen from
20 online, and the CMS itself, the Center for Medicare Services
21 have placed them at the bottom of the list. And we
22 communicated with pictures and live stream of YouTube and
23 whatever ways possible to the guardian to have her moved
24 from that facility. Because each day my mother was clinging
25 to my hand, asking to be taken back home, and I was -- I

1 couldn't see her fears anymore.

2 And there were no objections so on the 6th of
3 July -- my sister came from India on June 13th. And she
4 went to the Paramount and she saw that my mother's condition
5 was near death. She was -- she was unconscious. She was
6 having a very heavy fever, and her hands and her body was
7 covered in blisters. And she was lying in vomit and
8 excreta. As we are taking several -- not only me, my friend
9 and my relatives, (inaudible) and myself. So many people
10 have had eyewitness accounts and sent those pictures to the
11 guardian, as was I before the Court on Exhibit 1 of the
12 motion for revision and our Exhibit 3, I believe.

13 So my sister, you know, screamed and she asked for
14 help, and the Paramount said that us -- we had been
15 contacted by the guardian, Ms. Copeland, a week ago and had
16 gone and had threatened our family in India, Mr.
17 (inaudible), and that is what prompted my sister to book the
18 tickets and come here. She had been threatened when she was
19 in India that she was going to withdraw nutrition and
20 medicine and water to my mother and have her murdered. So
21 that prompted my sister to immediately book the tickets and
22 come to U.S.

23 And she went to Paramount, she saw that she had
24 not got many medicines. She had become a skeleton. She had
25 lost weight. She had been -- had blisters all over her

1 body. So she asked for help, and the staff at Paramount said
2 that the guardian and the administrator had said -- had
3 asked to not intervene and to let her pass away peacefully
4 and to pray for her.

5 So my sister couldn't believe what she was
6 hearing, so she called paramedics. Paramedics came and they
7 said that her glucose was over 400. That's the -- all the
8 (inaudible) medical records are in front of the Court. You
9 have like, you know, we have obtained all the medical
10 records from the paramedics and the hospital itself. So she
11 had -- her fever was over 104. She was -- she had not
12 received water or medication for days, or nutrition. And
13 she was like worse than an animal. You wouldn't do that to
14 a dog. She was treated like that.

15 So my sister took her to the hospital, and she was
16 immediately stabilized with the insulin and water, nothing
17 else. Just insulin and nutrition. So on June the 3rd, my
18 sister was concerned that, you know, they would let her go
19 back to Paramount where she would be murdered. So we filed
20 a police complaint. The next thing we know, the next day
21 when we went to Paramount, we were asked to stop visiting.
22 So we -- my sister and I have not seen my mother since July
23 5th, so that's been nearly -- more than five months, almost
24 six months now.

25 THE COURT: July 5th, you say?

1 MR. NAIR: July 5th, yes. Since July 5th, nobody
2 from our family has had any contact with her, with our
3 mother. We were -- my sister was actually locked up in a
4 room for five hours in Harborview when she went to visit on
5 July 5th. So he was (inaudible). She had to call me and
6 ask me to come and rescue her, and I rescued her, and then I
7 was also trespassed. And then we have not had any chance to
8 go back to see her. And my sister spent almost two months
9 in the U.S. trying to visit her, and she was denied -- all
10 the approach was denied.

11 But the guardian break (inaudible) or respond to
12 our emails. We sent emails to Paramount -- sorry, sent them
13 to Harborview. And the doctor who had asked us to stop
14 visiting, Dr. Hahn (phonetic), we sent him emails asking
15 to -- you know, we were told some ridiculous, stupid
16 nonsense that, you know, some protein substance was found in
17 the food after my sister left on the previous day. I was
18 not even there. So they accused my sister of putting
19 something in her food, and that was the reason why both of
20 us were not being allowed to visit.

21 But anybody (inaudible) can understand that that
22 was a retaliation to the police complaint that we had filed
23 on July 3rd, because before then there were no restrictions
24 to our visits. So then we sent the emails and we sent
25 official demand letters stating that, you know, we are going

1 to file a civil rights complaint if we don't have the chance
2 to visit our mother by August. And we again did not receive
3 any response. Harborview would just point to the guardian
4 and say the guardian has authorized to not have any -- to
5 allow any visits to our mother. So we filed the federal
6 complaint, and as a response to the federal -- after the
7 federal complaint was served two days later, you know,
8 they -- she filed for a petition for restrictions with the
9 court, and clearly just retaliation for what -- you know,
10 just trying to buttress their defense against the civil
11 rights case.

12 And Dr. Hahn did a complete about-turn, and he
13 filed a frivolous GRO stating that he was threatened by the
14 complainant saying Hitler's final solution or whatever, but
15 which had nothing to do whatever with Dr. Hahn or anybody
16 can see -- read the complaint and understand that's just
17 frivolous. So the frivolous GRO has been thrown out. And
18 so -- and my mother has been held in isolation in illegal
19 solitary confinement for almost six months. She's a citizen
20 of India. She's only here to visit me, to stay with me.
21 Otherwise, she has no reason to even be in this country.
22 It's an act of war against a foreign nation and a foreign
23 visitor to be holding her hostage, because neither the DSHS
24 nor the State of Washington, nor anyone in this country, the
25 nation of the United States, has any right to prohibit her

1 from going back to her home country.

2 THE COURT: So let me take you back a little ways.
3 so when she was first here, first had the stroke, that was
4 2014?

5 MR. NAIR: That's correct, sir.

6 THE COURT: And then after 2014 did she ever go
7 back to India --

8 MR. NAIR: She did not.

9 THE COURT: -- or did she stay here and then she
10 had another stroke in 2016?

11 MR. NAIR: That's correct. In the 2014 stroke,
12 she was paralyzed waist down. So I quit my job and became a
13 full-time caregiver and, you know, we just had a maid and
14 (inaudible) to take care of her, because she was still able
15 to eat by her hand -- eat her by mouth and everything. But
16 the second stroke completely paralyzed her, except for
17 limited moment of the right hand.

18 So then I hired a CNA. You know, we had a couple
19 of turn-overs and then we had Ashley Redikan (phonetic), a
20 CNA, who was at home on March 12, 2018 when I went, you
21 know, to take care of some other stuff. But when I left the
22 home on March 12, 2018, Ashley Redikan and Alexandra Hart
23 (phonetic), my housekeeper and CNA, were both present at
24 home, so there was absolutely no abandonment by any -- I
25 mean, then I was charged with reckless abandonment by

1 Issaquah code, and then on the basis of that charge, Ms.
2 Boharski got a VAPO against me for five years, even though
3 she has since admitted to the Court that the statements in
4 the completed thing here such as that she was found lying on
5 the floor, fecal matter, urine stink, that's all complete
6 nonsense. It's not supported by the police report. If you
7 do read the police report, it says very clearly she was
8 found with clean and fresh bedding. And so an allegation of
9 neglect is completely unfounded.

10 But still we admitted to having the guardian so
11 that, you know, I was spending upwards of \$10,000 and
12 staying at home so that -- we thought it could be, you know,
13 if she got good care like at Harborview or a good nursing
14 home which is within 25 miles and I can visit her every day,
15 it would not be a bad thing. So we accepted that. But then
16 we never accepted or signed up for our mother getting
17 murdered like an animal. That's not what we signed up for.

18 And then for the six months we have been -- my
19 sister spent -- I mean, she went back to India in tears,
20 traumatized that she couldn't visit our mother. All we are
21 addressing is that this guardian has a conflict of interest,
22 even that, you know we have filed a police report -- a
23 police complaint as well as the two federal civil rights
24 complaint against not only Ms. Copeland, but also against
25 the DSHS and against Mr. Ciric representing her for his

1 various violations of the procedures and for other, as the
2 Court is aware, other malfeasance.

3 THE COURT: Let me ask -- so, I mean, this is a
4 unique situation with a foreign national in the United
5 States having a health problem such as this. There's no
6 Medicare, you know, for someone at her age that she would
7 have had. And from what I read, it looks as if at one point
8 there was some type of health insurance or funding that was
9 available for -- what happened to that? Why is that not
10 around anymore to help?

