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Attorney for Roslyn Wetherhorn, Respondent

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

In The Matter of the Necessity for the Hospitalization of:  
Roslyn Wetherhorn,  
Respondent.  
\_\_\_\_\_ ) Case No. 3AN 05-459 P/R

**REPLY TO SUPPLEMENTAL OPPOSITION TO MOTION FOR ATTORNEYS FEES**

By Order dated December 23, 2005, and distributed December 27, 2005, this court allowed respondent to file a response to the State's Supplemental Memorandum in Reply to Opposition to Motion for Attorney's Fees (Supplemental Opposition).

In its Supplemental Opposition, the State essentially abandons all of its previous arguments, except for whether Ms. Wetherhorn is the prevailing party. This is presumably because, as set forth in Ms. Wetherhorn's Reply Re: Motion for Attorney's Fees (Reply) all of those arguments are clearly erroneous. The new

arguments in the Supplemental Opposition are similarly erroneous.<sup>1</sup>

### **I. Civil Rule 82 Applies to this Case**

Citing to *Cooper v. State*, 638 P.2d 174 (Alaska 1981) and *State v. Superior Court*, 743 P.2d 381 (Alaska App. 1987), the State asserts this Court has no authority to award Civil Rule 82 attorneys fees. In doing so, the State completely misstates the holdings in these cases.

For example, at page 6 of its Supplemental Opposition, the State claims, "In *Cooper v. State* the Alaska Supreme Court determined that, AS 09.60.010 did not give courts authority to order that attorneys' fees be awarded to the prevailing party in a Child in Need of Aid Proceeding." The Alaska Supreme Court, however, ruled nothing of the sort. AS 09.60.010 doesn't give the courts authority to order fees in any type of cases; instead it authorizes the Supreme Court to promulgate such rules.<sup>2</sup> What the Court actually held was that since there was neither a statutory nor court rule provision authorizing such an award, the court did not have such authority. This

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<sup>1</sup> Ms. Wetherhorn suggests the mischaracterization of cases and especially the facts surrounding the dismissal, warrant sanctions under Civil Rule 95(a) for violation of Civil Rule 11.

<sup>2</sup> The State, at page 1, asserts that the authority [of the Alaska Supreme Court to promulgate rules] to make such awards is derived from AS 09.60.010, but it is clear the Alaska Supreme Court also has such authority from the Alaska Constitution:

Since the attainment of statehood and the activation of the Alaska Court System, the award of attorney's fees as costs has been governed by the Rules of Civil Procedure which were promulgated by this court pursuant to its constitutional rule making authority

*McDonough v. Lee*, 420 P.2d 459, (Alaska 1966).

is completely consistent with the Alaska Supreme Court's longstanding analysis of attorney fee award authority.

This analysis is that there must be either a statutory or court rule provision authorizing attorneys fee awards. Such authority exists here, but did not in either *Cooper* or *Superior Court*. Thus, for example, in *Cooper*, 638 P.2d at 178, the Alaska Supreme Court held:

There is no statute authorizing such awards in child in need of aid proceedings, nor have we promulgated any rule or order authorizing such an award. Civil Rule 82 does not apply to actions governed by the Children's Rules.

(footnote omitted).

In the Children's Rules (Child In Need of Aid Rules), Rule 1(e) provides:

**(e) Civil Rules Applicable.** Civil Rules 3(b)--(g), 4, 5, 5.1, 6, 10, 11, 15, 42, 45(a)--(f), 46, 53, 59, 60, 61, 63, 76, 77, 81, 90, 98, and 100 apply to child in need of aid proceedings except to the extent that any provisions of these civil rules conflict with the Child in Need of Aid Rules.

The important thing to note is that only specific Civil Rules have been made applicable and Civil Rule 82 is not among them.

