

THE SUPERIOR COURT FOR THE STATE OF WASHINGTON

IN AND FOR THE COUNTY OF KING

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In the Guardianship of:)
OMANA THANKAMMA,) No. 18-4-05231-6 SEA
An Incapacitated Person.)

In the Matter of:)
OMANA THANKAMMA,) No. 19-2-26860-3 SEA
A Vulnerable Adult)

v.)

CHANNA COPELAND,)
Respondent.)

MOTION HEARING

Pro Tem Commissioner Carlos Velategui Presiding

November 6, 2019

TRANSCRIBED BY: Bonnie Reed, CET
Reed Jackson Watkins
206.624.3005

A P P E A R A N C E S

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3 On Behalf of Jayakrishnan Nair:

4 DAN ROBERT YOUNG

5 Dan Young Law Office

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7 Seattle, Washington 98104

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10 On Behalf of Channa Copeland:

11 ERMIN CIRIC

12 Regeimbal, McDonald & Young, PLLC

13 612 South 227th Street

14 Des Moines, Washington 98198

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17 Also present:

18 Jayakrishnan Nair

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November 6, 2019

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THE COURT: Thankamma.

MR. CIRIC: Good morning, Your Honor.

THE COURT: I have this CD which apparently is a copy of, what, the YouTube video?

MR. CIRIC: Yes, Your Honor.

THE COURT: How long does it take it to watch?

MR. CIRIC: I've actually cited out the relevant portions in the response. It's a 42-minute video. But in my response I've cited out the portions where there's the kissing and the hugging and all the other stuff.

THE COURT: Oh. So it's part of the record, but you can describe it explicitly?

MR. CIRIC: Sure. Sure. Thank you.

THE COURT: All right. Have you seen it?

MR. YOUNG: I have not, Your Honor.

THE COURT: Because your client put it on the YouTube, so -- as I understand it. Is that how it got there?

MR. CIRIC: Yes, Your Honor.

MR. NAIR: I haven't seen it either, Your Honor.

THE COURT: Oh. How did it get on there on YouTube?

MR. NAIR: I wanted to share with her that what is going on (inaudible) real life (inaudible).

1 THE COURT: How did it get on YouTube?

2 MR. NAIR: I don't know.

3 THE COURT: Well --

4 MR. NAIR: I don't know, it was --

5 MR. CIRIC: It was a live session by Mr. Nair, Your Honor.

6 THE COURT: A live session.

7 MR. NAIR: Because I wanted to show that she was going
8 neglected and she was not getting any care for the guardian,
9 I initiated the live session so she can see for herself.

10 THE COURT: I see.

11 MR. NAIR: Because she didn't believe me.

12 THE COURT: And who connected it with YouTube?

13 MR. NAIR: The YouTube was a live session show. It was my
14 (inaudible) to go to Ms. Copeland that my mother was being
15 neglected and not getting any care.

16 THE COURT: So it's a matter of public record.

17 MR. CIRIC: Yes, Your Honor.

18 THE COURT: Available to the world.

19 MR. NAIR: I showed -- I was showing her what's happening.
20 That was my (inaudible).

21 MR. YOUNG: Was that at Paramount?

22 MR. NAIR: At Paramount, yes.

23 MR. CIRIC: So, Your Honor, just for the record, Ermin
24 Ciric here on behalf of the guardian, Channa Copeland. And
25 Ms. Copeland is here with us as well.

1 THE COURT: Okay. Let me just get out a -- they hide the
2 writing pads in here. I never know where I'm going to find
3 them next. Thank you. Okay. So...

4 MR. YOUNG: And I'm Dan Young on behalf of Mr. Nair.

5 MR. NAIR: And Ms. Copeland is the only person I shared it
6 with and she had no --

7 THE COURT: I'm sorry. You have a lawyer here, so unless
8 I ask you a question, you're not to interfere.

9 MR. NAIR: (Inaudible).

10 MR. CIRIC: Your Honor, just a few -- I'm assuming you've
11 gotten a stack on stack on stack of documents.

12 THE COURT: I would say it's about 5 or 6 inches.

13 MR. CIRIC: Yes, Your Honor. Just a few procedural issues
14 that I'd like to address before getting into the substantive
15 matters.

16 THE COURT: All right.

17 MR. CIRIC: It's a personal service request by Mr. Nair
18 that seems to keep coming up and the untimely response by
19 Mr. Nair filed yesterday.

20 THE COURT: Which response was that?

21 MR. CIRIC: He filed a -- as far as I received on eServe,
22 he filed the response to the petition -- the amended
23 petition for instructions.

24 THE COURT: I don't always remember the titles of the
25 documents I've read. So there's a guardian's response.

1 That's not it. Here's a guardian's response.

2 MR. CIRIC: It's unlikely that you received working
3 copies, Your Honor. Like I said, it was filed yesterday.

4 THE COURT: Is it this response to petition for
5 instructions, this?

6 MR. CIRIC: Yes, Your Honor.

7 THE COURT: This -- oh, really? That appears to be --

8 MR. CIRIC: Lengthy.

9 THE COURT: -- a couple hundred pages.

10 MR. CIRIC: Yes, Your Honor. I did my best to try to go
11 through it as quickly as I could this morning. But we do
12 object, obviously, to that.

13 But first getting to the personal service requested by
14 Mr. Nair. If Your Honor recalls, previously our office was
15 telephone conferenced in, and an order was entered by the
16 court that required Mr. Nair to personally serve the stack
17 of documents he had submitted to the court on that time. I
18 was only involved with part of -- because I was at another
19 hearing -- with part of the telephone conference, and my
20 recollection was that he was supposed to serve those
21 documents to us before the end of the next day, which was
22 October 22nd, 2019. We didn't receive the documents until
23 midday October 25th, 2019.

24 However, Mr. Nair has filed several federal actions, Your
25 Honor, alleging that this court doesn't have jurisdiction.

1 The guardian has waited for months to get instruction. And
2 we're okay with proceeding as to the VAPA and the
3 guardianship petition even though it was -- the documents
4 weren't provided as ordered by this court because we do feel
5 it's in Ms. Thankamma's best interests to get findings and
6 instruction from this Court.

7 THE COURT: But you're objecting to his late pleadings
8 that you got yesterday?

9 MR. CIRIC: Yes, I am objecting to that. And the reason I
10 raised it -- raise it right now, Your Honor, with respect to
11 what happened at the last hearing is that Mr. Nair has now
12 filed -- and I believe is part of this response as well --
13 in the federal action and he's alleged that your -- that
14 Your Honor has somehow in that order, which is Exhibit 18 to
15 the guardian's response, now required the guardian to
16 personally serve him any and all pleadings moving forward.
17 That was not my understanding, and that's not what the order
18 entered by the court instructed us to. This is pretty much
19 a pro bono estate. There are no funds and no assets. So
20 requiring the guardian to personally serve Mr. Nair is
21 extremely prejudicial.

22 I did include -- I modified the guardian's proposed order
23 proving the petition for instruction to reflect that there
24 is no such personal service requirement outside of what's
25 provided by statute in the civil rules.

