

Honorable Michael Hovey

Ex_Jay Declaration

WASHINGTON STATE OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF SOCIAL AND HEALTH SERVICES

IN RE:

JAYAKRISHNAN NAIR,

Appellant.

NO. 10-2018-LIC-02358

DECLARATION OF
JAYAKRISHNAN NAIR

Dated January 3, 2019

JAYAKRISHNAN (“JAY”) NAIR declares under penalty of perjury under the laws of the State of Washington as follows:

1. I am over the age of 18, a citizen of the United States, competent to testify, and make this Declaration based upon my personal knowledge.

2. I have lived with my mother, Ms. Thankamma, since birth. She and I are especially close given that my father passed away at a young age. My mom raised my step-sister and me. We relocated to Washington in 2003.

3. In 2012, my mom suffered a cardiac arrest, requiring triple bypass surgery. This necessitated a long rehabilitation and full time assistance. I quit my job as a programmer and became a full time caregiver and work-at-home entrepreneur. My ventures include a real estate business and a biotech startup partnering with Johns Hopkins University. I took care of my mom as the primary caregiver. She had her first stroke in 2013, leaving her paralyzed on one side and needing my full time assistance. As her long term primary doctors (Dr. Diddie and Dr. Palanati) attest, I have taken excellent care of my mom for well over six years since her bypass surgery in March 2012. Unfortunately, she had a second stroke in August 2016 while we were vacationing in Las

1 Vegas. Since then, she has been bedridden and as she lost her ability to swallow with the
2 second stroke, she has since required tube feeding through a PEG tube surgically inserted
3 in her stomach. I then also hired a secondary live-in caregiver to assist me in taking care
4 of my mother full-time.

4 4. In 2017, I hired Ms. Ashley Redican. She has extensive experience
5 [Ex_AshleyResume] in working with seniors in established adult home care agencies
6 such as Liberty Shores Senior Living & Harbor House Memory Care and Northwoods
7 Lodge Rehabilitation Center. She has also worked as a delegated registered nursing
8 assistant, and a therapist for seniors. Ms. Redican is more qualified and experienced than
9 other caregivers approved by the Respondent Agency (Mr. Wilson and Ms. Hoefs). Ms.
10 Redican's credentials and certifications are provided [Ex_AshleyCerts].

10 5. The Incident. On March 12, 2018, I had a matter to attend to during the
11 day. Before leaving, I advised Ms. Redican to complete my mother's morning medication
12 and tube feeding (given through a PEG tube connected to a bag). I left around 9:00 a.m.
13 and trusted Ms. Redican would take care of the morning routine as is the norm during her
14 shift. I also own a real estate business and has two maids, Alexandria Hall and Jennifer
15 Gallegos, who help me maintain the properties and get them ready for Airbnb guests. Ms.
16 Gallegos and Ms. Hall were hired to work on the Airbnb business and had no caregiving
17 responsibilities. Ms. Redican and I were my mom's caregivers.

17 6. Ms. Hall later that morning texted me stating Ms. Redican went on an
18 errand and left my mom with her. Shocked by this unexpected text, I responded by asking
19 her whether "my mother had received morning food and meds." I immediately called Ms.
20 Hall when she replied that the feeding was started by Ms. Redican before she had stepped
21 out but had stopped midway due to an apparent clog in the feeding tube. That was when I
22 first learned the feeding line had trickled and stopped about halfway through the bag.

22 7. According to Ms. Hall, Ms. Redican had come down from her room
23 around 10:00 a.m. and started the feeding while also giving Ms. Hall instructions on how
to do it so she can train to be a respite if necessary (per Ms. Hall's request). Ms. Redican

1 verified the medications and watched over while Ms. Hall started the medications and
2 special order food (Liquid Hope) through her PEG tube. Ms. Redican states Ms. Hall
3 offered to help feed my mom and Ms. Redican merely acquiesced to Ms. Hall's request
4 to train her. Either way, both agree Ms. Redican was present until feeding was started
5 (around 10:30 a.m.) and left around 11:00 a.m. to go to Redmond. I never authorized Ms.
6 Redican to train Ms. Hall or to leave the house. The feeding usually takes an hour, but it
7 stopped a few minutes after Ms. Redican left the home. Nearly 60% of the bag had been
8 fed to my mom as well as all her morning medication that precedes.

8 8. Panicked by the stopped feeding, Ms. Hall went to a neighbor to ask for a
9 blender as she thought blending the food would help it unclog. I told Ms. Hall that
10 blending was unnecessary and asked whether she had followed each step of the routine to
11 make sure it was done correctly. I also gave several suggestions by text and by phone to
12 help resolve the clog. Because I was only a few minutes from reaching home, I texted
13 Ms. Hall that I was coming home to take care of the issue. I had also immediately called
14 Ms. Redican and told her that as the secondary caregiver, it was her responsibility to stay
15 at the home until he returned. I was very upset with Ms. Redican for leaving the home
16 before my return, even though Ms. Redican was present until the feeding had started and
17 had verified the medications before the feed.