This is in sharp contrast to the Probate Rules, which at Rule 1(e) provides:

**(e) Situations Not Covered by the Rules.** Where no specific procedure is prescribed by these rules, the court may proceed in any lawful manner, including application of the Civil and Evidence Rules, applicable statutes, the Alaska and United States Constitutions or common law. Such a procedure may not be inconsistent with these rules and may not unduly delay or otherwise interfere with the unique character and purpose of probate proceedings.

(underlining added). Thus, there is no question, but that this Court has the authority to award Civil Rule 82 fees.<sup>3</sup>

The state also makes reference to dicta in the *Cooper* case that because Child in Need of Aid cases are intended to promote the important public interest of children's welfare the same logic of not chilling such efforts should apply here. However, as so clearly illustrated by the facts in this case, this public policy consideration is far outweighed by the countervailing policy of having a representation regime wherein psychiatric respondents get adequate representation. Right now, it is fairly characterized as pretend representation, which the state is clearly trying to preserve. It is frankly, offensive, for the State to assert that the statutory and due process requirements flouted by the State in this case, and

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<sup>3</sup> The State at page 5 also cites *State v. Superior Court*, 743 P.2d 381, 382 (Alaska App. 1987), for the proposition that *Cooper* is still good law. As shown here, *Cooper* is entirely consistent with an award of Civil Rule 82 attorneys fees. In *Superior Court* itself, which was a criminal case, where the question was whether Criminal Rule 50(b) authorized an award of Civil Rule 95(a) attorneys fees as sanctions for infractions of the rules, the Court of Appeals held no, saying it was "unaware of any Alaska appellate decision authorizing an award of attorney's fees for any reason in a criminal or juvenile case" and concluded "the supreme court has not authorized the imposition of costs and attorney's fees under Civil Rule 95(a)." *Superior Court* has no relevance to the issue here. Thus, *Cooper* does not support the State's position and *Superior Court* is inapposite. However, without citing *Superior Court* it appears the Alaska Court of Appeals overruled it in *Weidner v. State*, 764 P.2d 717, 721 (Alaska App. 1988) ("The rule applies in criminal matters").

presumably most if not all of the other involuntary commitment and forced drugging cases it prosecutes, are mere "technical statutory requirements."<sup>4</sup>

## **II. Ms. Wetherhorn is the Prevailing Party**

The State's assertion in Section B of its Supplemental Opposition that Ms. Wetherhorn is not the prevailing party is incorrect as a matter of law and fact. First, it is suggested here that this Court should look solely at the dismissal to determine this issue<sup>5</sup> because adopting the State's position requires a factual determination as to

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<sup>4</sup> Supplemental Opposition, page 5. The State makes this astounding assertion without addressing and therefore essentially conceding the extensive authority cited by Ms. Wetherhorn in her Reply that strict compliance is required because of the fundamental rights involved, i.e., incarceration and forcing dangerous, harmful, mind-altering drugs of dubious, at best, efficacy, on unwilling citizens.

<sup>5</sup> The State misrepresents to this Court that it prevailed on the dismissal with or without prejudice issue. Ms. Wetherhorn stated in her response to the original motion to dismiss that a dismissal without prejudice didn't make any sense in this case:

A dismissal without prejudice does not make sense for this proceeding. Ms. Wetherhorn has been discharged and should the authorities feel at some later point that she should be subject to another commitment, it will need to commence a new 30 day commitment petition under AS 47.30.730, rather than a 90 day continuation petition under AS 47.30.740.

This Court (*per* Suddock) agreed in issuing the following Order:

The Petition for 90-Day Commitment and the Petition for Court Approval of Administration of Psychotropic Medication in the above-captioned matter are dismissed without prejudice ***against a new petition pursuant to AS 47.30.730.***

(italicized portion added by Judge Suddock to the State's proposed order). This was exactly what Ms. Wetherhorn argued and she prevailed on this issue.

what were the causal factors in the State dismissing the petitions for commitment and forced drugging.

Second, with respect to this, the State is wrong; the State's factual assertions are not credible. The State acts as if the release from the hospital was unrelated to Ms. Wetherhorn's substituted counsel's efforts.<sup>6</sup> This is demonstrably incorrect as the chronology of events shows.