1 I'd also request that Your Honor -- I know you're sitting
2 pro tem, but that you would retain jurisdiction so that we
3 don't have to go through the introductions each and every
4 time we're before the court. So that's the first procedural
5 objection.

6 The second one is with respect to Mr. Nair's untimely
7 response. In usual fashion, hundreds of pages were
8 submitted the day before the court hearing. Under King
9 County Local Court Rule 98.20(d) provides that reports,
10 accountings and contested or noted matters in guardianship
11 proceedings are to be noted 14 calendar days before. A
12 response is due no later than four court days noon with -- I
13 had communicated this concern to Mr. Paul Barrera, who had
14 reached out to my office indicating he now represented
15 Mr. Nair. And I had cited the relevant court rule to him.
16 Nonetheless, Mr. Nair yesterday served us with his response
17 to the amended and renewed petition.

18 The guardian filed and served her amended and renewed
19 petition the same day that the Court instructed all of us to
20 come to the hearing today as to all the other issues that
21 were raised by Mr. Nair. And there's King County eServed on
22 October 21, 2019, Mr. Nair received, gave him 16 days prior
23 to today's hearing to respond. He chose not to until the
24 last day.

25 As soon as Mr. Nair and Mr. Barrera, who was responding on

1 his behalf, were notified that Mr. Nair received copies of
2 this because Mr. Nair objected to this -- the hearing today
3 on the amended petition saying he was never served. I
4 provided them the copy of the certificate of eService which
5 was filed with the court, and immediately minutes later
6 Mr. Nair withdrew from eServe and since then has said that
7 the guardian needs to personally serve him everything.

8 THE COURT: The certificate of eService, was that arranged
9 previously?

10 MR. CIRIC: No, Your Honor, it's through the court's
11 eFiling system. So if he was registered for eService
12 through his email: JKNair@gmail.com. And I have copies
13 here for the Court.

14 THE COURT: Oh, so he registered --

15 MR. CIRIC: Yes.

16 THE COURT: -- to accept eService.

17 MR. CIRIC: Yes, Your Honor.

18 THE COURT: Is that correct?

19 MR. CIRIC: Yes. I have copies are for counsel as well.

20 And he received those pleadings the same day that they
21 were filed with the court. And that eServe certification
22 was filed with the court as well. And immediately as soon
23 as I sent over that confirmation to him saying, Mr. Nair,
24 you received this at the same time, he withdrew from
25 eService and said we needed --

1 MR. NAIR: (Inaudible).

2 THE COURT: Do not comment. Do not say another word or I
3 will exclude you from the courtroom.

4 MR. NAIR: Okay.

5 MR. CIRIC: So, Your Honor, he should have responded on
6 October 31st; he didn't. He waited until the very last day.

7 The reason I really want to bring up the objection is what
8 was filed with respect to Mr. Paul Barrera, who was
9 attempting to represent -- or indicated to everyone he was
10 representing Mr. Nair. Mr. Nair has filed pleadings with
11 this court in -- as attached to that response to the
12 guardian's petition and amended -- amended petition for
13 instructions and included a declaration from Mr. Nair, an
14 attorney, wherein Mr. Barrera is saying he is going to be
15 and needs to be a witness at today's hearing. I don't see
16 Mr. Barrera at today's hearing, however.

17 Again, in large part, Mr. Barrera's. Again, in large
18 part, Mr. Barrera's declaration went to that Harborview's
19 position right now is Mr. Nair is restricted from the
20 facility because of safety concerns for Ms. Thankamma and
21 staff. And that was filed as part of Mr. Barrera's
22 declaration, that Harborview -- that's Harborview's
23 position. He's also included Exhibit 27, which waives
24 attorney/client privilege with Mr. Barrera. It's
25 communication between Mr. Nair and Mr. Barrera.

1 In his declaration, counsel Barrera says: "Well, I'm
2 expected to be a witness and under RPC 3.7, the advocate
3 witness rule, I can't appear and advocate for Mr. Nair."

4 However, he did advocate for Mr. Nair. The relevant
5 correspondence, which is Exhibit 27, filed by Mr. Nair
6 states, quote, Nair: "Could you describe the reason you are
7 choosing to not represent me on November 6th? I am still
8 trying to get representation, and it looks fishy that you
9 would withdraw at such a critical time. If you are
10 backtracking, at least we should be able to show why as the
11 Court wanted us to be represented. So if I have to go to
12 court on my own again, then what explanation do I give the
13 Court?"

14 Mr. Barrera responded by providing Mr. Nair the
15 declaration, signed, and further provides representation as
16 to service issues and states as follows -- pretty much
17 recommending that today he should try to get a continuance.
18 Mr. Barrera states, quote : Rebut any declaration that you
19 were served in time. And if the Court decides too many
20 issues exist, ask for a two-week continuance to file a
21 motion to consolidate, a motion to assign an individual
22 judge. Pose the request for attorney's fees as premature,
23 end quote. Mr. Barrera also cites to a separate legal
24 letter that was being sent to Mr. Nair as to the legal
25 issues that are before the Court today.

1 The reason I raise this, Your Honor, is because the
2 advocate witness rule under RPC 3.7 clearly states that you
3 can't, as an attorney, act as witness and counsel at the
4 same time, and those are the very documents that have been
5 presented to this court to try to for some reason bolster
6 Mr. Nair's credibility today. It's improper and they should
7 be stricken from the court.

8 One key facet of the declaration and the response, Your
9 Honor, is that Mr. Nair, all of a sudden a day before the
10 hearing, is saying he's open to having Ms. Thankamma
11 relocated to India with family. This was extremely shocking
12 to me. And the only way I was able to actually find it in
13 the 23-plus-page response is it was in the headline: Accept
14 CR 68. We sent the CR 68 months ago. We sent him several
15 letters saying, Mr. Nair, we understand you object to the
16 court's jurisdiction, we understand you have concerns.
17 Let's try to come up with a proposal that we can present to
18 the Court which the Court would find is in the best
19 interests of Ms. Thankamma if family is willing to accept
20 her in India. Not a single response, Your Honor. He's
21 filed hundreds of pages of pleadings up to yesterday; not a
22 single response to that request. So I do feel that that
23 request today that Ms. Thankamma be removed back to India to
24 be with family was made in bad faith and is really a guise
25 to have Mr. Nair argue for some kind of a continuance today.

1 Accordingly, I would request that the response and any
2 testimony and declaration offered by Mr. Barrera be stricken
3 and not considered. And I do feel that the Court has
4 jurisdiction. The issues are very important, and they
5 should be ruled upon today.

6 Because of these procedural objections, I leave it to the
7 discretion of the Court as to presentation of argument on
8 the substantive issues. But I'd recommend that we address
9 Mr. Nair's VAPA petition and his petition to terminate the
10 guardianship in unison because they are based on really the
11 same types of allegations. And then we can proceed to the
12 guardian's petition for instruction, Your Honor.

13 THE COURT: So much of what was in his response -- which I
14 didn't know was delivered late -- appears as well, I
15 believe, in the VAPA case.

