

0300  
GEGHAT OUAFAEK I AUT  
S O O U W P V Y  
U W U O U W U A O U W U V A O S O U S  
O E Z S O O  
O O E U O A K G E E I H G E F A S P V

HONORABLE WYMAN YIP  
Hearing Date: March 17, 2023  
Without Oral Argument

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

In Re the Matter of:

Case No. 22-4-08326-1 KNT

THE SHARON M. HAROLD  
IRREVOCABLE TRUST DATED  
NOVEMBER 12, 2004

a Trust.

**MOTION FOR APPOINTMENT OF A  
LITIGATION GUARDIAN AD LITEM  
FOR SHARON M. HAROLD**

**I. INTRODUCTION**

David A. Paice (“Trustee”), successor trustee of the Sharon M. Harold Irrevocable Trust dated November 12, 2004 (“Harold Trust” or “Trust”), respectfully urges the Court to appoint a litigation guardian ad litem (“LGAL”) for Respondent Sharon M. Harold, the 87-year-old primary lifetime beneficiary of the Harold Trust. The Trustee’s request stems from concerning behavior of Ms. Harold, combined with concerning comments made by Ms. Harold’s former counsel, Ms. Michelle A. Blackwell, regarding the circumstances of Ms. Blackwell’s withdrawal as counsel for Ms. Harold.

To be clear, the Trustee does not suspect any misconduct on Ms. Blackwell’s part. However, Ms. Blackwell’s filed declarations and her comments to Commissioner Henry Judson during a hearing on February 3, 2023 suggested that (a) Ms. Blackwell’s former client, Ms. Harold, is suffering from incapacity that renders her unable to represent her own interests in this proceeding and (b) Ms. Harold has fallen under the influence of a few of her adult children who are residuary beneficiaries of the Harold Trust and Respondents in this action. Indeed, Ms. Blackwell repeatedly offered to share her concerns about her former client, Ms. Harold, with the Commissioner *in*

1 camera; the Commissioner advised Ms. Blackwell that it was the trial judge to whom she should  
2 be making that offer.

3 Because Ms. Harold's children are residuary beneficiaries of the Trust (i.e., the Trust's  
4 assets will be distributed to them outright upon Ms. Harold's death), they necessarily have  
5 divergent interests from those of Ms. Harold, who is a lifetime beneficiary of the Trust. Therefore,  
6 RCW 11.96A.120 prohibits them from serving as virtual representatives and they cannot substitute  
7 for an independent court-appointed LGAL, pursuant to RCW 4.08.060. The LGAL should be paid  
8 from the Trust for all reasonable costs. The Court is urged to appoint an LGAL to protect Ms.  
9 Harold in these proceedings.

## 10 II. FACTS

### 11 A. Ms. Harold and the Trustee, who is married to Ms. Harold's granddaughter, have 12 enjoyed a warm relationship for two decades.

13 Mr. Paice, the Trustee, is married to Ms. Harold's granddaughter and is Ms. Harold's  
14 grandson-in-law. Decl. of David A. Paice, Trustee, Dkt. #3 ¶ 2. The Trustee has known Ms. Harold  
15 for over 20 years and up until very recently, has always enjoyed a warm, friendly, and positive  
16 relationship with Ms. Harold. *Id.* Mr. Paice has served as successor trustee of the Harold Trust, an  
17 irrevocable trust for the primary benefit of Ms. Harold, since early 2010. *Id.* ¶ 3. Up until October  
18 2022, for almost all of the time as trustee of the Harold Trust, the Trustee and Ms. Harold have  
19 enjoyed a positive relationship. *Id.* ¶¶ 1-11 (describing relationship with Ms. Harold and Ms.  
20 Harold's children's wholly baseless accusations against the Trustee). Some of Ms. Harold's  
21 children, however, have accused the Trustee of improper conduct. *See id.* ¶¶ 10-11 (describing and  
22 debunking allegations of improper conduct). The Trustee has done nothing improper and has  
23 nothing to gain by acting improperly toward his wife's grandmother whom he has known for over  
24 20 years. *Id.* ¶ 10.

### 25 B. Given Ms. Harold's abrupt change in demeanor, the Trustee suspects that several of 26 Ms. Harold's children are taking advantage of her or that Ms. Harold may be losing 27 competency.