11 MR. NAIR: I paid for her -- since 2002 when she
12 has been visiting me -- I mean I came to U.S. first on the
13 basis of merit as a -- I had a 99.9 GRE score and I got
14 admitted to (inaudible) with NASA funding for research. So
15 I was a NASA scholar. So on that basis, I was able to
16 sponsor my mother's visit for a visitor's visa. So I've
17 been taking -- since then, I've maintained her traveler's
18 visitor insurance. So the Molina Health Care insurance that
19 I purchased privately, Molina silver plan, that only would
20 pay for hospital admissions, but it wouldn't pay for
21 inpatient like nursing care.

22 THE COURT: No long-term care?

23 MR. NAIR: No long-term care. It's only for
24 travelers visiting, so they had limited coverage. So I
25 actually -- Molina Health Care is actually a defendant in

1 the -- if you look at the federal civil rights complaint
2 that is in front of the federal court. They are actually a
3 defendant because they refused placement. If they had
4 allowed placement, then we wouldn't be here. If not, no
5 problem would have been here for the cost. Because I was
6 not saying that she must be at home. I'm saying that she
7 should get good care. That's our -- as a son, that's my
8 right.

9 So Molina declined placement, so I paid out of
10 pocket from my savings. I quit my job and took care of her
11 at home with a CNA and with a visiting CNA and three
12 visiting therapists. Since then, my mother has lost vision
13 in one eye because the guardian was not available for a
14 follow-up visit to Dr. Phillip Chen for -- she had had a
15 glaucoma surgery on July 2018 with Dr. Chen when she was
16 under my care. But she had a complication. Her blood
17 vessels were forming on her eye.

18 So she was taken there on March 31st, 2019, and
19 the guardian was not an available -- or she did not take the
20 car. So she was brought back to the Paramount without
21 having the procedure done, as a result of which, she has
22 lost vision on one eye. My mother has suffered like an
23 animal. This cannot continue anymore. Either -- if she
24 cannot be returned to my house, at least she should be
25 allowed to go back to India. The way it is, because of the

1 conflict of interest with the civil rights case complaints
2 against Ms. Copeland, she should be -- I mean, we are
3 requesting that the Court would terminate the guardianship
4 so we can take care of her. My sister and I are both very
5 well educated and we have no criminal record and we are
6 upstanding people. Either we can take care of her back or
7 at the very least, she should be replaced by a replacement
8 guardian, the standby guardian, Stuart Warren (phonetic), I
9 believe is his name. So that we can work with him to
10 arrange the transportation back to India.

11 But what should not be allowed to happen is that
12 this person who was always so (inaudible) her murder, after
13 having sent us emails and harassing phone calls saying that
14 she has going to do that. It is not something that she did
15 without all of the proof. She actually threatened us with
16 that, as can be seen from the emails which we have been
17 presented in the exhibits.

18 So she cannot be continued as a guardian. But
19 either the guardianship can be terminated or she can be
20 replaced with Mr. Warren, but all we are requesting is that
21 our mother's solitary confinement -- she cannot speak
22 English, so she's depending on me for emotional support, for
23 everything. She loves me more than her life. And I love
24 her too, so we just want to be reunited with our mother.

25 THE COURT: And I did see that there was a

1 declaration going back to the protection order entered
2 against you, a declaration I saw from your mother at that
3 time, which I think would have been August of 2018
4 indicating that she loves you and would prefer to be at
5 home.

6 MR. NAIR: My mother had given birth to three
7 children and unfortunately my two older siblings are no
8 more. I'm her only child. I was born when she was near 40,
9 and so she has a very, very strong affinity and love towards
10 me, and the only reason why she came to -- she came to the
11 U.S. in 2002 immediately after I got the NASA scholarship.
12 And she has been with me every step of the way. And my
13 business is named after, Omana Homes. Everything shows how
14 much I love her.

15 THE COURT: Okay. So just a couple of other
16 questions and I'll let you sit down. So the incident that
17 seemed to get all of this started was March 12th of 2018,
18 but I thought I read that she -- even while she was living
19 in your home at that time, there were some health-related
20 issues that she had to go to the hospital for, say in the
21 year before that, is that true?

22 MR. NAIR: No. She has been, as a matter of fact,
23 it can be seen that -- you know, from the stroke report in
24 2016, she had a massive cerebellar stroke, and she was in
25 inpatient in Las Vegas for five months. They did not

1 believe that she would survive for another two or three
2 months. But she has not only survived under my care, she
3 has even recuperated well. She could -- you know, talk in
4 Maylayalam because I found a Maylayalam-speaking speech
5 therapist, (inaudible). And under -- you know, I got her
6 the best therapies and best care possible, you know, more
7 than what anybody could have. She was taken from a
8 six-bedroom luxury home with care from CNAs and a maid and
9 both children to a place which is the worst -- officially
10 the worst the U. S. to be murdered. I mean, if this is not
11 a complete travesty of justice, then it is hard to imagine
12 what that can be.

13 THE COURT: And then, a couple of other questions
14 I forgot to ask before. So for a hearing like this to
15 terminate a guardianship, I didn't see that there was any
16 notice of this hearing that was given to your mother. Did
17 you make any attempts to give her a notice of the hearing
18 for today?

19 MR. NAIR: We had absolutely no clue even where
20 she was for the last six months. We were just told that she
21 was at Harborview. My attorney and I went to -- Mr. Paul
22 Baretta and Mr. Banyon (phonetic), two attorneys
23 representing me, and I tried to go and see her. And we were
24 (inaudible). Even my attorneys were not able to make
25 contact. So he has been completely held -- incommunicado.

1 And the declaration by both my attorneys are in the Court.

2 And Mr. Banyon has said that she has been held completely
3 incommunicado. Mr. Baretta has also said the same thing.

4 And this is all as a retaliation to the police complaint and
5 the federal complaint that we initiated. Because we've
6 said, if you look at the dates on the timeline, May 20th we
7 filed the complaint with a civil liberties (inaudible). And
8 we also sent letters to senators and the Washington
9 Long-Term Care Ombudsman, Patricia Hunter, and so forth.

10 So until then we were visiting her at Harborview
11 every day, my sister and I, for eight to 10 hours even on
12 the day -- Independence Day, July 4th, you know, we were
13 with our mother. I have photos that were taken on the same
14 day. But the next day when we were trying to visit, my
15 sister was placed in (inaudible), and since then, just
16 complete -- making allegations from several months past
17 which the guardian had never made before. And the
18 guardian -- in fact, on May 15th email, she said that she
19 wants to return her back to my house if I pay for six months
20 of her insurance and care and all that. So it's very
21 obvious that it's an insult to the opinions of the court to
22 be alleging me off malfeasance or any kind of -- sort of
23 abuse for months before that. It's just nothing more than
24 nonsense.

25 THE COURT: I mean, do you have resources to -- if

1 she's not in your home, do you have financial resources to
2 have her in a place that is, well, nicer than Paramount?
3 And although Harborview is a pretty amazing place in what it
4 can do and we're lucky to have Harborview to handle any
5 traumatic issues or just for overall health care, but do you
6 have -- my simple question is, do you have resources
7 available that would help get her into a nicer facility?

8 MR. NAIR: Your Honor, resources are the last
9 thing we are worried about when it comes to my mother. I
10 own several properties in the U.S. and in India, and my
11 first pro choice would be for her to be back in India -- to
12 back in, sorry, in my house in Redmond. If that is not an
13 option, then we would rather have a back in India because
14 there the care -- the cost of care is much lower, but the
15 same quality. Without any compromise in quality, she can
16 get same quality as Harborview at a place next to my
17 mother -- my sister's house. And that will be our second
18 choice. If she's not allowed to go back to home in India,
19 she could go home in Redmond.

20 But the Redmond where she can be with me where we
21 both love each other so much, that would be the best thing
22 to do for her to spend her remaining few days in peace and
23 happiness and love. Because she doesn't have much to live.
24 Just please let her live the remaining time in happiness and
25 love.