16 MR. CIRIC: Yes. I would argue that, Your Honor, it's
17 pretty duplicative in terms of all the petitions that are --
18 and that's why I would argue that there's no real reason to
19 have that response in place. He's -- effectively, he
20 constructively responded to the guardian's petition. You
21 know, he said no, the guardian -- the guardianship should be
22 terminated, and the guardian should be restrained. And he's
23 presented his allegations.

24 THE COURT: Do you want to respond to those procedural
25 objections?

1 MR. YOUNG: Yes. I haven't seen the response, so I guess
2 I'm at a disadvantage there.

3 THE COURT: Oh, I'm sorry. When were you retained?

4 MR. YOUNG: Basically yesterday -- last night. He did not
5 have representation for this morning, and I so I said I
6 would see what I could do. He sent me a bunch of documents,
7 which I looked at. But the response wasn't there, although
8 I did see the declaration of Mr. Barrera.

9 I don't see why that is even an issue in terms of being
10 available for the Court's review. Obviously at trial, an
11 attorney cannot represent a client and then testify at a
12 proceeding. And I think that's why he withdrew, so that he
13 would not have that dual role. And so -- but that doesn't
14 mean that he can't state what he saw and observed personally
15 and why the Court cannot consider that. He's not
16 representing Mr. Nair right now. So, therefore, he doesn't
17 have that conflict and is arguing his own credibility
18 anyway, which is the reason for that rule.

19 In terms -- and I don't think the federal cases make any
20 difference here. I don't even know what those claims are.
21 I haven't seen those. It seems to me this is a guardianship
22 proceeding. And I think the solution that Mr. Nair came
23 upon may be one best for everybody because the ward is not a
24 citizen of the United States. She's from India. She was
25 only here visiting her son. She had strokes and so forth,

1 and then her physical condition deteriorated. She doesn't
2 have any money. She doesn't qualify for any benefits, as
3 far as I'm aware of.

4 THE COURT: Oh, I'm sorry, Counsel. I'm unaware of any
5 evidence that she has no money or no assets. They may not
6 be located in the United States and they may be for all I
7 know. The evidence thus far indicates that in the joint
8 account, \$500,000 went in and out. Some \$60,000 -- \$66,000,
9 is the number I recall, went in and out. It was a joint
10 account.

11 When Mr. Nair complains or talks about when all this is
12 done, he talks about our real estate business which would, I
13 guess, imply that he had a real estate business with his
14 mother and that she had some interest in these funds. The
15 \$10,000 that the guardian has sequestered came out of a
16 joint account, and no accounting has been provided by
17 Mr. Nair to indicate the source of those funds. And so I
18 understand you just got the case yesterday. Your client is
19 waving his hand up in the air, but he's had some 16 days to
20 prepare for this hearing and his papers -- his papers to
21 include a substantial declaration from a lawyer who may or
22 may not have been entitled to respond in that declaration
23 was only delivered to opposing counsel yesterday.

24 So I'll let you finish your argument before I tell you
25 what all that means.

1 MR. YOUNG: Okay. Well, obviously, I didn't know that the
2 monetary issue was the subject of the proceeding today.
3 Clearly, if there's a joint account, that doesn't mean that
4 each joint holder of the account has the money. One can
5 trace the funds, and if one person put all the money in,
6 presumably that's his money and doesn't belong to the other
7 joint holders. But I don't think that's an issue today.
8 What I was getting at is --

9 THE COURT: Well, I think it is an issue. The motion is
10 to allow the guardian to use the funds to provide for the
11 ward's care and potentially the costs of administration,
12 which would eat up the entire \$10,000 in two heartbeats.

13 MR. YOUNG: Well, then that should have been addressed in
14 there. I didn't particularly see that. But it's my
15 understanding that that was his account and not hers.

16 THE COURT: Well, but that's --

17 MR. YOUNG: He provided the funds.

18 THE COURT: That's an understanding that he provided the
19 funds, as I indicated, hasn't been shown.

20 MR. NAIR: (Inaudible), Commissioner.

21 THE COURT: Sit in the back of the courtroom, sir. You
22 can watch the proceedings from there. I indicated to you
23 earlier, twice now, you are not to interrupt.

24 MR. NAIR: But they are telling lies.

25 THE COURT: I --

1 MR. NAIR: What they are telling you is nonsense. Every
2 money that is in that account is mine.

3 MR. YOUNG: Please, please.

4 MR. NAIR: I mean, you should have some brain sense inside
5 your head.

6 MR. YOUNG: You know, I apologize, Your Honor, and ask the
7 Court not to --

8 THE COURT: The behavior exhibited by Mr. Nair is
9 representative of his appearance in this court every single
10 time he's been here.

11 MR. NAIR: The money belongs to me. I have proof of it.
12 It's in the account.

13 MR. YOUNG: Please, please.

14 Well, I wasn't at the other -- I'm not -- I can't say
15 something, Your Honor. But obviously different people have
16 different points of view and different -- and coming from
17 different cultures, as I'm sure Your Honor is aware, have
18 different --

19 THE COURT: Mr. Nair has represented that he's a
20 multimillion in the past. I don't think he's hamstrung by
21 being a citizen or his country of origin is not the United
22 States. I think that he's quite competent. And, in fact,
23 having spent the morning reading papers that were late
24 delivered and having found his way into the federal district
25 court with some 50 counts of Plaintiff's complaint against

1 the defendants, somehow I don't find that argument
2 persuasive.

3 MR. YOUNG: Well, he certainly has some skills, I'll say
4 that. But I'm -- all I'm suggesting is that there are
5 cultural differences that perhaps make him behave in certain
6 ways that are not normally expected in our culture. That's
7 all I'm saying. And I think what I was getting at is that
8 one solution to the issue, it appears to me, if we're
9 looking for a practical solution, would be that he take his
10 mother back to India where she originally came from. And
11 that would, seems to me, solve a lot of these issues.

12 MR. CIRIC: Your Honor, if I could, just a quick reply.

13 THE COURT: Thank you. I'm going to rule on the late --

14 MR. CIRIC: Sure. That's the very point of my objection.
15 You know, counsel started off with Mr. Nair did not have
16 representation. He did. He had Mr. Paul Barrera contact my
17 office since the last hearing in this matter to get
18 visitation and to submit the letter that this court ordered
19 Mr. Nair submit. And so Mr. Barrera was representing him
20 this entire time, and no response was filed by either
21 Mr. Nair or Mr. Barrera. And it's improper to do any type
22 of continuance on that basis.

23 THE COURT: Do you have a notice of intent to withdraw
24 from Mr. Barrera?

25 MR. CIRIC: He never even filed a notice of appearance.

1 THE COURT: Do you have a notice of consent to
2 substitution?

3 MR. CIRIC: No. And the fact of the matter is, Your
4 Honor, is that everything is before -- you know, what I'm
5 getting from opposing counsel is what I was anticipating
6 which is: Well, we don't need to enter these findings. We
7 don't need to give the guardian litigation authority. We
8 don't need to potentially request an accounting because
9 there's an option there. But we don't have anything in
10 writing. We have no proposal to get her to India. And if
11 Mr. Nair is serious, he's shown that he can write, he can
12 communicate with my office. We've requested multiple times,
13 let's put together a proposal. That's not before the Court
14 today.