On September 28, 2022, with the Trustee seeking to resign as successor trustee of the

1 Harold Trust, the Trustee sought, and initially obtained, Ms. Harold's agreement to release and  
2 discharge the Trustee. *See* Decl. of Aleksander R. Schilbach, Dkt. # 13, ¶¶ 2, 4, 6 & Ex. C. As part  
3 of her Release and Discharge of Successor Trustee of the Sharon M. Harold Irrevocable Trust  
4 Dated November 12, 2004 ("Release and Discharge") Ms. Harold truthfully asserted the following:

5 I am the grantor and current beneficiary of the Sharon M. Harold  
6 Irrevocable Trust dated November 12, 2004 ("Trust").

7 David Paice ("David") is the current trustee of the Trust. David has  
8 served as trustee of the Trust from on or around March 1, 2010 to  
the present.

9 David provided me with full and complete accountings for the Trust  
10 for the period from January 2010 to December 2021  
("Accountings").

11 I have had the opportunity to review the Accountings and to seek  
12 additional information from David regarding the administration of  
the Trust.

13 . . . .

14 ***I have been advised to have this Release reviewed and explained***  
15 ***to me by counsel of my own choosing prior to my signing, and I***  
***have had a sufficient and reasonable amount of time to do so.***

16 [Signed by Sharon M. Harold, individually and as grantor-  
beneficiary of the Harold Trust and dated September 24, 2022]

17 *Id.* Ex. C. (emphasis added). In addition, around the time she received the Release and Discharge,  
18 Ms. Harold told the Trustee that she had no problem executing the Release and Discharge and  
19 releasing the Trustee for his actions as trustee. Decl. of David A. Paice, Trustee, in Support of  
20 Motion for Appointment of Litigation Guardian Ad Litem for Sharon M. Harold ¶ 2.

21 A week later, in early October 2022, Ms. Harold unexpectedly advised that she wanted to  
22 rescind her execution of the Release and Discharge. Schilbach Decl., Dkt. #13 ¶ 6. When counsel  
23 for the Trustee returned Ms. Harold's telephone call to him and asked why she wished to rescind  
24 the Release and Discharge, Ms. Harold stated there were "discrepancies" but was unable to  
25 identify, describe, or explain what those "discrepancies" were. *Id.* She also informed the Trustee's  
26 attorney on the telephone that she "fe[lt] [she] [was] being pulled in five different directions by  
27 [her] children." Declaration of Aleksander R. Schilbach ¶ 2.

1 Ms. Harold's rescission of the Release and Discharge in October 2022 surprised the  
2 Trustee. Paice Decl. ¶ 3. Previously, Ms. Harold had supported and approved the Trustee's  
3 decisions, including his hiring of counsel with Trust funds to defend against her children's attacks.  
4 *Id.*, Ex. A. For example, in early August 2022, Ms. Harold texted the Trustee and urged him that  
5 the Trust should pay for the Trustee's counsel:

6 Has Amy [Jane Small] written any more letters? I think I only have  
7 only the one. I want you to charge any money from your attorney to  
8 my trust[.] You are NOT TO PAY anything out of your own  
pocket. . . .

9 *Id.*, Ex. A (text from Ms. Harold to the Trustee dated August 4, 2022). A week later, and in  
10 response to a few of Ms. Harold's children's false accusations against the Trustee, Ms. Harold  
11 urged the Trustee to consider how the Harold Trust's no-contest clause, which is in Article IV, ¶ D  
12 of the Trust, may be used to defend against her children's baseless attacks:

13 Check out page 7 of my trust. D. NO CONTEST CLAUSE

14 *Id.*, Ex. A (text from Ms. Harold to the Trustee dated August 11, 2022).

15 Then, on August 18, 2022, Ms. Harold texted the Trustee that she wanted to "sue" her  
16 children for "parent abuse" and that she had even deleted a few of her children—Respondents  
17 Charles Harold, John Harold, Angel Harold, and Amy Jane Small—from her telephone:

18 I want to sue my 4 kids for parent abuse.

19 I have deleted Charly, John, Angel & Amy from phone.

20 *Id.*, Ex. A.