1 THE COURT: But, I mean to get her back to India,
2 my guess, that would be sort of like a private jet ambulance
3 type -- I mean, the way you describe her current physical
4 condition now, is that what -- I mean, I take it she can't
5 take a commercial flight.

6 MR. NAIR: But she could -- I mean, if you look at
7 the CR 68 offer that Ms. Copeland had presented in return
8 for -- she said that if we settled the federal civil rights
9 complaint that we are filing against her for one dollar,
10 then she would allow my mother to go back to India at her
11 expense. That was her offer. And that Harborview would
12 also pitch in for the cost. But we declined that offer,
13 saying that, you know, what you have done to us must be
14 brought to justice. So if Harborview and she is able to
15 sponsor a flight back to India, which I assume would be
16 cheaper than keeping her at Harborview, we are fine with
17 that. We just want her to -- want her to be with us.
18 That's the most important thing. We have absolutely no
19 complaints against Harborview in terms of the care that
20 she's receiving there. We are very reasonable people. We
21 just want her to be happy, peaceful, and with family, that's
22 all.

23 THE COURT: Okay. All right, thank you. I asked
24 you a lot of questions that are not directly relevant to the
25 issues that are before me here today, but just things I was

1 curious about. You know, the point of a guardianship is to
2 look after a person to make sure that they're in the best
3 situation that they can possibly be. So I understand where
4 you're coming from, and I also understand where the guardian
5 is coming from and what they've done, but I'll hear more
6 from them about this.

7 MR. NAIR: I just want to add one more thing.

8 THE COURT: Okay, one more thing.

9 MR. NAIR: My mother was in various hospitals for
10 27 months before this guardianship happened, including about
11 six months in Harborview itself and five months in St. Rose
12 Dominican Hospital in Las Vegas. Another five or six months
13 in -- for her triple bypass, which also I paid out of pocket
14 in (inaudible) Hospital in New Jersey in 2012. And all this
15 time, we have never had any complaint against me or any
16 other thing. So all of a sudden, like after we filed the
17 police complaint and the federal civil rights complaint,
18 they're coming after me with all these allegations should be
19 seen for what it is, nothing more than an attempt to deceive
20 the Court.

21 THE COURT: Okay, thank you. All right, Mr.
22 Ciric?

23 MR. CIRIC: Good afternoon again, Your Honor. As
24 the Court indicated, the Court sits in a little bit of a
25 unique position in these guardianship proceedings because

1 the Court is, at the end of the day, the super guardian that
2 makes the final decisions with respect to the direction that
3 the guardianship is going to go and what authority the
4 guardian is provided or isn't provided. With that being
5 said, there are some procedural limitations in terms of why
6 we're here today on a motion for revision, and I think I
7 outlined some of my objections in terms of what was
8 submitted to the Court beyond what was before Commissioner
9 Velategui when he entered the order granting the litigation
10 authority, the guardian's inventory, assessing fees and
11 costs against the estate, assessing some fees and costs
12 against Mr. Nair personally, and denying Mr. Nair's petition
13 to terminate or modify the guardianship.

14 And so I do renew those objections, and that
15 really what we're here today is to determine whether under
16 RCW 11.88.140 or RCW 11.88.120 this court feels it's in the
17 best interests of the incapacitated person to modify or
18 terminate this guardianship. And since the November 6th
19 hearing to today, nothing has changed in terms of an
20 alternative proposal received by the family or by Mr. Nair
21 himself in lieu of a guardianship. That hasn't changed. And
22 the Court, rightfully so, was able to ask some questions
23 past the pleadings here to be able to assess whether that
24 has changed, but it hasn't, Your Honor.

25 And I wanted one thing to be clear on the record.

1 Mr. Nair continues to say, we, we, we, but there's no
2 evidence that the other family members are restricted from
3 Ms. Thankamma. And I want to be clear on that. There are
4 no restrictions against the other family members.

5 MR. NAIR: Objection, Your Honor.

6 THE COURT: Okay, well, no. In these kind of
7 hearings, since it's not a witness who's being asked
8 questions, there aren't really objections for that. But
9 you're going to have another chance to respond. So let's
10 just let him make his argument, and then you'll get a chance
11 to respond. So if you have things that he says that you
12 don't agree with, make a note of them and then bring them up
13 when you'll have a chance to reply.

14 MR. NAIR: Thank you, and absolutely, Your Honor.

15 THE COURT: Okay.

16 MR. CIRIC: Outside of the CR 68 offer, Your
17 Honor, which was sent, we never received a single response
18 or proposal. Communications with family members have
19 occurred and there have not been one single restriction or
20 restraint against them. Now, Harborview has, as the
21 declarations by Mr. Nair's own attorneys, Mr. Dan Young and
22 Mr. Paul Baretta, which I again renew my objections to, but
23 those declarations do indicate that Harborview has placed
24 certain limitations to access. And with respect to Mr. Nair
25 himself, they -- and as the pleadings and documents

1 presented before the Court, Harborview's position has been
2 that they deem him a safety risk to Ms. Thankamma and staff,
3 and they are not permitting him on site.

4 He's attempted on site visitation with Mr. Young
5 and with Mr. Baretta. There's some issues with Mr. Young
6 because he didn't want to identify himself. There were some
7 issues with Mr. Young because they seemed to try a back door
8 entrance. But as far as Harborview -- and I don't represent
9 Harborview -- as far as they're concerned, those are the
10 restrictions against Mr. Nair.

11 In terms of whether the guardian is restricted
12 from access to Ms. Thankamma, she's not. Harborview has not
13 been served and has not been made a party to these
14 proceedings, and so this court has, and Commissioner
15 Velategui had no jurisdiction to be able to enter findings
16 as to whether Harborview's policy with respect to Mr. Nair
17 or the other family members is proper or not.

18 In terms of what restrictions have been placed by
19 the guardian up to November 6th, it was: We need advance
20 notice of a request for visitation, and we need it to be in
21 writing so that we can communicate with Harborview staff.
22 That was the only restriction imposed by the guardian. And
23 the reason for that, Your Honor, was because Harborview had
24 taken a more restrictive position. And since that time,
25 since the federal court remanded this -- remanded the

1 proceeding back to the state court and the guardian was
2 provided litigation authority, we moved for a separate
3 vulnerable adult protection action against Mr Nair.

4 And the reason I point that out is to say that
5 there wasn't -- and the notice of change in circumstances
6 which was filed August, Your Honor, of last year -- of this
7 year, Your Honor, indicates clearly the concerns that the
8 guardian had with respect to Mr. Nair. After that notice
9 was filed, we moved forward with the petition for
10 instructions from the Court as to these issues. We could
11 have moved for emergency relief under the vulnerable adult
12 protection action, but it was chosen -- we didn't pursue
13 that route because Harborview took such a restrictive
14 position. Now, since the guardian has been afforded
15 litigation authority, we have pursued that route. So to say
16 that there aren't any allegations of abuse against Mr. Nair
17 is clearly incorrect.

18 And with respect to some of the constitutional
19 arguments presented by Mr. Nair, I want to take us back to
20 the starting point of this guardianship, which was the
21 agreed order. This wasn't a settlement agreement. In his
22 response to the -- in his motion for revision, Mr. Nair
23 highlights that it was a blessing in disguise to accept
24 these terms that Ms. Thankamma has to be kept in a facility
25 within 25 miles of the home and she would have unrestricted

1 access to her family. They would have -- the family would
2 have co-decision-making. She would receive U.S. citizenship
3 through a court order. Her care would be held to a gold
4 standard. And she would be allowed to visit his home and
5 attend religious ceremonies with their son.

6 None of that is in the order, Your Honor, and that
7 was an order that was signed by Mr. Nair's attorney that was
8 representing him in an order that was signed by Ms.
9 Thankamma's attorney who was representing her. Two separate
10 attorneys and an order entered. And that's where the
11 guardian derived her authority from, and that authority
12 specifically referred to the VAPO entered against Mr. Nair.
13 It says that the guardian shall be guided by that order,
14 referring to the VAPO, Your Honor, and that's what the
15 guardian has been guided by.