15 What's before the Court today is a petition to approve the
16 90-day inventory and instructions for litigation, Mr. Nair
17 VAPA's petition to terminate the guardianship -- and his
18 petition to terminate the guardianship. Those are the only
19 things before the Court. There's no solid proposal,
20 particularly with respect to safe discharge, which I'm sure
21 Harborview is going to have their own concerns to share with
22 just handing the reins over to Mr. Nair with respect to
23 where Ms. Thankamma should be.

24 We're not opposed to her going to India. We just think
25 that we need to come up with a joint solution and proposal

1 where one family member from India will agree to take her on
2 or some type of custodian and put that before the Court.
3 But that should be brought at a separate day and a separate
4 hearing, Your Honor.

5 THE COURT: Okay. All right. So your motion in principle
6 relates to the \$10,000 and instructions?

7 MR. CIRIC: Yes, Your Honor.

8 THE COURT: Your client's motion is to pursue a VAPA
9 complaint against the guardian.

10 MR. YOUNG: Well --

11 THE COURT: Is that correct?

12 MR. YOUNG: Well, what he really wants is visitation.

13 THE COURT: He has a VAPA petition before the court.

14 MR. YOUNG: Yes, he does.

15 THE COURT: All right. You'll be able to argue that.
16 You'll be able to argue yours. Let me think here. I think
17 that the arguments will be consolidated. I think that
18 because the response to the VAPA petition will include a
19 presentation by the guardian that will include, in essence,
20 the argument for the petition for instructions that will
21 begin with counsel's presentation of the basis for the VAPA
22 petition, to which you'll be able to respond in full,
23 addressing both your motion and your response to the VAPA.

24 MR. CIRIC: It makes sense to me, Your Honor.

25 THE COURT: I think that's the best way to proceed.

1 So, Counsel, do you want to pursue the --

2 MR. YOUNG: Okay. The -- what he really wants is to be
3 able to visit his mother. That's the basis of it. He's
4 been prevented from doing that for the last four months.
5 And he -- obviously, the ward has the right to see people,
6 socialize, determine her friends and that sort of thing.
7 He's her only son and has a close relationship with her.
8 She's now in a country where she doesn't speak the language.
9 She's probably marooned there in the hospital, and it's very
10 disconcerting to an older person to be in that kind of a
11 situation not being visited by family. And it seems like
12 there are a lot of artificial barriers put on his
13 visitation, and he would just like those removed. And he
14 would like to have access to his mother.

15 And I would object to the declaration submitted in support
16 of that. They contain all sorts of statements about staff.
17 Well, I've been informed by staff, and I've been informed by
18 these people and staff says, blah, blah, blah, but there's
19 no identification of who those staff are, what the specific
20 details are, and so forth. And that's obviously hearsay.
21 If they want to use stuff like that, then they should submit
22 the declaration from the staff person that gives the details
23 of what exactly happened and why Mr. Nair should not be able
24 to see his mother, what danger or harm did he -- or does he
25 represent to her.

1 MR. CIRIC: Your Honor, responding to that just quickly is
2 that no identification in that there's been some type of
3 arbitrary restriction is incorrect. We've submitted before
4 this Court both the medical report which -- the medical
5 documents which identify the staff and the concerns from
6 staff with respect to Mr. Nair and his family -- and other
7 family members continuing to try to feed or provide liquids
8 to Ms. Thankamma.

9 We've also submitted the police report where Mr. Nair was
10 walked in on, I believe it was a nurse, and there was an
11 altercation because he was found to have his legs wrapped
12 around Ms. Thankamma, and Ms. Thankamma's breast was exposed
13 at the time. And so those are all before the Court.

14 And really, Your Honor, just getting to the VAPA again,
15 the allegations here are consistent, are the same in the
16 federal actions, and are the same here. There were three
17 orders entered against Mr. Nair with respect to not having
18 Ms. Thankamma live with him at the home. This was in August
19 of 2018 when a five-year permanent restraint order was
20 initiated by APS, was entered against Mr. Nair. It
21 restrained him from placement decisions. A criminal
22 proceeding was brought. A criminal court entered an order
23 restraining Mr. Nair from placement decisions.

24 And then the guardianship order, which was agreed to, and
25 Mr. Nair and both Ms. Thankamma were represented by

1 independent counsel provides that the guardian shall be
2 guided by the VAPA entered in place and shall make
3 visitation decisions in the best interests of the IP, the
4 incapacitated person. So that's three separate orders.

5 And I think what this all boils down to, Your Honor, and
6 I've cited in my page 8 of the VAPA response, is the email
7 correspondence -- there's been hundreds -- between Mr. Nair
8 and the guardian. Mr. Nair says, quote, in May of 2019:
9 "All you need to do is call an ambulance and let her" --
10 referring to Ms. Thankamma -- "go. We have a large family
11 ready to take care of her. The best place for her is home.
12 Any sane person can see the best thing to do for her
13 emotional and physical well being is to return home unless
14 they have a nefarious objectives."

15 So even after three court orders were entered and an
16 agreed order that he agreed to, he requests a -- he kept
17 requesting from the guardian to return her to him in his
18 home.

19 The guardian responded: "This is not how it works. There
20 are processes in courts involved now. I can't move anyone,
21 your mother or otherwise, without telling the court and
22 especially not to the home that she was removed from the
23 police for neglect."

24 The guardian at that time had obtained roughly \$10,000
25 from a joint account and instructed Mr. Nair. "I need to

1 get permissions. I can pay for her insurance but if I pay
2 for her insurance, I cannot pay for an immigration attorney
3 to help me get her residency status and Social Security
4 number to get her on Medicaid. Who will pay for her nursing
5 care?" That's after Mr. Nair stopped paying private pay
6 insurance for Ms. Thankamma.

7 When these lines of communication show that the guardian
8 was not willing to overstep what authority this court had
9 entered by three separate orders, that's when communications
10 broke down. That's when all the threatening and personal
11 emails started.

12 And this is really what it's about, Your Honor, it's a
13 loss of control. It's not about cultural differences. It's
14 a son that feels he's lost control over his mother in an
15 inappropriate relationship. In August of --

16 MR. NAIR: Watch your tongue, man.

17 MR. CIRIC: In August of 2019, Your Honor --

18 THE COURT: One more outburst and you'll be sitting
19 outside in the common area and not in the courtroom.

20 MR. CIRIC: In August of 2019, Your Honor, the guardian
21 prepared and filed her original petition for instructions
22 with this court as to these very issues. We set it for
23 August 22nd hearing. We provided service to Mr. Nair. Not
24 a single objection was sent. At 4:18 p.m., I receive an
25 email from the clerk forwarded, which included Mr. Nair's

1 request to strike the hearing the very next day. That's 12
2 minutes before the end of business day. I scrambled to
3 figure out what was going on. He had filed the federal
4 causes of action for removal and with respect to alleging
5 that this court didn't have jurisdiction. Out of an
6 abundance of caution, I struck the hearing, came here and
7 submitted the notice striking and provided it.