21 C. ***"Your honor, I believe a fraud is being perpetrated on the court": Attorney Blackwell's***  
22 ***declarations and statements in open court to Commissioner Judson cast serious doubt***  
***on Ms. Harold's competency and raised the specter of undue influence and financial***  
***exploitation by some of her children.***

23 After Ms. Blackwell, Ms. Harold's former attorney, was discharged by Ms. Harold's eldest  
24 son, Respondent Charles Harold, Ms. Blackwell sought court approval of her withdrawal as  
25 counsel for Ms. Harold. Notice of Intent to Withdraw, Dkt. # 18; Alternative Motion for  
26 Withdrawal by Order for Respondent Sharon M. Harold, Dkt. # 35. Ms. Blackwell submitted two  
27 declarations in support of her motion to withdraw, and these declarations raised new alarming

1 facts.

2 First, Ms. Blackwell explained that before undertaking the representation of Ms. Harold in  
3 October 2022, she met in person with Ms. Harold alone in order to assess her capacity and found  
4 her competent:

5 Before undertaking the representation in October 2022, I personally  
6 met with Sharon Harold at her residence in Reedsport, Oregon,  
7 without any other person present - in order to assess her capacity.  
8 She was oriented to time, place and person, and was pleasant,  
9 responsive and engaging. Thereafter, I mailed her and she signed a  
10 written representation agreement with my office . . . .

11 Blackwell Decl. dated Feb. 1, 2022, ¶ 2. Then, on January 3, 2023, Ms. Blackwell learned new  
12 information that caused her to believe that Ms. Harold may be “vulnerable or disabled”:

13 On January 3, 2023, *I learned new information that caused me to*  
14 *be concerned whether Sharon Harold might be vulnerable or*  
15 *disabled to an extent I had not been previously advised or able to*  
16 *ascertain on my initial in-person visit with her.* I promptly  
17 contacted the State Bar ethics hotline and was advised that I could  
18 continue to represent her under the circumstances so long as I met  
19 with her *again in person* before proceeding. My services were  
20 terminated before my schedule permitted me to visit Sharon Harold  
21 again.

22 *Id.* ¶ 3 (emphasis added). Even more concerning and puzzling was Ms. Blackwell’s statement that  
23 information about Ms. Harold’s health and capacity had been withheld from her:

24 Before undertaking the representation in October 2023, I inquired  
25 about Sharon Harold’s mental and physical health and capacity. I  
26 specifically inquired about any causes or symptoms of dementia, as  
27 I do in every case involving an elderly client. I also personally met  
alone with Sharon Harold and she presented as alert and oriented.  
Only then did I agree to the representation. *I later learned that*  
*important information had been withheld from me and that*  
*Sharon Harold had in fact suffered a pre-existing significant head*  
*injury which is now a matter of record in this case.* This led me to  
contact my ethics board and to require another meeting with Sharon  
Harold before I could do further work. *To that extent, as required*  
*by my ethics board, it is accurate to state that I had to “stop work.”*  
Charles Harold terminated my services before I could meet her  
again.

Blackwell Decl. dated Feb. 2, 2022, Dkt. #39, ¶ 8 (emphasis added). Ms. Blackwell also explained:

There is much more that I would like to tell the court about this  
matter, but due to confidentiality I am advised that I may only do so  
pursuant to an order of the court. If the court so orders, I request that

1 I may speak with the Judge in camera so a preliminary analysis may  
2 be may of what information is relevant and helpful to these matters.

3 *Id.* ¶ 9.

4 In response to Ms. Blackwell's statement during the hearing on February 3, counsel for the  
5 Trustee orally requested Commissioner Judson to appoint an LGAL for Ms. Harold. Schilbach  
6 Decl. ¶ 3. Ms. Blackwell agreed with the Trustee's counsel that "a guardian ad litem should be  
7 appointed for Ms. Harold." *Id.*, Ex. A.<sup>1</sup> She also told Commissioner Judson that she found the  
8 circumstances under which a conflict of interest had arisen to be "deeply concerning," especially

9 [t]he fact that [Ms. Blackwell] was not permitted an opportunity to  
10 vet those [concerns] with Ms. Harold herself before [she] was  
11 abruptly terminated by [Respondent] Charles Harold, who held [Ms.  
12 Harold's] power, or ***purports to hold her power of attorney***.

13 *Id.*, Ex. A at 3 (emphasis added). Ms. Blackwell then told Commissioner Judson that she had  
14 additional information that she could not share in open court without waiving privilege, and no  
15 less than three times suggested to Commissioner Judson that he order her to discuss this additional  
16 information with him *in camera*. *Id.*, Ex. A at 3–5.