16 Mr. Nair has indicated that his preference would
17 be to have his mom returned to his home today. In lieu, he
18 would like her to return to India. Again, no written
19 proposals have been submitted to the guardian that she could
20 present to the Court as an alternative to where Ms.
21 Thankamma is currently, or as an alternative to
22 guardianship.

23 THE COURT: So while you're there, as to the CR 68
24 offer to resolve it, the settlement of the federal claims,
25 is there only one federal claim that's left?

1 MR. CIRIC: I believe it's two, Your Honor. So
2 there was one federal -- there was initially two federal
3 court actions, one for removal of the state court
4 guardianship to federal court, which was dismissed, and then
5 there was a substantive action with respect to a temporary
6 restraining order and a 146-page complaint against the
7 guardian and several other defendants. That one was
8 dismissed initially and then reopened.

9 And in that interim time when it was dismissed,
10 the guardian had presented a motion for fees to the federal
11 court, and that order was entered by Judge Pechman
12 indicating it's improper at this time to award any type of
13 fees and costs. That one was opened -- there were several
14 orders entered by Judge Pechman with respect to Mr. Nair as
15 asked to service and as to addressing certain issues. And
16 instead, Mr. Nair then -- he had a separate federal cause of
17 action against his former attorneys related to some
18 bankruptcy, amended that complaint, added me and my firm as
19 a party, the guardian personally, and the guardian in her
20 fiduciary capacity as well. So there are technically two
21 substantive federal proceedings that the guardian is party
22 to.

23 THE COURT: Thank you.

24 MR. CIRIC: And so, Your Honor, we go back to the
25 statutory mandate that if there is an alternative that's

1 proposed in lieu of guardianship with respect to a less
2 restrictive alternative, it needs to adequately provide for
3 the needs of the incapacitated person. And as the Court
4 reasonably indicated, reasonable notice of the hearing has
5 to be provided to the incapacitated person. They have to
6 have a right to voice their opinion.

7 Based on the pleadings before Commissioner
8 Velategui and before this court, which is the agreed order,
9 Ms. Thankamma's intent at a time when she was presumed to
10 have capacity prior to being adjudicated incapacitated was
11 that she wanted Ms. Copeland as her guardian, and that she
12 wanted the terms of that guardian -- that agreed order to
13 govern.

14 THE COURT: And she was represented at that time,
15 right?

16 MR. CIRIC: She was represented at that time, Your
17 Honor. And since that time, we haven't received again a
18 single proposal by Mr. Nair. And we welcome it. If there
19 is a proposal which will adequately, and that's the key
20 phrase, with respect to funding and her physical ailments,
21 adequately provide for Ms. Thankamma's needs, we welcome
22 that proposal. But any such proposal as indicated in the CR
23 68 offer has to be approved by the Court. It has to be,
24 because the guardian cannot. So the guardian can accept
25 left and right, but if this court doesn't agree with it,

1 we're not moving forward. And I believe that was the issue
2 at the last hearing, and that issue hasn't changed since
3 that time, Your Honor.

4 I also wanted to respond to Mr. Nair that the
5 request for litigation authority was somehow in a response
6 to a criminal complaint he had filed for the numerous
7 complaints he has filed with the ACLU, the WSBA, the CPG
8 board and various other entities. And I wanted to note
9 there that all of these entities, including Adult Protective
10 Services, didn't find any type of evidence or substantiate
11 any findings as to abuse by the guardian with respect to Ms.
12 Thankamma. Actually, Adult Protective Services came back
13 and said that the allegations were unsubstantiated.

14 And to go back to Mr. Nair's representation that
15 this was somehow in retaliation to his complaints,
16 completely inaccurate, Your Honor, because what this whole
17 thing started from was that VAPO that was entered for him
18 restraining him from placement decision making. And what
19 this started from was that agreed guardianship order
20 restraining him from making medical care decisions on behalf
21 of Ms. Thankamma.

22 Since that point, at Paramount, several incidences
23 occurred which were in violation of both of those orders,
24 and that raised concern to the guardian. And because of
25 that, Ms. Thankamma was no longer able to be kept at

1 Paramount. We have the medical records, we have the notice
2 of change in circumstances, which has followed this court.
3 And I've presented this court with the medical records, the
4 police report, the nurse assessment that was presented, the
5 APS report, all of it reflecting that there was severe
6 concerns with respect to Mr. Nair's conduct in terms of how
7 he interacted with his mother.

8 I've also presented this court with -- and what
9 the commissioner reviewed, with the video that Mr. Nair
10 himself posted, which was completely inappropriate. We've
11 emphasized the particular pictures of him kissing, hugging,
12 and groping. At Paramount, he was specifically found in bed
13 with his mother. And the last -- the reasoning for this was
14 cultural differences, but the fact of the matter, Your
15 Honor, is that Mr. Nair has indicated in his pleadings that
16 his mother has been here, at least in a visitation status,
17 since 2002 with him. So it's assumed that over a 17-year
18 period that the cultural differences should have been
19 embedded and should be reflective of what's proper here in
20 the United States.

21 And I don't make any -- I don't think anyone's
22 making any type of cultural comments as to what's proper in
23 India or what's not proper in India. The fact of the matter
24 is that the police had concerns with respect to these, a
25 report was filed, Paramount had concerns, they placed

1 restrictions against his visitations, and at the end of the
2 day, Paramount didn't want to deal with it anymore so she
3 had to be transferred over to Harborview. And Harborview's
4 position has been to restrict Mr. Nair from access.

5 But again, I want to emphasize, there's no
6 restriction against the other family members, except for the
7 same request is if they want visitation, it's to be made in
8 writing with advanced notice. This has been communicated to
9 them. But no request has been made to the guardian herself.

10 THE COURT: That writing advanced notice can be
11 via email even, right?

12 MR. CIRIC: Yes. Yes, Your Honor.

13 THE COURT: Okay.

14 MR. CIRIC: And the only reason we make that
15 request with the other family members is that there have
16 been incidences in the past where Mr. Nair will appear with
17 third parties. And staff changes. They don't know -- not
18 every single staff member at Harborview knows what Mr. Nair
19 looks like or what his other family members look like. If
20 the communications are sent to the guardian, she'll be able
21 to clearly communicate things to Harborview, Harborview will
22 know who's going to be appearing at what time, and provide
23 visitation. But with respect to the restrictions against
24 Mr. Nair, we do feel they're appropriate. And I know
25 Harborview's policy is not before this court, but the

1 guardian has requested litigation authority, that was
2 approved, we believe it's proper and we intend to move
3 forward with that vulnerable adult protection action,
4 because if Ms. Thankamma is moved from Harborview or if
5 Harborview does change its policy with respect to
6 restrictions against Mr. Nair, we do feel that it is going
7 to go against the best interests of Ms. Thankamma.

8 And so, in large part, Your Honor, we do request
9 that this court deny in its entirety the motion for
10 revision. I do believe that the pleadings submitted today
11 show great concern about Mr. Nair's conduct with his mother.
12 They show him continuously trying to have her moved back to
13 his home for whatever reason, even though there are three
14 separate orders saying that's improper, and his actions at
15 Harborview and at Paramount all show an inability not to
16 interfere with staff in terms of medical decision-making and
17 medical assistance. For those reasons, Your Honor, we do
18 object to entry of the proposed order that Mr. Nair has
19 submitted.

20 THE COURT: Okay. Let me finish my notes. Okay,
21 I let you -- everyone's gone on a little longer, but it is a
22 complicated issue. So Mr. Nair, your last shot on this.

23 MR. NAIR: Yes, sir. First and foremost, I want
24 to express my severe reservations against these animals.

25 Complete --

1 THE COURT: Mr. Nair, you can make your arguments,
2 but let's not -- in any kind of case that I --

3 MR. NAIR: But he -- he --

4 THE COURT: Let me just say, in any kind of case I
5 have in here, I don't want anyone making direct personal
6 attacks --

7 MR. NAIR: But he -- he --

8 THE COURT: No, he can say --

9 MR. CIRIC: Why did you not object to him when he
10 made it sound like --

11 THE COURT: He can say what the allegations are,
12 but not calling someone a name like that. So that kind of
13 is where the line is. And over on the wall to the side --
14 you're not a lawyer, but everyone should adhere to this.
15 It's the creed of professionalism for the Washington State
16 Bar Association. So make a strong argument, but let's not
17 be calling someone an animal.