8 That day, August 22nd, is when Mr. Nair actually filed the
9 notice of removal required by U.S. Code Section 114. It was
10 a tactic by him to wait to the eve of the hearing and then
11 is now alleging that he doesn't have access to Mom, Mom's
12 funds aren't being used properly when he's the very cause of
13 this. We spent months in federal court getting this case
14 kicked back to state court.

15 The VAPA itself, Your Honor, Mr. Nair has complained about
16 the guardian and myself and sued myself and my firm to
17 everyone and anyone under the sun; this has included the
18 police, he's filed criminal complaints, the Washington state
19 bar association, the CPG Board, the APS, the mayor's office,
20 ACLU. Pretty much any organization or entity, he's filed a
21 report or requested an investigation.

22 These are all mandated reporters of abuse, and not one
23 single negative report or investigation, Your Honor. To the
24 contrary, Exhibit 17 to the response is APS's findings which
25 say that it is more likely than not the alleged financial

1 exploitation, neglect and mental abuse did not occur, the
2 allegations are unsubstantiated. The remaining allegations
3 are all frivolous, Your Honor, because they were caused by
4 Mr. Nair trying to get this kicked up to federal court.

5 As to the unconstitutional restraints, there are none.
6 The incapacitated person that Mr. Nair entered an agreed
7 order to guardianship. There was no unconstitutional
8 restraint. The guardian offered several times to come up
9 with a proposal on getting Ms. Thankamma relocated to India.

10 And on the cultural point, Your Honor, I believe it was
11 the sister that communicated that Mr. Nair, as the sole son,
12 in India has the decision-making authority. So it would be
13 very difficult for us just to transfer over to one of the
14 family members without him being involved.

15 The medical issues, not true, Your Honor. Mr. Nair's own
16 witness and non-family member emailed the guardian that the
17 last time he saw the incapacitated person, she was fine.
18 Additionally, a full code was implemented in favor of the
19 incapacitated person, and deciding code status was the very
20 authority that Mr. Nair and the incapacitated person agreed
21 to in the order appointing. That's page 6 of that order.
22 The guardian hasn't acted improperly.

23 Mr. Nair alleges some improper restraining in interacting
24 with Harborview or some collusion. Not true. The reason
25 Ms. Thankamma was placed in Harborview was after the police

1 came in and saw him wrapped -- wrapped with his legs around
2 his mother.

3 MR. NAIR: Commissioner, do you allow all these lies to be
4 happening? I mean, this guy is getting lies and lies, and
5 you're just listening to that and you're asking me to shut
6 up. That is nonsense.

7 THE COURT: Mr. Nair. Mr. Nair. You can sit out in the
8 common area on the other side of the windows and watch. I'm
9 done. Mr. Nair, I'm finished with you interrupting.

10 MR. NAIR: I'm finish with this Court also. What he is
11 doing is nonsense. Your incompetence is being exploited by
12 these people.

13 MR. YOUNG: Mr. Nair, please don't do that. (Inaudible).
14 I apologize, Your Honor, for my client.

15 MR. CIRIC: Your Honor, a notice of change of
16 circumstances after these events occurred was filed by the
17 guardian and served on Mr. Nair, it was filed with this
18 court. That's Exhibit 5. That exhibit identifies the
19 location of Ms. Thankamma. There's been no efforts to try
20 to conceal that. And Mr. Nair has himself submitted a
21 letter from -- on October 31st from Harborview saying, we,
22 by our policy, are not permitting Mr. Nair to enter because
23 of the staff and safety concerns.

24 And how has his conduct transitioned over to the care
25 being provided to Ms. Thankamma? Dr. Han (phonetic), the

1 medical provider for Ms. Thankamma, which was also filed by
2 Mr. Nair, filed an antiharassment petition and order. He
3 said, I am not going to provide Ms. Thankamma any more care
4 because of the conduct by the son. The threatening conduct,
5 the personal allegations make me feel unsafe at work and I
6 can't provide her care anymore.

7 THE COURT: And Dr. Han is who?

8 MR. CIRIC: Dr. Han is one of the defendants in the
9 federal action, and he was a former medical provider for
10 Ms. Thankamma.

11 THE COURT: At what location?

12 MR. CIRIC: Harborview.

13 THE COURT: Thank you.

14 MR. CIRIC: And again, Your Honor, this Court's authority
15 sitting as (inaudible) guardian is to make sure that best --
16 and as well the guardian, that the best interests of
17 Ms. Thankamma are being promoted. It's not about what
18 Mr. Nair might or might not want.

19 So we request that the VAPA in full should be denied
20 because there's no basis for it, and we request that fees
21 and costs should be assessed as well.

22 Similarly with respect to the guardianship petition to
23 terminate. Counsel has suggested that all he wants is
24 visitation. That's incorrect. He could have just submitted
25 a request for visitation. The guardian said, well, if

1 you're requesting visitation, it needs to be advance notice
2 and it needs to be by supervision. Since after Mr. Barrera
3 appeared and began his communications with Harborview,
4 Harborview said, no. Because of the safety concerns and the
5 other allegations of Mr. Nair, we're not providing him
6 visitation.

7 These aren't any restrict- -- improper restrictions placed
8 by the guardian. And again, we brought the petition for
9 instruction on this issue. If we receive litigation
10 authority, Mr. Nair will be provided a notice of hearing to
11 be able to assert his right as to why he should or shouldn't
12 be restrained from his mother.

13 And when we look at whether Mr. Nair -- whether this
14 guardianship should be modified, the burden upon Mr. Nair is
15 to present an alternative that's suitable for his mother.
16 He hasn't done one. Clearly, clearly, Mr. Nair is an
17 improper substitute decision-maker with respect to
18 Ms. Thankamma.

19 In addition to the police report, the medical report, we
20 have that video that he posted and was live streamed onto
21 YouTube where he's kissing his mother on the lips, kissing
22 her on the cheeks, kissing her on the neck and kissing her
23 on the area above the breasts. And it's clearly shown in
24 the video, Ms. Thankamma waving her arms to try to wave him
25 off. Those aren't cultural differences, Your Honor. That

1 is abuse towards a vulnerable and elderly adult.

2 Your Honor, if it's not the guardian's fault, it's
3 Harborview. If it's not Harborview, it's Paramount. If
4 it's not Paramount, it's DSHS or the State of Washington or
5 the United States or one of the other 50 defendants that
6 Mr. Nair has sued. It's everyone but Mr. Nair in his eyes.
7 He hasn't changed his conduct at any point in this
8 proceeding or at any point in trying to interact with the
9 guardian. We've done our best to try to communicate with
10 him. We've done our best to try to give him the benefit of
11 the doubt, and he just hasn't changed any of his behaviors.