17 When Respondent Charles Harold attempted to explain to Commissioner Judson why he  
18 had ordered his mother's attorney to withdraw and then objected to her withdrawal, Ms. Blackwell  
19 interjected—"Your honor, ***I believe a fraud is being perpetrated on the court*** and I would ask the  
20 court to order..."—at which point Commissioner Judson proceeded to grant her motion to  
21 withdraw. *Id.*, Ex. A at 5 (emphasis added). Counsel for the Trustee confirmed her understanding  
22 that the Trustee should renew the motion for appointment of an LGAL before the trial judge  
23 because "based on what Ms. Blackwell has said, that that is absolutely imperative before this case  
24 go forward. And I see Ms. Blackwell nodding," in apparent agreement with that statement. *Id.*, Ex.  
25 A at 6. Commissioner Judson confirmed that this motion should be presented to the trial judge, *id.*,  
26 which is now being done.

27 <sup>1</sup> The transcript attached to Mr. Schilbach's declaration as Ex. A is not a certified court reporter transcript, but an  
informal transcription of the recording of the February 3, 2023 hearing before Commissioner Judson that was prepared  
by staff in Mr. Schilbach's office. Nonetheless, counsel believes it to be an accurate report of the participants'  
statements during the proceedings. The actual audio recording can be provided to the Court.

1 **D. Respondent Charles Harold and his sister, Respondent Amy Jane Small, remainder**  
2 **beneficiaries of the Harold Trust, are purportedly Ms. Harold's co-agents-in-fact**  
3 **under a Durable Power of Attorney.**

4 In response to Ms. Blackwell's Alternative Motion for Withdrawal by Order for  
5 Respondent Sharon M. Harold (Dkt. #35), Respondent Charles Harold asserted:

6 I have standing as an attorney-in-fact with power to litigate for  
7 Sharon M. Harold. Exhibit A to this declaration in reply contains my  
8 power of attorney instrument.<sup>2</sup>

9 Decl. of Charles A. Harold in Response to Alternative Motion for Withdrawal by Michelle  
10 Blackwell, Dkt. #37, ¶ 2 & Ex. A ("Durable General Power of Attorney of Sharon M. Harold dated  
11 October 21, 2022"). The Durable General Power of Attorney of Sharon M. Harold provides that  
12 Respondents Charles Harold and Small have the power to act "with regard to" the Harold Trust:

13 **ARTICLE 2. Specific Authority.** Specifically, but without  
14 limiting the foregoing, I authorize my Agent to act with regard to  
15 any and all actions for an account, breach of fiduciary duty, demand  
16 for payment, retain counsel, or similar matters, with regard to the  
17 Sharon M. Harold Irrevocable Trust dated November 12, 2004, and  
18 any subsequent litigation, whether at trial or on appeal, or in  
19 Bankruptcy court. . . .

20 *Id.*, Ex. A at 1. The Trustee was previously unaware that Respondent Charles Harold and  
21 Respondent Amy Jane Small had been appointed co-agents-in-fact for Ms. Harold. Paice Decl.  
22 ¶ 4.

23 Unlike Ms. Harold, who is a lifetime beneficiary of the Harold Trust, Respondent Charles  
24 Harold and Respondent Amy Jane Small are remainder beneficiaries of the Harold Trust. Ms.  
25 Harold has the right to receive distributions of income and principal in accordance with the Trust's  
26 provisions during her life, but upon her death the Trust's assets are distributed in equal shares to  
27 her children, free of trust:

Upon the death of the Grantor [Sharon Harold], and undistributed  
income of the Trust Estate ***shall be added to and become principal***  
***and the Trust Estate as then constituted shall be distributed by the***

<sup>2</sup> The Trustee assumes Mr. Harold means that he believes he can act as virtual representative for his mother, Ms. Harold, as lay people cannot act as counsel for other lay people. *Lloyd Enters., Inc. v. Longview Plumbing & Heating Co.*, 91 Wn. App. 697, 701, 958 P.2d 1035 (1998), *review denied*, 137 Wn.2d 1020, 980 P.2d 1281 (1999). Under Washington law, however, Mr. Harold cannot act as his mother's virtual representative in this matter.

*Trustee, free of trust, in equal shares, to Grantor's children,*  
namely, CHARLES ANTHONY HAROLD, JR., JOHN JOSEPH  
HAROLD, JENIFER [SAWYER], ANGEL MARY HAROLD,  
ROBERT JOHN HAROLD, AMY JANE [SMALL], and JOSETTE  
MARIE HAROLD RAMIREZ.