On April 26, 2005, anticipating that 90 day petitions for involuntary commitment and forced drugging might be filed, counsel here filed a Stipulation for Substitution of Counsel.<sup>7</sup> On April 27, 2005, such petitions were filed.<sup>8</sup> The Petition for 90-Day Commitment states, under oath that Ms. Wetherhorn "is gravely disabled," and the "facts and specific behavior" justifying continued confinement were:

Irritability, confusion, agitation, threatening demeanor, delusional thinking (believes she owns the hospital, that staff are racially discriminating against her, etc.) Poorly cooperative with any oral medications which has greatly complicated treatment and lengthened her hospital stay.<sup>9</sup>

On May 3, 2005, this Court, through T. Munoz, clerk, issued a Notice of 90-Day Commitment Hearing to be held that same day, serving the Public Defender,

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<sup>6</sup> Supplemental Opposition, page 5. In addition the State is essentially making factual assertions without any proper evidence.

<sup>7</sup> Exhibit A.

<sup>8</sup> Exhibits B and C.

<sup>9</sup> Exhibit B, page 2.

rather than counsel here.<sup>10</sup> The same day, this Court, through Probate Master Duggan, issued a Notice of Hearing and Order for Appointment of Court Visitor, that the hearing on the forced drugging petition would be held at the same time.<sup>11</sup> These documents were stated to have been served on Ms. Wetherhorn at 11:10 a.m., 2 hours and 20 minutes before the hearing was scheduled.<sup>12</sup>

The hearing commenced on May 3, 2005, as scheduled, with the State ready to proceed to have her committed and the forced drugging order extended for 90 days, but the Assistant Public Defender informed the court that the Public Defender Agency no longer represented Ms. Wetherhorn, further informing this Court that counsel here was out of town until May 5, 2005, and the hearing was continued until May 6, 2005.<sup>13</sup>

Clearly, just even at this point, if counsel here had not substituted into the case, the State would have proceeded and almost certainly obtained the 90-day involuntary commitment and forced drugging orders. This in itself, as a factual matter, establishes that Ms. Wetherhorn is the prevailing party.

On May 5, 2005, Ms. Wetherhorn filed the following elections:<sup>14</sup>

1. Pursuant to AS 47.30.735(b), to have the hearing in a real court room, presumably at a downtown Anchorage court house, which will not

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<sup>10</sup> Exhibit D.

<sup>11</sup> Exhibit E.

<sup>12</sup> Exhibit F.

<sup>13</sup> Exhibit G.

<sup>14</sup> Exhibit H.

- have the harmful effect on her mental health that conducting the hearing at her place of confinement will have;
2. Pursuant to AS 47.30.735(b)(3) to have the hearing open to the public;
  3. Pursuant to AS 47.30.745(c), to have a jury trial; and
  4. Pursuant to AS 47.30.725(e), to be free of the effects of medication.

At the May 6, 2005, hearing counsel here requested a continuance of a few days in order to prepare for the jury trial. Counsel here also advised the court that he hoped to be able to resolve the case before such jury trial. The Probate Master referred the matter to Judge Suddock and counsel were excused.<sup>15</sup> The State did not offer to dismiss the petitions as of this date, which means that as of that date it was asserting she was mentally ill and gravely disabled enough for commitment and incompetent enough for a forced drugging order.

This is confirmed by API's records, where a couple of hours after the hearing was continued, in which Dr. Kiele, the hospital psychiatrist, entered into Ms. Wetherhorn's progress notes, that at times her tone and affect changes to "anger or irrational opposition" and

Patient's insight and judgment are still sufficiently impaired that I am very concerned that she have a clearly safe place to stay lined up before she is discharged. . . . Her attorney has requested a jury trial regarding her ongoing commitment proceedings.<sup>16</sup>

Obviously, the psychiatrist considered the jury trial relevant.