18 MR. NAIR: Yes, but there are certain lines that
19 should not be crossed. And Mr. Ciric is a defendant in the
20 case filed in federal court because of his conduct of making
21 completely inflammatory allegations that would make
22 somebody's blood boil.

23 THE COURT: I understand, but --

24 MR. NAIR: If he had made that with the -- you
25 know, with the permission -- in an (inaudible) for a fight,

1 I would have ripped his tongue out for having said what he
2 did. But that's a different matter.

3 THE COURT: Okay.

4 MR. NAIR: I'm controlling my temper here, but
5 what he said is completely inappropriate.

6 THE COURT: So just take a couple of deep breaths
7 and then just give me an argument on this. I want you to
8 make points to me about why the guardianship should be
9 terminated or modified in some way.

10 MR. NAIR: Yes. First and foremost, with regard
11 to this verbal diarrhea, a lot of stupid lies have been
12 made. My sister spent two months here trying to contact our
13 mother. She was denied all access, and now she has filed a
14 habeas corpus complaint asking for the United States
15 government to release her back to India because the U.S.
16 does not have any right to hold a foreign visitor hostage.

17 And after -- in that, she has filed a declaration
18 which states clearly that my -- our mother -- she has
19 returned to India. And after having read this declaration,
20 this guy is now saying that she can visit her, even though
21 they didn't let her visit her for the two months that she
22 was in the U.S. Which again shows that he's always acting
23 in bad faith and in a way to subvert -- in a subversive
24 manner to deceive this court.

25 So Harborview had no restrictions on our visit

1 until July 5th. In fact, she was there for, I would say a
2 total of about 10 or 11 months from the period before the
3 guardianship and after the guardianship. During this entire
4 period, there was never any restrictions or any allegations
5 or anything of that sort. After we filed the federal
6 complaint, which was served to the CEO of Harborview, his
7 name I believe is Paul Ramsey, and he was fired after he was
8 served. That is when our restriction of -- our access was
9 revoked, for both my sister and I.

10 So to say that Harborview has any concerns or
11 whatever is complete nonsense. How will you just want to
12 defend their position against the federal civil rights claim
13 by deflecting the blame back onto me? I mean, she was in
14 hospital for 27 months. Nobody had any complaints. She had
15 care, we had in-home caregivers living with us. They
16 understand how much my mother and I love each other. So the
17 conflict of interest with Harborview is the only thing --
18 after we filed the complaint, is the only thing that is
19 prohibiting them from any -- I don't get any visitations, my
20 sister and I. In fact, Ms. Copeland had filed a change of
21 circumstances in which she said that my sister applied some
22 chemicals to my mother's arms to cause the blisters, and now
23 she's going back and changing it. So they cannot even agree
24 on what allegations to make. They are just all over the
25 place.

1 And then as regard to the new (inaudible) that
2 they are pursuing, I actually have never got any service of
3 it. I don't know when it is scheduled to be heard. I have
4 absolutely no idea about it. And I only read about it in
5 the response. So in regards to the agreed-upon audit, my
6 attorney Greg McBroom had worked with Ms. Boharski, and she
7 had agreed that my mother would be placed within 25 miles
8 from radius from our home. Why would that 25 mile radius be
9 there in the court order it was not for our access? That
10 doesn't make any sense for her to be based within 25 miles
11 if we are not allowed access. I mean, that makes no sense.

12 And that we also said that no (inaudible) change,
13 no (inaudible) status will be changed without consulting
14 with us. But Ms. Copeland unilaterally changed it to no
15 resuscitation. And then she sent emails to our family
16 saying that based on her ton of research in (inaudible), she
17 did not believe that my mother decided to leave. I mean,
18 how infuriating is that that, that our mother is going to be
19 murdered? Reading that, my sister immediately booked
20 tickets on the next flight possible and boarded back to
21 India -- to the U.S. And then she went to Harborview, and
22 this is what she found. Her being covered in blisters with
23 104 degree fever, and the staff saying that she's been asked
24 to suffocate to death for capital punishment, for what? For
25 no reason other than that she didn't have any money to pay

1 for her from the DSHS purse.

2 So the only reason we agreed -- we did not have --
3 we could have opposed the guardianship action, but the only
4 word of truth that came out of this guy's mouth is that we
5 accepted the guardianship offer because Ms. Boharski
6 accepted my attorney at the time, McBroom's, suggestions to
7 keep her within 25 miles. And we thought that if all her
8 our needs are being taken care of and she can get good care
9 at a facility, then I wanted to go back to Microsoft. And I
10 was a group program manager leading a large team. I wanted
11 to go back and restart my career, because in a (inaudible).

12 So I thought it would be a good idea. If she can
13 get good care and we can visit her every day, it wouldn't be
14 a bad idea at all. So that's why we accepted that. But
15 they have used this, this so-called guardian, changed the
16 postcode, sent us harassing, threatening emails saying that
17 if we're going murder her, and after we found her murder
18 attempt and reported that the police, now we have been kept
19 out of having any access to our mother for the last six
20 months. And after my sister went back to India and filed
21 the Habeas Corpus, now he's saying that the restriction is
22 only against me. And everything is just gaming the system,
23 just making a complete caricature of the legal system and
24 making complete mockery of the courts. That's what he's
25 doing. This guy does not deserve to be anywhere near a

1 courtroom. He should not be a counselor. That's why we are
2 pursuing the complaint against the WSB also, to have him
3 debarred from the bar association.

4 So another thing. Paramount was not the one who
5 made the decision to have nothing with me or anything of
6 that sort. The reason why she's in Harborview was because
7 the Washington State Long-Term Care Ombudsman, Patricia
8 Hunter, and some of the dignitaries that we have interacted
9 with, including one senator, U.S. Senator, I forget her
10 name -- the U.S. senator for Washington. They had involved
11 in our behalf and said that people should not be returned to
12 Paramount. But that is what we have emailed them to.

13 So I have emails. I can actually -- if the Court
14 gives me one day's time I'll refer you to the (inaudible).
15 we have emails from the senator and ombudsman stating that
16 we have -- they will address our concerns and how it showed
17 that she should not be returned to Paramount. Now this guy
18 is trying to turn it around and say it's somehow due to my
19 part or something. Because the reason why she is at
20 Harborview is because she's not allowed to return to
21 Paramount by Patricia Hunter, ombudsman for Washington State
22 LPC, based on our complaints that we had filed on May 20th.

23 THE COURT: Okay, I understand.

24 MR. NAIR: So, and I have one more thing that I
25 want to address is that the library of (inaudible) that we

1 initiated, that I initiated, was to show that she was not
2 getting -- you know, if you look at 43 hours of video where
3 I posted all the YouTube links are missing. If you look
4 at --

5 THE COURT: I didn't have the video, but I saw
6 pictures from it, and I read about them and read --

7 MR. NAIR: But in my reply to the response, I
8 actually posted the links to each of the videos. So you can
9 go ahead and watch all the 43 hours of video. And the
10 fact -- you know, these are posted in January. In February,
11 she posted a care plan which said that, you know, she wanted
12 to return her to home to live with me. In May 15th she
13 sends the email saying that if you pay for her care, we will
14 return her back. So now after we filed the police
15 complaint, she's going back to videos posted six months ago
16 and making completely inflammatory allegations, for which,
17 you know -- which is completely inappropriate. Those
18 allegations just shows what a pathetic, you know, a better
19 word, this guy is.

20 THE COURT: All right. Unlike on the third floor
21 where commissioners have a lot of things that are going on
22 and they're just handing out their decisions as quickly as
23 possible, I'm going to give you a decision today, but I'd
24 like to take about 10 minutes or so to go back and look over
25 my notes that are here in the other documents that you all

1 have been provided.