Dkt. #1, Ex. A at Art. III ¶ C.1. This creates an inevitable conflict between Ms. Harold's interest in receiving all appropriate distributions for her needs and care, on the one hand, and her children's interest in preserving principal for their ultimate inheritance, on the other hand. This is precisely the sort of conflict anticipated and prohibited by RCW 11.96A.120 and Washington case law.

### **III. EVIDENCE RELIED UPON**

The Trustee relies upon the Declaration of David A. Paice, and exhibits annexed thereto; the Declaration of Aleksander R. Schilbach, and exhibits annexed thereto; and the papers and pleadings of record in this action.

### **IV. ISSUE PRESENTED**

1. Whether the circumstances of this case justify the appointment of an LGAL, pursuant to Title 4 of the RCW, to represent the interests of Ms. Harold.

2. Whether, if the Court denies this motion, the Court should appoint a guardian ad litem for the limited purpose of confirming Ms. Harold's competency and freedom from undue influence or order a hearing on the issue of capacity.

### **V. ARGUMENT AND AUTHORITY**

#### **A. Substantial evidence supports the Court's appointment of a litigation guardian ad litem under RCW 4.08.060 for Ms. Sharon Harold.**

RCW 4.08.060 provides that incapacitated persons "shall appear by guardian":

When an incapacitated person is a party to an action in the superior courts he or she shall appear by guardian, or if he or she has no guardian, or in the opinion of the court the guardian is an improper person, the court shall appoint one to act as guardian ad litem.

RCW 4.08.060. Washington's Trust and Estate Dispute Resolution Act ("TEDRA"), chapter 11.96A RCW, also vests this Court with the authority to appoint a GAL for Ms. Harold:

**(1) The court, upon its own motion or upon request of one or more of the parties, at any stage of a judicial proceeding or at any time in a nonjudicial resolution procedure, may appoint a**



1           **guardian ad litem to represent the interests of**  
2           **a . . . incapacitated . . . person . . . .** If not precluded by a conflict of  
3           interest, a guardian ad litem may be appointed to represent several  
4           persons or interests.

5           (2) The court-appointed guardian ad litem supersedes the special  
6           representative if so provided in the court order.

7           (3) The court may appoint the guardian ad litem at an ex parte  
8           hearing, or the court may order a hearing as provided in RCW  
9           11.96A.090 with notice as provided in this section and RCW  
10          11.96A.110.

11          (4) The guardian ad litem is entitled to reasonable compensation for  
12          services. Such compensation is to be paid from the principal of the  
13          estate or trust whose beneficiaries are represented.

14          RCW 11.96A.160.

15          Courts have the inherent authority to protect incompetent persons and “[t]he welfare of  
16          incompetent persons and the care of their property are objects of particular care and attention on  
17          the part of the courts.” *Shelley v. Elfstrom*, 13 Wn. App. 887, 889, 538 P.2d 149, 151 (1975)  
18          (quoting *In re Mignerey*, 11 Wn.2d 42, 49, 118 P.2d 440, 443 (1941)). “The court can appoint a  
19          GAL if reasonably convinced the litigant is not competent to understand or comprehend the  
20          significance of the legal proceedings and the effect of such proceedings ‘in terms of the best  
21          interests of such party litigant.’” *In re Marriage of Lane*, 188 Wn. App. 597, 603, 354 P.3d 27, 30  
22          (2015) (quoting *Graham v. Graham*, 40 Wn.2d 64, 66–67, 240 P.2d 564 (1952)). Indeed, if the  
23          Court is convinced that Ms. Harold does not understand the significance of these proceedings or  
24          is incapable of understanding or protecting her interests at a minimum “a hearing on the question  
25          of mental competency is required.” *Vo v. Pham*, 81 Wn. App. 781, 790, 916 P.2d 462, 467 (1996).

26          Here, substantial evidence supports the conclusion that Ms. Harold is suffering from  
27          incapacity as contemplated by RCW 4.08.060 and/or is under the undue influence of certain of her  
28          children, which impairs her ability to conduct this litigation in her own best interest. First, Ms.  
29          Harold’s out-of-character behavior since September 2022 is highly concerning. Initially, in August  
30          2022, she confided to the Trustee that she wished to sue her children “for parent abuse,” deleted  
31          them from her phone, urged the Trustee to pay counsel for the Trust from the Trust, and executed

1 the Release and Discharge. Soon thereafter, Ms. Harold's position on the Trust and the Trustee's  
2 actions dramatically changed without explanation. The Trustee also believes that someone has  
3 access to Ms. Harold's e-mail account and has written e-mails to third parties while pretending to  
4 be Ms. Harold. While these irregularities could be overlooked when Ms. Harold was represented  
5 by Ms. Blackwell, Ms. Blackwell was terminated by Respondent Charles Harold under unusual  
6 and concerning circumstances.