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<sup>15</sup> Exhibit I.

<sup>16</sup> Exhibit J.

Counsel here then began preparing for the trial, including immediately after the hearing, calling Diane Booth at API to obtain Ms. Wetherhorn's chart.<sup>17</sup> When the chart still had not been provided by May 9, 2005, counsel here's assistant called Ms. Booth and advised her that if Ms. Wetherhorn was not being discharged the next day, she was to deliver us what she had managed to copy of the chart, but if she was discharged it was okay to wait until she had the entire chart copied.<sup>18</sup>

As a result of all of this pressure, Ms. Wetherhorn was discharged that day, May 9, 2005, in spite of the State's position just 3 days before being that they were still seeking the 90-day involuntary commitment and forced drugging orders and Dr. Kiele's progress notes that Ms. Wetherhorn was still periodically irrationally angry and delusional.

Thus, the State's assertion that Ms. Wetherhorn was not the prevailing party as a factual matter is blatantly untrue. If the Court continues to have any question about this, then an evidentiary hearing should be held, but as suggested at the outset, Ms. Wetherhorn suggests the Court need look no further than the fact that the petitions were dismissed.

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<sup>17</sup> Exhibit 1, page 2 to Memorandum in Support of Motion for Attorneys Fees (Attorney Fee Motion) ("call to D. Booth").

<sup>18</sup> Exhibit K.

### **III. Civil Rule 95(a) Penalties Should Be Awarded to Ms. Wetherhorn**

Civil Rule 95(a) provides:

(a) For any infraction of these rules, the court may withhold or assess costs or attorney's fees as the circumstances of the case and discouragement of like conduct in the future may require; and such costs and attorney's fees may be imposed upon offending attorneys or parties.

Civil Rule 11 provides in pertinent part:

The signature of an attorney or party constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law . . . .

The State's mischaracterization of authority is a violation of this rule and its factual assertion that counsel here's entry into and defense of this case had nothing to do with the dismissal of this case is palpably false and therefore also a violation of Civil Rule 11. Attached hereto as Exhibit L, is a copy of counsel's billing entries for the time spent on this matter during the relevant time period. The attorneys fees for the time period after receiving the State's initial opposition amount to \$10,746 and Ms. Wetherhorn is requesting a Civil Rule 95(a) award in that amount.<sup>19</sup>

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<sup>19</sup> It is perhaps worth noting here that in the original Fee Motion Ms. Wetherhorn only requested partial fees of \$525 because, as footnote 5 pointed out, in light of the relatively small amount of fees involved it didn't make sense to argue it at that point. By interposing its patently erroneous arguments and palpably false factual statements in opposition to this modest request, the State has caused this additional \$10,746 in effort.

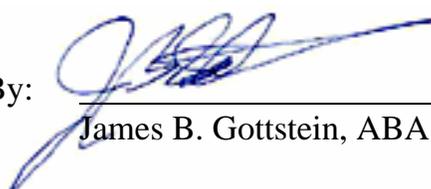
#### **IV. Conclusion**

For the foregoing reasons, Ms. Wetherhorn respectfully requests an order granting:

1. enhanced or full attorneys fees in this matter, full attorneys fees being, \$2,623.50; and
2. Civil Rule 95(a) penalties in the amount of \$10,746.

DATED: January 5th, 2006.

Law Project for Psychiatric Rights, Inc.

By: 

James B. Gottstein, ABA # 7811100

James B. Gottstein, Esq.  
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FILED in the Trial Courts  
State of Alaska, Third District

APR 26 2005

By \_\_\_\_\_  
Clerk of Trial Courts  
Deputy

Attorney for Roslyn Wetherhorn, Respondent

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

In The Matter of the Necessity for the )  
Hospitalization of: )  
)  
Roslyn Wetherhorn, )  
Respondent. )

Case No. 3AN 05-459 P/R

STIPULATION FOR SUBSTITUTION OF COUNSEL

It is stipulated and agreed that the Law Project for Psychiatric Rights be substituted as attorney of record for Respondent in the above caption matter in place of Alaska Public Defenders Agency.