12 Litigation authority is proper not only with respect to
13 potential restraint proceedings, but as this Court correctly
14 identified, there are assets in question. Mr. Nair has
15 submitted pleadings of an Omana, LLC, which is the name of
16 his mother, implying that Omana might have an interest in
17 real property. There has been the different joint accounts
18 here.

19 And with respect to that, there's been no embezzlement
20 because any joint account holder can withdraw the funds.
21 That doesn't mean their owner -- and the guardian hasn't
22 used them. She put them in a blocked account until
23 ownership is decided. But any joint tenant is provided the
24 right to withdraw or transfer the funds, and that's what the
25 guardian did under the statute.

1 THE COURT: Can you expand on the \$500,000 and the
2 \$66,000, what your recollection of that is?

3 MR. CIRIC: It's similar to the Court's, Your Honor.
4 Again, I'm been trying to focus a lot of my attention on
5 responding to the VAPA and the petition to terminate the
6 guardianship. But that there was commingling and
7 transferring of funds. And what I did want to emphasize is
8 whether this court is going to have authority to have
9 Mr. Nair account, in potential proceedings or today,
10 Mr. Nair in his own vulnerable adult protection proceeding
11 stated that he was Omana's power of attorney for finances
12 since she's been here. And under the Power of Attorney Act,
13 Your Honor, this court is vested with clear jurisdiction and
14 authority to require him to account.

15 At this point in time that's all the guardian had asked
16 for. She said, look, there were funds in the joint account
17 that were \$10,000, we don't know what happened to the
18 \$500,000. We don't know what happened to different real
19 property. We don't know what Omana's LLC is, but if
20 Mr. Nair is going to come in here and say, I was her
21 attorney in fact, her fiduciary, then he should be required
22 to account and provide further information. We haven't even
23 gotten to that step yet, Your Honor. You know, everything
24 has been stalled and delayed in the federal court. We
25 finally have gotten the opportunity to come back to the

1 state court, and we're hit with two different petitions by
2 Mr. Nair to dismiss and to -- the guardianship and to
3 restrain the guardian.

4 We feel both of the petitions by Mr. Nair should be
5 dismissed, and we do feel it's appropriate to assess
6 attorney's fees and costs. Usually I know the Court is
7 hesitant with respect to pro se individuals, but here
8 Mr. Nair has shown he's clearly able to, you know, at least
9 in pleadings, represent his position. So we do feel that
10 the \$3,500 that is being requested should be assessed
11 against him. Thank you.

12 THE COURT: All right. Mr. Nair, you can come back into
13 the courtroom. Sit in the front row.

14 MR. NAIR: Thank you, Your Honor.

15 THE COURT: Do not interrupt. It's your --

16 MR. NAIR: (Inaudible) chance to speak.

17 THE COURT: It's your lawyer's opportunity to speak, and
18 you are not to interrupt.

19 MR. YOUNG: Well, I disagree, Your Honor, with the
20 presentation that counsel has made. I guess I have to
21 confess, I haven't seen all of those documents, all of the
22 police reports and so forth. But my experience tells me
23 that the police reports are not always accurate, and those
24 other kinds of reports are just conclusions by people. I
25 did read the medical report which contains -- which I didn't

1 find very persuasive.

2 And I would submit that if he is on his mother, kissing
3 her and so forth, I would suggest that that is a part of a
4 different cultural understanding than what we have here.
5 That would be unusual in this culture; whether it is in
6 India or not, I can't say. But I suspect there's definitely
7 a cultural component to that.

8 And I don't know how one can say that the mother was
9 waving her arms to get him off when she can't speak English.
10 And that's an assumption of what the waving of the arms
11 mean. It could have other different meanings as well. So I
12 don't find that to be dispositive.

13 I think it's clear, though, that Mr. Nair should be a part
14 of his mother's life and be involved in what is in her best
15 interests and arranging for something that will meet her
16 needs. She probably doesn't have a long time left in life
17 in her particular medical situation, I would suppose. And
18 so it doesn't do much good to bar him from seeing her for
19 whatever life span she has left.

20 And I think there are some other alternatives. I don't
21 know that any less restrictive alternatives were discussed
22 or even considered now, but I suggest that there probably
23 are some. This case could be headed in different
24 directions. I don't know that litigation is going to solve
25 the underlying issues, and so that's why I suggested at the

1 outset that a more practical solution ought to be toward
2 perhaps getting her to India where she can receive care.

3 I think there's no question but that she had bad care at
4 Paramount, there's plenty of evidence in the record to show
5 that. That's what gave rise to a lot of concern on
6 Mr. Nair's behalf, that his mother had vomit on her and
7 there are pictures of that in the record and was not being
8 cared for properly.

9 So she could be cared for at a lot less expense in India.
10 She has family there. It would not be terribly difficult, I
11 suppose, to have family members from India provide some kind
12 of declaration of their willingness to take care of her.
13 She lived there before. That, I don't think, would be too
14 difficult to do, and one could probably make some kind of
15 travel arrangements to have her go there. I don't know that
16 Mr. Nair has investigated that completely, but that seems to
17 me not outside the realm of reasonable practicality and
18 possibility.

19 But I think also that Mr. Nair should be able to see his
20 mother, and I don't see things in the record that would
21 preclude that. There are a lot of things that came out
22 after he started complaining, and he certainly has
23 complained. And, of course, counsel is trying to taint
24 Mr. Nair for pursuing what he believes are his rights, and
25 its not improper to file complaints and try to get relief

1 from the situation that you see yourself in. Mr. Nair has
2 apparently done that to a large degree, but there's nothing
3 improper about making complaints. But he's trying to taint
4 Mr. Nair as though filing a federal lawsuit is somehow
5 improper or frivolous. I'm not aware of any findings of any
6 court that his court proceedings were frivolous, so I don't
7 think that should be held against him. I think it more
8 shows the depth of his feeling to want to be connected to
9 his mother and part of her life and in a position to assist
10 in her welfare. That's what it shows to me.

11 And in terms of the accounting, I don't know about the
12 numbers. These other amounts, I'm not familiar with that.
13 But if that's an issue, he should be able to provide an
14 accounting of where the monies came from, and I believe he
15 has records to that effect. He should have records to that
16 effect and can satisfy the Court as to the source of the
17 funds and whose monies they actually are.

18 It's my understanding that she does not have certainly
19 assets in this country and doesn't work or have income. But
20 whether she has investments or not, I guess I don't know.
21 But whether they can be reached or not is another question.
22 So I think that could be supplemented if that's an issue
23 about those things.

24 But I think the issues really are -- the more important
25 issues are Mr. Nair's right to see his mother and her right

1 to see her son, and there should be some way to provide that
2 and that's very important to Mr. Nair.

3 THE COURT: Thank you. So the Court --

4 MR. NAIR: (Inaudible).

5 THE COURT: Thank you. No.

6 The Court will not consider the late-filed response.
7 Mr. Nair signed an agreed order in these matters. Mr. Nair
8 appeared in -- specifically the guardianship -- appeared in
9 the guardianship. He signed an agreed order in the
10 guardianship. He was unhappy with the procedures of the
11 guardianship, and he filed actions -- or an action in
12 federal district court and removed the guardianship to the
13 federal district court where he filed a substantial
14 complaint against numerous defendants, near as I can tell.
15 When his case was dismissed by Judge Marsha Pechman, he the
16 same day, apparently, filed a motion for reconsideration at
17 which he was partially successful.