2 MR. NAIR: If I may, I want to add one more point.

3 THE COURT: One last point.

4 MR. NAIR: Thank you, sir. Which is that he has
5 asked for \$34,000 in fees for representing the guardian in a
6 federal lawsuit, which is still ongoing. And he filed the
7 same petition for fees both in federal court and state
8 court. And federal court has completely dismissed it, a
9 U.S. senior judge. And he tried a backdoor entry for a case
10 that is still ongoing to get fees. For what reason?
11 Absolutely, this is just -- there's absolutely no reason to
12 award him any fees at all at this time.

13 THE COURT: Okay. All right, so why don't we
14 take -- it's 2:30. Why don't we be back here at 2:45, and
15 then I'll give you all a decision.

16 MR. NAIR: Thank you.

17 (Recess from 2:30:51 p.m. to 2:46:29 p.m.)

18 THE COURT: Thank you, you can all be seated. All
19 right. It will be kind of a lengthy decision and then I'll
20 get to the orders. As it stands here, Mr. Nair, there is no
21 doubt -- you can sit back at counsel table unless you're
22 more comfortable back there. Wherever you're most
23 comfortable. There is no doubt that you love your mother,
24 and the evidence before me is that you want her home or
25 someplace better than where she's been at Paramount or at

1 Harborview because you truly do love your mother, and
2 perhaps also out of a family responsibility to your siblings
3 and to your mother over time. I get the sense that you know
4 that caring for your mother is just the right thing for you
5 to do as a son and as a human being, and that you, in caring
6 for her, want to make sure that she receives the absolute
7 best care that she can have.

8 MR. NAIR: Thank you, Your Honor.

9 THE COURT: I understand your frustration over
10 time. I understand your frustration in court hearing things
11 about yourself, but there are reports that are out there
12 that have been floated around since this has been in place.
13 And they've come from Paramount, they've come from police
14 reports, they've come from Harborview, from a doctor at
15 Harborview, from a variety of sources, and so they're out
16 there.

17 While I understand your frustration, and I can
18 understand how that might lead a person to act out in some
19 ways, I disagree that acting out in any way is the way that
20 anything should be handled. However, acting out in any way
21 is not and has not been in the best interest of your mother.
22 I'm afraid it's sort of deepened the hole that you find
23 yourself in in this and in other cases that are out.

24 MR. NAIR: We just want to see our mother. I just
25 want to see my mother.

1 THE COURT: I know, I understand. And what,
2 sadly, you don't have and what your mother -- none of us
3 have because we're all getting older, but in particular your
4 mother because of her health situation, there's not a lot of
5 time that's available to anyone that's involved in this
6 particular proceeding. What I would ask that you do in
7 this, is that you, to the extent that -- not act out, of
8 course, but to dig deep and see what changes or maybe
9 sacrifices, what you can do to make this situation better.
10 And if that is first of all holding your tongue when you
11 feel like you need to say something to a care provider or to
12 the guardian or to someone else, that's a first step, but
13 also maybe even pulling yourself back and further
14 negotiating with the guardian and Mr. Ciric about trying to
15 work out some other resolution in this that may spring from
16 the CR 68 agreement that was provided.

17 Let me just tell you all this first and then I'll
18 have a little bit more. There may be some way that you all
19 could work together to ultimately get your mother to India
20 if that -- maybe that's an option that could happen.

21 MR. NAIR: We would love to.

22 THE COURT: And it could be also making sacrifices
23 financially in some way where you're able to come up with
24 some additional funding that can immediately be put into
25 this to work in her best interest to get her in a good, safe

1 place or perhaps back to India if that's where your contacts
2 with her or your sibling's contacts with her, if that's
3 where she would want to be.

4 MR. NAIR: Can we work with the stand-in, standby
5 guardian, Stuart Warren? That's what we want to -- we
6 propose that we work with the standby guardian, Stuart
7 Warren, to take her back to India. We just do not trust --
8 my family does not trust this particular guardian. That's
9 the only issue we have. We'll work with the other guardian.

10 THE COURT: I understand, but I'm saying if it
11 takes trying to work right now with Ms. Copeland, I mean and
12 her counsel, even from a distance, small baby steps, maybe
13 that leads to it, maybe that leads to an impasse where
14 something happens and a standby guardian does have to come
15 into play. But I think you just need to take a few steps
16 back in the short time that you have on this to see if
17 something can be worked out for your mother's best interest.
18 And that's the way I see this globally.

19 And again, it could be having to dig deep into
20 what you have available financially, either here or with
21 others in India or any place that might be of help to you.
22 As I look at this petition for termination of the -- motion
23 for revision as to termination of the guardianship or to
24 modify the guardianship, as Mr. Ciric says, I am bound by
25 the law that's before me. And in particular, that is at RCW

1 11.88.140 and .120. And when I get directly to the points
2 on those that I want to address -- I had it out before and
3 then -- here we go.

4 MR. NAIR: Your Honor, we just want visitation
5 with our mother.

6 THE COURT: This is as to RCW 11.88.12 -- 140. "A
7 court may terminate a guardianship, or a guardianship may be
8 terminated by an adjudication or a finding of capacity on
9 the part of the person that's found to be incapacitated."
10 And I'm not seeing that there's any evidence of that here,
11 so that's not the case. Or -- and we certainly don't have
12 death of an incapacitated person at this point, and we're
13 happy that that's not the situation here, of course.

14 And that beyond that, if I'm looking to -- I
15 suppose just in the -- if the Court somehow or other finds
16 that the guardianship is no longer necessary, the Court
17 could terminate it. But what I'm left in looking at, in
18 looking at a termination or a modification of the
19 guardianship from there takes me down to RCW 11.88.120,
20 which provides that, "A Court may modify a guardianship as
21 it deems just and in the best interest of the incapacitated
22 person, and that the Court must modify or terminate a
23 guardianship when a less restrictive alternative such as a
24 power of attorney or a trust will adequately provide for the
25 needs of the incapacitated person."

1 And at this point I've not been presented with a
2 less restrictive alternative, as I see it, that will provide
3 for the needs of your mother. And part of that is sadly
4 because I guess over time her health condition, as you
5 acknowledge -- although you haven't seen her now since, you
6 say since July, but it's deteriorated since then. So at
7 this point I'm not able to grant the motion for revision to
8 either terminate or modify the guardianship as it stands.

9 Additionally, I want to -- although we didn't
10 argue about this, but there is the -- it was before the
11 commissioner on November 14th also, was your motion for a
12 vulnerable adult protection order against Ms. Copeland. And
13 I'm also going to deny, to the extent that it's before me --
14 and that cause number was not appointed but I'm looking at
15 it because it was there with Commissioner Velategui that
16 day -- I'm going to deny the motion for revision of that
17 order. Again, no doubt that you care for your mother and
18 you want to do whatever you can for her, but as I look at
19 it, I'm seeing Ms. Copeland as the guardian is doing what
20 she can for your mother in her limited ability as the
21 guardian, with limited funds available, to care for your
22 mother as well. And what I'm afraid is that with the
23 limited resources that she has, time that she has to put
24 into ongoing litigation with this takes away from time,
25 thought that she can put into your mother's case to try to

1 improve her situation, perhaps to try to find some place
2 beyond Harborview. So I just want to put that in mind as
3 well.

4 There may have been a misunderstanding or
5 unfortunate words that were used with your sister in India
6 as to your mother's health situation here, your strong word
7 on that as you felt as if there was a desire that she'd be
8 murdered or killed here. What I see in the documents that
9 have been provided is that the guardian, Ms. Copeland, is
10 doing what she can to look after your mother's best
11 interest. So I'm denying the motion for revision.

12 As to these, I've prepared orders. I just want to
13 go through part of the order. Okay, yeah, go ahead.

14 MR. NAIR: There was one more thing which was a
15 petition for preliminary injunction that my attorney had
16 questions about --

17 THE COURT: Oh, yeah. Thank you.

18 MR. NAIR: There is no reason to deny visits for
19 my mother for me at Harborview. So I want to be able to see
20 my mother before she dies. If not --

21 THE COURT: And that's something I meant to
22 address in my notes about this too. That's not something
23 that's before the Court, so I don't have the power here to,
24 under this guardianship or under any of the cause numbers
25 that are here, to tell Harborview what to do with this.