16 9. I did everything I could have reasonably done before leaving my mom
17 with Ms. Redican. I never authorized Ms. Redican to leave the home. I had no part,
18 knowledge, or responsibility in Ms. Redican's sole decision to leave my mom with Ms.
19 Hall. After learning of Ms. Redican's departure, I rebuked Ms. Redican for leaving my
20 mother alone with Ms. Hall. I demanded Ms. Redican return home immediately, which
21 she did. Ms. Redican apparently wanted to run to a nearby store and get some gas and
22 thought Ms. Hall would not have to do anything until she returned. Both Ms. Redican and
23 I were on the way to home as soon as I realized from Hall what was going on.

10. Contradictions in Police Report and VAPO Petition. The police report
states that Ms. Hall (who again was not the caregiver but just a maid acting on her own

1 volition to help after caregiver Ms. Redican had stepped out during her shift without
2 permission) had been texting me before my arrival at the house. However, I had sent Ms.
3 Hall several instructions [Ex_HallTexts] and asked her to wait until one of us rushed home.
4 This was before any police intervention as shown by the timing of the texts.

5 11. The VAPO petition also baselessly alleges “they found Omana on a
6 mattress on the floor, with fecal matter and a heavy smell of stale urine.” The referenced
7 police report in contrast states, “I found Omana Thankgamma laying on a
8 futon...Omana's bedding appeared fresh.” The physician who examined my mom at
9 Swedish Emergency Department that same night indicated he was impressed with how
10 good her skin condition and overall health was despite the stroke, and commended me for
11 following procedures for her care. The physician states, “Her skin is generally very well
12 cared for and there are no signs of trauma or neglect son seems to be quite caring and
13 well-informed in regards to her care [she] is discharged to home as she is well appearing
14 and well hydrated in stable condition.” The physician insisted that my mom be allowed to
15 go home with me as he felt confident she was being well cared for.

16 12. The police report also inaccurately states my mom as being 99 years old
17 likely because the police officer could not visually distinguish between a centenarian and
18 a stroke victim. My mom is only 76 years old with no gray hair. There are many more
19 inaccuracies in the police report. For example, it indicates that the police found my
20 mom’s “Colostomy Bag” lying on the floor. My mom, however, has never had a
21 Colostomy. The police officer was referring to her urine bag, which is supposed to be
22 kept below her bed per standard medical instructions. The report also complains about
23 “missing” the first page of the “three page” drug list. The first page, however, only has
information irrelevant to her care such as her name, address, etc. All pertinent
information was present with her medications.

24 13. Vulnerable Adult Protection Order. Based upon the above event, on
25 August 11, 2018, the Respondent Agency filed a petition for a vulnerable adult protection
order. Ms. Thankamma opposed the request for an order for protection (*see* declaration

1 from Ms. Thankamma attached). Under RCW 74.34.067, “[w]hen the investigation is
2 completed and the department determines that an incident of ... neglect ... has occurred,
3 *the department shall inform the vulnerable adult of their right to refuse protective*
4 *services...The vulnerable adult has the right to withdraw or refuse protective*
5 *services.”*The Respondent Agency disregarded the express statutory requirement and
6 continued with its pursuit of a protection order. Although the Respondent Agency was
7 represented by counsel, neither Ms. Thankamma nor Mr. Nair had legal representation.

8 14. The matter was heard on August 23, 2018 with “no evidentiary hearing”
9 and little time for Mr. Nair to prepare. When a King County Superior Court
10 commissioner deems an evidentiary hearing appropriate, the case generally gets
11 transferred to a superior court judge with the ability to conduct an evidentiary hearing.
12 The commissioners who handle most of the vulnerable adult protection matters have high
13 volume caseloads and are not set up to conduct evidentiary hearings. Without an
14 evidentiary hearing, the Commissioner’s decision rested wholly on the from the petition
15 and declarations submitted by the parties. No sworn testimony from witnesses was
16 allowed.

17 15. **Exhibit A** attached hereto is a true and accurate copy of the statement
18 from Ashley Redican.

19 16. **Exhibit B** attached hereto is a true and accurate copy of the certifications
20 for Ashley Redican.

21 17. **Exhibit C** attached hereto are true and accurate copies of photos from our
22 home (for my mother’s care).

23 18. **Exhibit D** attached hereto is a true and accurate copy of the statement
from my previous caregiver Karina Conception.

19. **Exhibit E** attached hereto is a true and accurate copy of my email to
Police Officer Fishbeck.

20. **Exhibit F** attached hereto is a true and accurate copy of the medical report
on March 12, 2018, from Swedish.

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21. **Exhibit G** attached hereto is a true and accurate copy of photos taken of my mother.

DATED: Thursday, January 3, 2019, at Renton, Washington.



Jayakrishnan Nair

EXHIBIT A