7 Second, between October 2022 and January 2023, Ms. Blackwell became convinced that  
8 Ms. Harold was "vulnerable or disabled to an extent [she] had not been previously advised."  
9 Blackwell Decl. dated Feb. 1, 2022, ¶ 3. This concern prompted her to contact the Oregon State  
10 Bar Ethic's Board, who advised her to continue the representation only upon an in-person  
11 evaluation of Ms. Harold's condition and competency. Before Ms. Blackwell could do so,  
12 Respondent Charles Harold terminated the representation on behalf of his mother as her purported  
13 agent. Indeed, Ms. Blackwell's comment to Commissioner Judson at the hearing—that  
14 Respondent Charles Harold "held, or *purports to hold* [Ms. Harold's] power of attorney"—created  
15 doubt as to the validity of any instruments purporting to entrust Ms. Harold's adult children with  
16 power to conduct her affairs.

17 Third, Ms. Blackwell took the unusual step of encouraging Commissioner Judson to speak  
18 with her *in camera* so she could share privileged information with the Court. Moreover, when  
19 Respondent Charles Harold attempted to dispute Ms. Blackwell's characterization of the events  
20 leading to her withdrawal, Ms. Blackwell made the extraordinary statement in open court that she  
21 "believe[d] a fraud is being perpetrated on the court." Ms. Blackwell, an able and highly  
22 experienced attorney, had no reason to say this other than genuine concern for Ms. Harold and the  
23 integrity of these proceedings. Accordingly, the Trustee respectfully urges the Court to appoint an  
24 LGAL for Ms. Harold.

25 **B. The conflict of interest between Ms. Harold and her putative agents under a DPOA**  
26 **counsels in favor of the appointment of an LGAL to represent Ms. Harold in this**  
27 **matter.**

At the same time that Respondents Charles Harold and Amy Jane Small are representing

1 themselves in this matter *pro se*, they also claim to be acting as their mother’s attorneys-in-fact  
2 with regard to this matter. *See* Dkt. #37, ¶ 2 (representing Charles Harold “[has] standing as an  
3 attorney-in-fact with power to litigate for Sharon M. Harold.”). As it currently stands, the conflict  
4 of interest described above would violate RCW 11.96A.120, which permits “virtual  
5 representation” by an agent under a durable power of attorney only when there is no conflict of  
6 interest between the principal (here, Ms. Harold) and the agent (here, her two children).<sup>3</sup>

7 The appointment of an LGAL would protect against the conflict of interest between  
8 Respondents Charles Harold and Amy Small, *pro se* litigants, on the one hand, and Respondent  
9 Ms. Harold, on the other. Case law reinforces the prohibition on virtual representation by someone  
10 with a remainder interest, where the living person has an interest in distributions of principal. *See*  
11 *In re the Marital Tr. B Created Under Last Will & Testament of Felecia A. Graham Dated Oct.*  
12 *26, 1998*, 11 Wn. App.2d 608, 613, 455 P.3d 187, 190 (2019), *review denied*, 195 Wn.2d 1026,  
13 466 P.3d 778 (2020) (holding RCW 11.96A.120 prohibited owner of life interest in property from  
14 representing remainder beneficiaries with regard to a dispute regarding principal distributions).

15 Here, the conflict of interest between Ms. Harold and her putative co-agents, Respondents  
16 Charles Harold and Amy Small, and the remaining Respondents, violates RCW 11.96A.120 and  
17 necessitates the appointment of an LGAL under RCW 4.08.060.

## 18 VI. CONCLUSION

19 The Trustee respectfully urges the Court to appoint an LGAL for Ms. Sharon Harold. Both

---

20 <sup>3</sup> Under RCW 11.96A.120, a virtual representative may only act on behalf of the represented party to the extent there  
21 is no conflict of interest:

22 (4) *To the extent there is no conflict of interest* between the representative and  
23 the person represented or among those being represented with respect to the  
particular question or dispute:

24 . . . .