18 He has litigation skills. He, however, oversteps those
19 skills frequently. He must have appeared in my courtroom,
20 either while I was a full-time commissioner or a sitting pro
21 tem, asking for immediate relief with no notice to opposing
22 counsel thinking that the Court should just sign an order
23 because his mother was in unpleasant circumstances as he
24 viewed them, that the orders entered against him were
25 unreasonable. And the Court spent some time explaining to

1 him that you can't just walk into court with a motion and an
2 order and get relief without giving notice to the other
3 side. Those conversations with Mr. Nair were very difficult
4 because he simply refused to accept litigation procedure.

5 Notwithstanding that, he would note motions, as described
6 earlier by counsel, use procedural -- his procedural skills
7 to, for example, remove the case to federal district court.

8 He was present in court when I expressed some concern at
9 what he was presenting to me and how we should deal with it.
10 I had tremendous concerns about notice. What had he
11 delivered to opposing counsel? Did opposing counsel have
12 notice? How much notice had they received? So these
13 concerns on the last occasion, as I recall, caused me to
14 call and demand of the guardian's counsel that they discuss
15 with me setting up an appropriate hearing and setting some
16 ground rules for delivery of papers.

17 Because Mr. Nair serves all of his own papers, I
18 determined that simply relying upon his affidavit of mailing
19 was not sufficient. His declaration of delivering papers by
20 any form would cause me a great deal of concern, and so I
21 simply required that he deliver papers to opposing counsel
22 or to counsel's office and get a "copy received" stamp.
23 That way he could deliver them himself and he could have
24 somebody else deliver them on his behalf, but they had to
25 get a "copy received" stamp because notice is all important

1 and notice was a great concern to the Court.

2 His complaint that his mother was hidden from him, that he
3 was denied access to her, the photographs that he attached
4 to his pleadings -- I think in three pleadings -- I'm just
5 taking a quick review of here in the Court's electronic
6 system to look at. Just in the guardianship alone are a
7 thousand pages over three sets of pleadings. That doesn't
8 include the apparently 223 pages in this response that's
9 been delivered.

10 This case has a history in this department because
11 Mr. Nair is unhappy with the guardianship. In one of his
12 pleadings he says he's a multimillionaire. And in another
13 of the pleadings I read here someplace, there's some
14 complaint about a bankruptcy. I don't know if he's filed a
15 bankruptcy or not. But he's provided no evidence with
16 record to the monies that went through the accounts that are
17 referenced by the guardian in their motion here today asking
18 for fees and permission to use the \$10,000.

19 While they did address the fact that 500,000 had gone
20 through this account one way or another, that another 66,000
21 had gone through the account one way or another, and
22 Mr. Nair never addresses it at all. And --

23 MR. NAIR: (Inaudible).

24 THE COURT: Mr. Nair, Mr. Nair, don't raise your hand and
25 don't speak. Your opportunity to present the Court with

1 your evidence was given to you 16 days ago.

2 MR. NAIR: (Inaudible).

3 THE COURT: To which you have not responded.

4 MR. NAIR: All the accounts for the financial transactions
5 have been provided. He wouldn't look at it. It's just your
6 fault, not mine.

7 THE COURT: Thank you. So, frankly, he complains about
8 the placement of his mother in this facility that he says is
9 the bottom facility in the United States. And I don't know
10 whether it is or not. It may well be. But the fact of the
11 matter is is that Mr. Nair's behavior has made it impossible
12 for anyone probably to be willing to take on his mother as a
13 new client. And why is that? Well, apparently he was told
14 not to come back to the first facility, and now he's been
15 told not to come back to Harborview.

16 And I'm, frankly, surprised that counsel for the guardian
17 here is able to discuss these difficulties that he has had
18 and that the guardian has had in a calm, respectful tone
19 attempting to address the facts, not the outrage.

20 The guardianship was necessitated by the finding that
21 Mr. Nair apparently was not present when his mother was
22 found in their home in response to a 9-1-1 phone call, was
23 with Ms. Thankamma on a mattress on the floor with fecal
24 matter and the heavy smell of urine around. And the
25 colostomy bag lying on the floor. Now, this resulted in the

1 beginnings of this guardianship.

2 Since then, Mr. Nair has been observed in the care
3 facility in a very inappropriate situation with his mother.
4 His legs wrapped around her, her breasts exposed, kissing
5 her on the lips and on the neck and on the chest. There is
6 no way that reference to cultural differences can provide
7 any justification for that behavior. We are not in India.

8 If that behavior is culturally appropriate in India, this
9 Court has no comment on it. But it is not appropriate in
10 these United States. And this is where we are, and this is
11 how visitors or persons who were formerly from India and are
12 now in the United States must comport themselves according
13 to our standards, not to some nebulous standard that we have
14 no knowledge of.

15 In addition, apparently, Mr. Nair has posted on YouTube
16 this behavior with his mother.

17 MR. NAIR: How many lies can you say out here?

18 THE COURT: So --

19 MR. NAIR: It's all right. Did you see that? Did you see
20 me kiss my mother inappropriately? So can you please stop
21 this nonsense?

22 THE COURT: The Court has the --

23 MR. NAIR: I need (inaudible).

24 THE COURT: The Court has the guardian's response here,
25 and attached to the guardian's response --

1 MR. CIRIC: Pages 4 to 7, Your Honor.

2 THE COURT: -- on page 4 through 7 has the photographs and
3 is very concerned about what it's looking at here. Under no
4 circumstances -- under no circumstances would this Court
5 terminate this guardianship, given those photographs and
6 given the description of the police by how Ms. Thankamma was
7 found in her home.

8 MR. NAIR: (Inaudible).

9 THE COURT: Now, counsel points out that for the past four
10 months, Mr. Nair has not been able to visit his mother.
11 There's no court order from this Court that says -- that I'm
12 aware of that says Mr. Nair cannot visit with his mother.
13 The difficulty is that the behavior of Mr. Nair is such that
14 the institutions where she has been located have refused to
15 allow him on their premises or to visit with his mother.

16 These actions are actually beyond the authority of this
17 Court to address. The Court does not have jurisdiction over
18 Harborview. The Court does not have jurisdiction over the
19 care facility. And so the Court can't order them to do
20 anything.

21 To preclude any misunderstanding. This Court would not
22 require that they provide him with the right to visitation
23 with his mother absent their own personal professional
24 institutional determination that he did not present a risk
25 of harm to his mother or to staff or to disruption of those

1 institutions' daily procedures or care of his mother or
2 other patients located there.