Dated this 26<sup>th</sup> day of April, 2005.

ALASKA PUBLIC  
DEFENDERS AGENCY

LAW PROJECT FOR  
PSYCHIATRIC RIGHTS, INC.

By: *Nancy Groszek*  
Nancy Groszek

By: *James B. Gottstein*  
James B. Gottstein, Esq.  
ABA #7811100

I, Roslyn Wetherhorn hereby consent to the substitution.

*Roslyn Wetherhorn*  
Roslyn Wetherhorn

EXHIBIT A  
Page 1 of 1

IT IS SO ORDERED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Master John Duggan

Filed in the Trial Courts  
State of Alaska, Third District  
APR 21 2005  
Clerk of the Trial Courts  
By W; Deputy

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
AT Anchorage

In the Matter of the Necessity )  
for the Hospitalization of: )  
Roslyn Wetherhorn )  
Respondent. )

Case No. 3AN05 459 PR

PETITION FOR 90-DAY COMMITMENT

As a mental health professional who has examined the respondent,  
the petitioner alleges that:

- The respondent is mentally ill and as a result is
  - likely to cause harm to himself/herself or others.
  - gravely disabled as previously alleged in the Petition for 30-Day Commitment.
- The respondent:
  - continues to be gravely disabled and there is reason to believe that the respondent's mental condition could be improved by a continued course of treatment.
  - has attempted to inflict or has inflicted serious bodily harm upon himself/herself or another since his/her acceptance for evaluation.
  - was committed initially as a result of conduct in which he/she attempted or inflicted serious bodily harm upon himself/herself or another.
  - demonstrates a current intent to carry out plans of serious harm to himself/herself or another.
- The evaluation staff has considered, but has not found, any less restrictive alternatives available that would adequately protect the respondent or others.
- Alaska Psychiatric Institute is an appropriate treatment facility for the respondent's condition and has agreed to accept the respondent.
- The respondent has received appropriate and adequate care and treatment during his/her 30-day commitment.
- The respondent has been advised of the need for, but has not accepted, voluntary treatment.

The petitioner respectfully requests the court to commit the respondent to the above-named treatment facility for not more than 90 days.

The facts and specific behavior of the respondent supporting the above allegations are:

Irritability, confusion, agitation, threatening demeanor, delusional thinking (believes she owns the hospital, that staff are racially discriminating against her, etc.), poorly cooperative with any oral medications, which has greatly complicated treatment and lengthened her hospital stay.

The following persons are prospective witnesses, some or all of whom will be asked to testify in favor of the commitment of the respondent at the hearing:

Jan Kiele, MD.

4-27-05  
Date

[Signature]

Signature of Professional Person In Charge or that Person's Professional Designee

JAN KIELE, MD

Print Name and Title

Verification

Petitioner says on oath or affirms that petitioner has read this petition and believes all statements made in the petition are true.

Subscribed and sworn to or affirmed before me at Orlando, Alaska on 4/27/05 (date)



[Signature]

Clerk of Court, Notary Public or other person authorized to administer oaths. My commission expires: 10/5/07

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
AT Anchorage

Filed in the Trial Court  
State of Alaska, Third Dist.  
173 21 2005  
By Clerk of the Trial Courts  
Deputy

In the Matter of the Necessity)  
for the Hospitalization of:)  
Roslyn Wetherhorn  
Respondent.

) Case No. 3AN05 459 P/R  
)  
) PETITION FOR COURT APPROVAL OF  
) ADMINISTRATION OF PSYCHOTROPIC  
) MEDICATION [AS 47.30.839]

Jan Kiele, MD petitioner, requests a hearing on the  
respondent's capacity to give or withhold informed consent to the use  
of psychotropic medication, and alleges that:

There have been, or it appears that there will be, repeated  
crisis situations requiring the immediate use of medication to  
preserve the life of, or prevent significant physical harm to, the  
patient or another person. The facility wishes to use psychotropic  
medication in future crisis situations.