25 (c) An agent having authority to act with respect to the particular question or  
26 dispute may represent and bind the principal;

27 RCW 11.96A.120(4)(c) (emphasis added).

1 substantial evidence and the violation of RCW 11.96A.120's prohibition on conflicts of interest  
2 between virtual representatives, on the one hand, and those who are virtually represented, on the  
3 other hand, support the determination that Ms. Harold must be independently represented by an  
4 LGAL—her children who are remainder beneficiaries simply do not have the independence and  
5 freedom from conflict required by law. If the Court finds that the appointment of an LGAL is not  
6 justified, then the Court should appoint a guardian ad litem for the limited purpose of ascertaining  
7 Ms. Harold's competency and freedom from undue influence, and stay proceedings<sup>4</sup> until such  
8 time as that the GAL can deliver a report to the Court. The Trustee is willing to make distributions  
9 from the Trust for all necessary costs associated with the appointment of a guardian ad litem.

10  
11 DATED: March 1, 2023

12 LANE POWELL PC

13  
14 By: /s/ Aleksander R. Schilbach  
15 Gail E. Mautner, WSBA No. 13161  
16 Aleksander Schilbach, WSBA No. 51693  
17 1420 Fifth Avenue, Suite 4200  
18 P.O. Box 91302  
19 Seattle, Washington 98111-9402  
Telephone: 206.223.7000  
mautnerg@lanepowell.com  
schilbacha@lanepowell.com

20 *Attorneys for David A. Paice, Trustee of the Sharon*  
21 *M. Harold Irrevocable Trust Dated, 12, November*  
22 *2004*

23 I certify that this memorandum contains 4,197  
24 words, in compliance with the Local Civil Rules.

25  
26 \_\_\_\_\_  
27 <sup>4</sup> A motion to continue the trial date from May 1, 2023 to November 13, 2023 is currently pending for the Court's consideration.

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

In Re the Matter of:

Case No. 22-4-08326-1 KNT

THE SHARON M. HAROLD  
IRREVOCABLE TRUST DATED  
NOVEMBER 12, 2004

a Trust.

**[PROPOSED]**

**ORDER GRANTING MOTION FOR  
APPOINTMENT OF A GUARDIAN  
AD LITEM FOR SHARON M.  
HAROLD**

This matter came before the Court on the Motion for Appointment of a Guardian Ad Litem for Sharon M. Harold filed by Petitioner David A. Paice, Trustee of the Sharon M. Harold Irrevocable Trust dated November 12, 2004 ("Harold Trust"). In making this Order, the Court has reviewed and considered the records and pleadings on file with the Court as well as the following pleadings:

1. Motion for Appointment of a Litigation Guardian Ad Litem for Sharon M. Harold;
2. Declaration of David A. Paice, Trustee, in Support of Motion for Appointment of a Litigation Guardian Ad Litem for Sharon M. Harold, and the exhibit thereto;
3. Declaration of Aleksander R. Schilbach in Support of Motion for Appointment of a Litigation Guardian Ad Litem for Sharon M. Harold, and the exhibit thereto;
4. \_\_\_\_\_;
5. \_\_\_\_\_;
6. \_\_\_\_\_; and
7. \_\_\_\_\_.

1           Being fully informed, the Court hereby enters the following Finding of Fact and  
2 Conclusions of Law:

3           1.       Substantial evidence supports the Court finding that Ms. Sharon Harold, the  
4 primary lifetime beneficiary of the Harold Trust, suffers from incapacity that meets the standard  
5 of incapacity set forth in RCW 4.08.060 and is in need of a guardian ad litem to represent her  
6 interests in these proceedings.

7           2.       The sworn declarations executed and offered by Ms. Harold's former attorney, raise  
8 serious concerns regarding Ms. Harold's mental capacity and whether she has fallen under the  
9 undue influence of one or more of her adult children. Specifically, the Court is concerned that Ms.  
10 Blackwell, who had only met once in person with Ms. Harold prior to accepting the initial  
11 engagement, was terminated by Respondent Charles Harold before Ms. Blackwell was able to  
12 meet again with Ms. Harold to determine her ongoing capacity and freedom from undue influence.  
13 The Court also finds that Ms. Blackwell's statement to the Court, in response to Mr. Charles  
14 Harold's comments, that "a fraud is being perpetrated on the Court" is extremely concerning.