3 Mr. Nair has, with those institutions, become his own
4 worst enemy, just as he has in these proceedings. His
5 behaviors have resulted in all of the delays that are
6 complained of here by him because he simply is unwilling to
7 be cooperative. No facility will take a client -- at least
8 it's this Court's experience, perhaps there are oddball
9 differences. But anyone reviewing the records of the
10 facilities who is asked to take on this client or who asks
11 to speak with a former caregiver or guardian about this
12 client would immediately refuse to take the client because
13 number one, she can't pay; number two, they don't want the
14 disruption.

15 Now, if Mr. Nair had the money or if Ms. Thankamma had the
16 money to pay for care in a private institution that would
17 enable her to have the very best of care, probably we're
18 looking at someplace in the vicinity of 9- to \$12,000 a
19 month. And they might be willing to take a client who had a
20 disruptive family member. But certainly no institution that
21 is going to be asked to take a client who is on SSI or SSA
22 or some form of Medicaid would probably not be willing to do
23 it because the reimbursement rate would be way lower than
24 the disruption that they would have to incur.

25 So what Mr. Nair has done here is to -- probably absent

1 the payment of 9- to \$12,000 a month to some private
2 institution -- precluded his mother from going to any other
3 institution. She is stuck at Harborview, and they will find
4 any way they can to get her a placement outside of
5 Harborview that will be safe and appropriate. And if I
6 read -- if I recall correctly from the pleadings, would even
7 assist in paying for her travel to India and her placement
8 there somehow. But Mr. Nair, by his behavior, has created a
9 difficulty for them that they're not going to be able to
10 very easily overcome.

11 MR. CIRIC: Thank you, Your Honor.

12 THE COURT: Mr. Nair's litigation behavior is, for want of
13 a better word, vexatious; though it may not meet the exact
14 legal description of that because I don't have it. But he
15 may either intend to harangue the guardian and their lawyer,
16 as the lawyer argues in his paperwork, or he simply believes
17 he's right and so he needs to pursue it in a way he deems
18 best. But it is best in a manner not designed to assist his
19 mother and simply does nothing more than run up the expenses
20 of the guardian's lawyer, of the guardian, and of every
21 institution apparently that his mother has been placed in.

22 The Court is well aware of the practice of some pro se
23 litigants to send letters to every Tom, Dick and Harry
24 official in the state or even the federal government. This
25 Court doesn't believe it has ever seen those pieces of

1 correspondence be successful in doing anything other than to
2 buttress the arguments of litigants engaged with such a
3 person to the extent to prove that that person's method of
4 litigation is vexatious; not likely to produce anything
5 worthwhile, and not helpful whatsoever to the object of that
6 litigation, which is his mother.

7 So the VAPA petition filed by Mr. Nair is denied and
8 dismissed.

9 The petition for instruction petitioned for by the
10 guardian is granted in full.

11 Clearly, the guardian is going to pick and choose how much
12 and how to pursue those things because there are going to be
13 budgetary constraints, they have other patients and clients
14 to care for. But the Court is in full agreement with the
15 guardian that they need these authorities to pursue as they
16 deem appropriate in order to provide for Ms. Thankamma and
17 to meet their own obligations.

18 The Court has great, great appreciation for the efforts of
19 the guardian in this case. She has stuck with this case,
20 and her lawyers have stuck with this case, and both are
21 entitled to the commendation by this Court on behalf of
22 Ms. Thankamma.

23 I find it -- I find it dismaying that Mr. Nair couldn't
24 provide an appropriate, reasonable response to the motion in
25 a timely fashion. I have spent time with Mr. Nair when he's

1 appeared in my court without notice to anyone, encouraging
2 him to hire counsel. He has reported to me that he had
3 counsel, that that counsel would appear, that he paid that
4 counsel \$3,000. That counsel never appeared, never
5 responded. I have no way of knowing whether Mr. Nair was
6 telling me the truth or not. But I've done everything I
7 could to encourage him to proceed in this litigation
8 appropriately, and I've been unsuccessful at it. And
9 apparently so has the guardian's lawyer been unsuccessful in
10 getting Mr. Nair to address the issue.

11 It's money. It takes money to send her to India. It
12 takes family's agreement to accept her in India. But this
13 Court has no idea what kind of care facilities, if any,
14 exist in India. So that means that family would have to be
15 willing to take her, and somehow this Court and this
16 guardian would have to have some idea of the family's
17 ability to provide the care needed for Ms. Thankamma.
18 That's going to require cooperation, communication, and a
19 court order. So there's no trip to India. We don't put her
20 on the bus or stick her on a plane and send her and say,
21 good luck and Godspeed. That won't happen.

22 So as I said, the VAPA is denied. It's frivolous, there's
23 no -- there's not one bit of complaint in that VAPA that
24 would substantiate any action against this guardian.

25 The Court specifically awards the money sequestered to be

1 used by the guardian as they deem appropriate. Payment of
2 cost of administration and distributions for the benefit of
3 the ward to abide their sole discretion.

4 In addition, the Court intends to award the \$3,500
5 requested.

6 So it's 12:10. I believe -- am I here next week? I am
7 for a day next week.

8 THE CLERK: (Inaudible).

9 THE COURT: Let me just check my calendar, see if I'm here
10 next week.

11 MR. NAIR: (Inaudible) we're not coming back here.

12 THE COURT: Let's see.

13 MR. NAIR: Do I get a chance to speak, Commissioner?

14 THE COURT: No. We --

15 MR. NAIR: Then that just establishes that everything that
16 has gone on -- what does it mean?

17 THE COURT: November 14th, I'm here. And November 14th,
18 Counsel, at 10:30 will be the presentation of your order.
19 You are the prevailing party, so the preparation of the
20 order is your responsibility. Provide me, please, with some
21 declarations regarding your attorney's fees and time spent
22 for you and the guardian.

23 MR. CIRIC: Thank you, Your Honor.

24 THE COURT: Thank you. It's now 12:12.

25 MR. CIRIC: Your Honor, just one question because the

1 clerk tends to like only the court form orders for the
2 vulnerable adult protection proceedings.

3 THE COURT: You can --

4 MR. CIRIC: I have one prepared and it's already been
5 circulated, or did you just -- you want me to resubmit
6 again?

7 THE COURT: Just bring it all at once, I'll do it all at
8 one time.

9 MR. CIRIC: That works.

10 THE COURT: Thank you.

11 MR. CIRIC: Thank you, Your Honor.

12 MR. YOUNG: Thank you, Your Honor.

13 THE COURT: Thank you.

14 MR. NAIR: Commissioner, do I get a chance to speak at all
15 or no?

16 THE COURT: You were given your opportunity to speak 16
17 days ago, Mr. Nair, and you chose to drop the papers on
18 counsel's office yesterday. You're untimely. Leave. Leave
19 or the officer will escort you out.

20 (Conclusion of hearing)

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C E R T I F I C A T E

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STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I, the undersigned, do hereby certify under penalty of perjury that the foregoing court proceedings were transcribed under my direction as a certified transcriptionist; and that the transcript is true and accurate to the best of my knowledge and ability, including any changes made by the trial judge reviewing the transcript; that I received the audio and/or video files in the court format; that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested in its outcome.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of November, 2019.

Bonnie Reed
Bonnie Reed, CET