1 That -- I mean, I'm not encouraging additional litigation,
2 but that's something that you'd have to take up directly
3 with Harborview. I'm not sure if that's through the state
4 or if that's -- I think it probably would be through --

5 MR. NAIR: It would have been appropriate if the
6 guardian was -- this woman was replaced with a proper
7 guardian who didn't want to kill my mother so that we can
8 work with Mr. Warren to access her at Harborview and to take
9 her back to India. There's absolutely no reason, as Your
10 Honor has just said, that a loving son should be denied
11 access to his mother for the last six months. Do you find
12 that appropriate? I mean, we are writing a book and
13 publishing it on Amazon. The public will judge that this
14 court is a joke otherwise.

15 THE COURT: Yeah. As to that, I don't have
16 authority on it. What I would suggest, and Mr. Ciric may
17 have some idea here, and what I meant to suggest with the
18 steps, and I know you at this point --

19 MR. NAIR: We don't want to work with this
20 guardian. We will work with Mr. Stuart Warren, and we just
21 want to be able to see my mother. For the last six months
22 my mother has not been allowed access to any of her family
23 members, and that is completely illegal and inappropriate.
24 This court should not -- you know, for the sake of retaining
25 any sort of credibility, this court should not allow that to

1 continue. Otherwise, this court is basically telling the
2 public that this is a laughable kangaroo court. A mockery.

3 THE COURT: But the thing is, I can't -- what I
4 understand, the restrictions on visitation came directly
5 from Harborview. At a certain point, Harborview put
6 restrictions on, and then in a way to --

7 MR. NAIR: That was after we filed the complaint.

8 THE COURT: Well, whether a complaint's filed or
9 not, they put them on, and then you're working through
10 supervised visitation. They are letting Ms. Copeland know
11 ahead of time that there's going to be a visitation, that
12 she would have been a help to you in getting through the
13 wall or gauntlet to get in to have some type of visitation.
14 Sitting up here, I would like you to be able to have contact
15 with your mother, but I don't have any jurisdiction over
16 Harborview right now.

17 What I would suggest, and this goes back to my
18 taking steps to try to improve the situation, is in a kind
19 and respectful way, having a contact with Ms. Copeland as
20 the guardian, perhaps getting updates on your mother's
21 status, and then maybe working toward some type of
22 supervised visitation to start, and then maybe things can
23 change or get better from that point onward. But it's going
24 to take an effort on your part, holding yourself back in
25 your frustrations, and understandable frustrations in this,

1 I think, to move toward that point. I can't in this hearing
2 grant a preliminary injunction or any type of order to
3 direct Harborview to do anything, so on that I'm bound.

4 Mr. Ciric?

5 MR. CIRIC: Your Honor, just for clarification.
6 So when we had the November 6th hearing in front of the
7 commissioner Velategui that was really on the merits. We
8 presented argument, and then we were set over for the
9 presentation hearing on I believe the 14th.

10 THE COURT: Right.

11 MR. CIRIC: In between, and I don't want to put
12 words in Counsel Young who's not here to defend himself, in
13 his mouth, but in between, Counsel Young went to the Kent
14 courthouse, Kent Regional Justice Center --

15 THE COURT: Right, I saw that.

16 MR. CIRIC: And submitted a preliminary injunction
17 under this guardianship proceeding. And I was phoned in by
18 Commissioner Hillman, and I told him: Oh, we have a
19 presentation hearing in front of -- it's a Seattle
20 designated case. Under Local Court Rule 98.2 we have a
21 hearing set, presentation hearing set for tomorrow. And
22 commissioner Hillman said: Yes, the more proper place to
23 bring this is in Seattle.

24 But at the November 14th hearing, Counsel Young
25 was there, did appear on behalf of Mr. Nair, and he never

1 renewed that petition. And so as far as I'm aware,
2 commissioner Velategui never ruled on the petition after
3 they had filed the -- after Mr. Nair had filed the
4 pleadings. So it would be improper to rule on a revision
5 motion for revision.

6 MR. NAIR: As can be seen from the transcript,
7 Commissioner Velategui actually told my then-counsel Young
8 that he was to shut up his mouth and not bring the
9 preliminary injunction, which is completely illegal. He
10 didn't even -- he actually did rule, denied the preliminary
11 injunction. So all I'm saying is that my mother is near
12 death, and if she dies without seeing her children one last
13 time, this entire public is going to say that this court has
14 failed her. The Court should grant her access to just meet
15 with me. If not, you'll have her blood on your conscience,
16 and I don't know how you can go to sleep with that.

17 THE COURT: Well, thing is, I don't -- the problem
18 is, I don't have jurisdiction over Harborview as far as
19 allowing the visit. What I can order and I'll do that
20 orderly --

21 MR. NAIR: What you should do is to replace her
22 with a working guardian, so that we can work with that
23 guardian. Why do you want to insist that she should
24 continue as a guardian when she has tried to murder our
25 mother? Unless you want to murder our mother yourself.

1 THE COURT: If you'll let me finish here. So I
2 understand -- I said I understand your frustration, but I'm
3 going to give you my order here. I want you all to try to
4 work together with this.

5 MR. NAIR: There's no working with this guardian.

6 THE COURT: All right. So my order on this is,
7 one, the motion for revision is denied in its entirety. I
8 adopt the findings and conclusions entered in the order
9 denying Mr. Nair's petition to terminate guardianship and
10 granting the guardian's amended and renewed petition for
11 instructions with the following modifications based on my de
12 novo review. And I just have certain modifications that I'm
13 setting forth here that are from the commissioner's ruling.

14 At page 4, lines 3 to 4, I would -- since this
15 court was not provided with the video of the incident in Ms.
16 Thankamma's room, I can't say that the incapacitated person
17 is clearly trying to push Mr. Nair off in the video
18 presented. So this court would substitute in its adopted
19 findings the word "reportedly" in place of "clearly."

20 At page 5, paragraph 6, at lines 2 to 3 it reads,
21 at relevant part, that there was no embezzlement and the
22 guardian sought instruction from the Court as to the issue
23 in August of 2018. Per the record, "2018" should be
24 substituted with "2019," which is when the first request for
25 instructions was made.

1 And finally, in paragraph 16, at lines 8 to 10,
2 the commissioner struck from the record and did not consider
3 Mr. Nair's response to a petition for instructions and
4 declaration of acceptance of the guardian's CR 68 offer to
5 immediately repatriate Ms. Thankamma to India. This court
6 reviewed that pleading and did not find that it directly
7 addressed the guardian's request for instructions. It
8 included expression of disagreement with the guardian's
9 work, and it appeared to this court to be more supportive of
10 Mr. Nair's request that the guardianship be terminated.

11 And finally, jurisdiction over the guardianship
12 matter shall continue to lie with the ex parte department of
13 the King County Superior Court. The guardian is not
14 required to bring future reports, petitions or other matters
15 before me or any other assigned judge unless or until
16 otherwise ordered. So what will happen if it goes back ex
17 parte and there are any rulings on this and there's a
18 disagreement from either side and somebody wants to pursue a
19 motion for revision, that will go to the chief civil judge,
20 and she, as it is now, would then assign it out to another
21 judge.

22 MR. NAIR: Your Honor, there is one important
23 matter that -- the fees is not allowed, right? Because the
24 federal court has already denied their application for fees.
25 So the fees at least has to be (inaudible).

1 THE COURT: As to Commissioner Velategui's ruling
2 on the fees on this particular matter, I'm leaving that in
3 place with what he had ordered, and I think that was --

4 MR. NAIR: But those fees have already been
5 decided by the federal court. How can the commissioner
6 overrule a federal senior U.S. judge?

7 THE COURT: May I look at those?

8 MR. NAIR: \$33,000 in fees for a federal court
9 that is still ongoing. It has been decided already by U.S.
10 Court. Does a pro tem commissioner have more power than a
11 U.S. senior judge?