15          3.       The Court finds that Ms. Harold and Mr. Paice, as Trustee of the Harold Trust,  
16 enjoyed a friendly and positive relationship for almost a decade until October 2022, when Ms.  
17 Harold abruptly advised that she wanted to rescind the Release and Discharge of Successor Trustee  
18 of the Sharon M. Harold Irrevocable Trust Dated November 12, 2004 that she had previously  
19 executed.

20          4.       The Court finds that in August 2022 Ms. Harold encouraged Mr. Paice to retain  
21 counsel at the Trust's expense to defend the Trust and Mr. Paice from her children. She also sent  
22 Mr. Paice text messages about wanting "to sue [her] 4 kids for parent abuse," and that Ms. Harold  
23 wished to delete some of her children from her phone.

24          5.       The Court is concerned that Mr. Harold and Ms. Small are now named as Ms.  
25 Harold's co-attorneys-in-fact and claim the right to represent her interest in these proceedings,  
26 when their interests as remainder beneficiaries are adverse to her interest as the primary lifetime  
27 beneficiary.

6. The Court concludes that virtual representation of Ms. Harold in these proceedings by Mr. Charles Harold and Ms. Amy Jane Small’s would violate RCW 11.96A.120’s prohibition on conflicts of interest between virtual representatives. Accordingly, and regardless of the “Durable Power of Attorney of Sharon M. Harold dated October 21, 2022,” Mr. Harold and Ms. Small may not virtually represent Ms. Sharon Harold’s interest in these proceedings or with regard to the Harold Trust.

7. Based on the foregoing findings of fact and conclusions of law, the Court GRANTS the motion to appoint a guardian ad litem pursuant to RCW 4.08.060 for Ms. Harold. The Harold Trust shall pay all reasonable costs incurred by the guardian ad litem. The Petitioner, on the one hand, and the Respondents, on the other hand (collectively) shall submit three candidates for the guardian ad litem role to the Court for the Court's consideration.

SO ORDERED this       day of March 2023.

JUDGE WYMAN YIP

Presented by:

1 LANE POWELL PC

2  
3 By: 

4 Gail E. Mautner, WSBA No. 13161  
5 Aleksander Schilbach, WSBA No. 51693  
6 1420 Fifth Avenue, Suite 4200  
7 P.O. Box 91302  
8 Seattle, Washington 98111-9402  
Telephone: 206.223.7000  
mautnerg@lanepowell.com  
schilbacha@lanepowell.com

9 *Attorneys for David A. Paice, Trustee of the Sharon M.*  
10 *Harold Irrevocable Trust dated November 12, 2004*



1  
2 **Form Agreed to By:**

3  
4 By: \_\_\_\_\_

5 Sharon M. Harold, *Pro Se*  
6 100 River Bend Rod. #103  
7 Reedsport, OR 97467  
8 [smharold7@gmail.com](mailto:smharold7@gmail.com)

9 By: \_\_\_\_\_

10 Charles A. Harold, *Pro Se*  
11 1455 N. Tomahawk Road  
12 Apache Junction, AZ 85119  
13 [chuckharold@gmail.com](mailto:chuckharold@gmail.com)

14 By: \_\_\_\_\_

15 John J. Harold, *Pro Se*  
16 230 Westmond Drive  
17 Reedsport, OR 97467  
18 [john6231@live.com](mailto:john6231@live.com)

19 By: \_\_\_\_\_

20 Amy Jane Small, *Pro Se*  
21 P.O. Box 352  
22 Graegle, CA 96103  
23 [aj.harold9@gmail.com](mailto:aj.harold9@gmail.com)

24 By: \_\_\_\_\_

25 Angel Harold, *Pro Se*  
26 9317 Balcom Avenue  
27 Northridge, CA 91325  
[angelharold25@gmail.com](mailto:angelharold25@gmail.com)

1 By:

2 Josette Harold Ramirez, *Pro Se*  
3 11319 Playa St  
4 Culver City, CA 90230  
5 [joe babe007@gmail.com](mailto:joe babe007@gmail.com)

6 By:

7 Jenifer Sawyer, *Pro Se*  
8 1819 74<sup>th</sup> St. E  
9 Tacoma, WA 98404  
10 [send2jen3@gmail.com](mailto:send2jen3@gmail.com)

11 By:

12 Nicole Loomis, *Pro Se*  
13 31688D U.S. 97  
14 Tonasket, WA 98855  
15 [nikkiloomis20@gmail.com](mailto:nikkiloomis20@gmail.com)