12 THE COURT: Let me get back to that order.

13 MR. CIRIC: Pages 10 and 11, Your Honor.

14 THE COURT: Okay.

15 MR. NAIR: I hope this court will not make the
16 mistake of overruling a federal judge.

17 THE COURT: I'm sorry, what page did you say, Mr.
18 Ciric?

19 MR. CIRIC: 10 and 11, Your Honor.

20 THE COURT: What is the status of the fee request
21 with the federal court?

22 MR. NAIR: The federal court has denied it in
23 their entirety. That is in Exhibit I think 12 in the motion
24 for revision.

25 THE COURT: Okay.

1 MR. CIRIC: Your Honor, so with respect to the
2 federal court claim, again, it was a motion for fees against
3 Mr. Nair personally. And that was denied, and as pointed
4 out in our response, by Judge Pechman at this point in the
5 litigation with the background thought that she is aware of
6 some of the potential vexatious motions or discovery
7 processes being undertaken and constant pleadings being
8 filed by Mr. Nair, that are inconsistent with court order.

9 That being said, the \$29,000 that was awarded in
10 favor of the guardian was in terms of the guardianship
11 estate. That wasn't an amount sought or awarded against Mr.
12 Nair. And that's typical in presenting an accounting or
13 report to the court, is we request that the court reviews
14 the fees and costs incurred by the guardian on behalf of the
15 guardianship and awards such against the guardianship
16 estate, and that's what Commissioner Velategui did. He
17 reviewed the affidavit and found that those were reasonable.

18 The amounts that were assessed against Mr. Nair
19 personally were segregated out with respect to the petition
20 to terminate the guardianship, the numerous and voluminous
21 pleadings there, the several hearings we had on that issue
22 and also his vulnerable no protection action petition and
23 hearings we had on that issue, and those amounted to
24 \$10,439.90, and those were the ones that were awarded
25 against Mr. Nair. Those ones were not related to the

1 federal action at all.

2 Judge Pechman had no point in time limited the
3 guardian from seeking approval of reasonable fees and costs
4 against the guardianship estate. She only limited, at this
5 point in time, against seeking against Mr. Nair personally.
6 We do intend to refile a motion should we be successful in
7 dismissing that federal action to assess what fees were
8 already assessed against the estate to be reimbursed by Mr.
9 Nair.

10 THE COURT: Okay.

11 MR. NAIR: Your Honor, as can be clearly seen from
12 Exhibit 12, this so-called attorney actually filed a motion
13 for attorney fees both with federal court and with
14 commissioner Velategui for the cost of defending the
15 guardian against the federal case. The federal case was
16 initially dismissed and then reopened based on my motion for
17 revision. And he had brought the motion for fees in between
18 the time between when it was dismissed and reopened. And
19 U.S. Judge Pechman denied flat out, saying that the case is
20 still going on and there is no -- no fees is appropriate at
21 this point. But Commissioner Velategui still awarded
22 \$29,000 in fees for representing the client in the federal
23 court. And that same -- they are completely mutually
24 opposing. The federal court's action is -- that supersedes
25 the commissioner's award of the fees. So I humbly pray the

1 court that the federal court's action should be respected
2 and that all the fees award -- the award of fees should be
3 denied. Because otherwise, it would be a direct contempt of
4 the federal court.

5 THE COURT: Okay. In my mind, I was so focused on
6 the revision issues as to the substance of the guardianship.

7 MR. NAIR: (Inaudible).

8 THE COURT: Let me just say, I'm going to think a
9 little bit more about this. And so what I'm going to ask,
10 and I do not want another big stack of things, but today is
11 the 11th, let's say by the 18th of next week -- and you
12 don't have to present a brief if you don't want to. If you
13 just want to give me a one-page thing that tells me where to
14 go and what I already have here to look at this, but present
15 that to me in one week, let's say by four o'clock on the
16 18th with proposed orders, and then I'll address the fee
17 issue then. So one week, five-page note, nothing more than
18 five pages.

19 MR. NAIR: Exhibit 12 in my motion has that order
20 from federal court.

21 THE COURT: Okay. So then you may just say:
22 Judge, pleading paper -- Judge McHale, look at Exhibit 12
23 specifically. Which I have here. If you want to say in a
24 short period of time what it is I should look at there in
25 particular, then you can do that. And then if you all get

1 that to me by Friday after the 18th -- by Friday the 20th, I
2 will get a decision to you on that. Okay. So I'm going
3 to -- I'll sign these orders. I'm going to put --

4 MR. NAIR: Your Honor, may I ask one last
5 question?

6 THE COURT: Yes.

7 MR. NAIR: Is there any good reason why you have
8 not made a decision in favor of my mother so that she can
9 meet with the family and so that we can work with a
10 reasonable guardian like Stuart Warren so that my mother can
11 visit her family? I mean, she has been held in solitude,
12 illegal -- in solitary incarceration for the last six
13 months. And this court has a constitutional duty to award
14 that. Because there's again six of the statutes have been
15 presented and so many of the state statutes and
16 constitutional rights of both my mother and us. So at least
17 we hope that the Court will -- for the sake of its own
18 public integrity and reputation, at least replace the
19 guardian with somebody who we can work with and at least
20 restore her access to our family.

21 THE COURT: Let me just --

22 MR. NAIR: Because the last thing we want is the
23 public to think that there is no justice with Judge McHale.

24 THE COURT: All right. Get these orders signed
25 and I'll hand these to (inaudible), and I'll get to your

1 question.

2 First of all, as to visitation, I'll repeat
3 again -- or contact with your mother, I have no authority
4 over Harborview. And I understand that's beyond where your
5 question is now, but --

6 MR. NAIR: Why do you --

7 THE COURT: -- right now you're in a situation
8 where Ms. Copeland is appointed as the guardian for your
9 mother. What I see in everything that's been presented
10 here, though you disagree, she is working hard to do what is
11 in your mother's best interest there.

12 MR. NAIR: Killing her is in her best interests?

13 THE COURT: There've been concerns that are
14 brought to her and to others over time when visits have
15 happened, when there've been contacts with medical providers
16 and others that -- I don't want to put words in her mouth,
17 but make it seem as if it's an unsafe situation or that it's
18 not in your mother's best interest for you to be there
19 visiting now.

20 So despite your love for your mother and your
21 explanations for some of these particular situations that
22 have happened, I see what I see there, and it shows me -- I
23 think for purposes of this, I'm not looking at clear, cogent
24 and convincing evidence as I am when a guardianship is
25 entered, but by a preponderance of the evidence that these

1 incidents may have happened. And so for your mother's
2 safety, I'm allowing her to continue in her role as the
3 guardian and directing your mother's care as she sees fit.

4 But that doesn't mean that can't change, but that
5 change is going to take some act on your part, showing that
6 you're able to control your frustration and that you can
7 take further acts in your mother's best interest.

8 MR. NAIR: I've always taken the best acts in my
9 mother's best interest.

10 THE COURT: I understand, but I think you would
11 probably admit that your temper may rise at times. And so I
12 think that -- and I wasn't there, but that may have led to
13 some of the problems that have come forth.

14 MR. NAIR: The problem there is --

15 THE COURT: I know this is a difficult, bad issue
16 for everybody to have to be addressing here, and I'm doing
17 the best that I can with it. I hope there are some
18 opportunities to make the situation improve. And that will
19 end today's hearing. I'll stand by for your briefing by
20 next week. All right.

21 (Proceedings concluded at 3:19:27 p.m.)
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I, Rebecca Donley, a certified court reporter in and for the State of Washington, do hereby certify:

That the foregoing was transcribed by me;

That the foregoing is a true record of the audio/video recording given to me, to the best of my ability.

I further certify that I am in no way related to any party to this matter nor to any counsel, nor do I have any interest in this matter.

Witness my hand this 26th day of December 2019.

Rebecca Donley _____

REBECCA E. DONLEY, CCR
CCR License #3184
Certified Court Reporter in and for the State of Washington,
Court-Approved Transcriptionist for King County, Washington,
residing in Poulsbo, Washington.