Petitioner has reason to believe the patient is incapable of  
giving or withholding informed consent. The facility wishes to use  
psychotropic medication in a noncrisis situation.

Court approval has been granted during a previous commitment  
period, and the facility wishes to continue medication during the  
subsequent commitment period. A 90/180 day petition is being filed.  
The patient continues to be incapable of giving or withholding  
informed consent.

The patient  has refused  has not refused the medication.  
Cooperation with medication has been intermittent and poor.  
4-27-05  
Date

[Signature]  
Signature  
(Representative of evaluation or  
designated treatment facility)

JAN KIELE, MD  
Printed Name  
Staff Psychiatrist  
Title

Verification

Petitioner says on oath or affirms that petitioner has read this  
petition and believes all statements made in the petition are true.

Subscribed and sworn or affirmed before me at Anchorage  
Alaska on 4/27/05  
(date)

Mary Hartung

Clerk of Court, Notary Public, or other  
person authorized to administer oaths.  
My commission expires: 10/5/07



IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

In the Matter of the Necessity  
for the Hospitalization of:

Roslyn Wetherhorn

Respondent.

Case No. 3AN-05-00459PR

NOTICE OF 90-DAY  
COMMITMENT HEARING

To: Respondent

Respondent's Attorney: PD

State's Attorney: Attorney General's Office

Petitioner/Facility: API

After respondent was committed for up to 30 days treatment for mental illness, the court received the attached petition requesting that respondent's commitment be extended for up to 90 days.

A hearing to decide whether respondent's commitment should be extended as requested will take place in the Superior Court at **Anchorage**, Alaska, in **API Anchorage** on **May 03, 2005** at **1:30 pm** before the Honorable John E Duggan.

The court has appointed as counsel for the respondent in this matter.

Respondent's Rights

The respondent is entitled to a hearing or trial. The respondent has the right to a jury trial if respondent requests one at least two judicial days before the hearing. The hearing or trial will determine whether there is cause to continue the respondent's treatment after the 30 day commitment has expired for an additional 90 days.

At the hearing (or trial), the respondent has the right:

1. to have the hearing open or closed to the public as the respondent elects,
2. to be present at the hearing,
3. to remain silent at the hearing,
4. to be represented by an attorney, to present evidence and to cross-examine witnesses who testify against him/her at the hearing,
5. to call experts and other witnesses to testify on the respondent's behalf,
6. to have the rules of evidence and civil procedure applied so as to provide for the informal but efficient presentation of evidence,

7. to view and copy all petitions and reports in the court file on respondent's case, and
8. to have an interpreter if the respondent does not understand English.

The respondent also has the following rights:

1. To be free of the effects of medication and other forms of treatment to the maximum extent possible before the hearing.
2. To communicate immediately with his/her guardian, if any, or an adult designated by the respondent. Respondent may also communicate with the attorney designated by the court or an attorney of the respondent's choice.
3. To request an examination by an independent physician or other mental health professional and to have the physician or other professional be a witness for the respondent at the hearing. If the respondent is indigent, an independent physician or mental health professional shall be appointed by the court at respondent's request.
4. To appeal any involuntary commitment order.
5. To have a decision by the court within 20 days after the petition was filed.

Before the court can order the respondent committed, the court must find by clear and convincing evidence that respondent is mentally ill and as a result of that condition is gravely disabled or presents a likelihood that he/she will cause harm to himself/herself or others.

5/3/2005  
Date

TMunoz  
Judge/Clerk

I certify that on 5/3/2005  
A copy of this notice and the Petition for  
90-Day Commitment were sent to the persons  
listed on page one.

Clerk: TMunoz

I certify that on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_m., I verbally advised the  
respondent of his/her rights under AS47.30.735 and .745 and delivered a copy of this notice to  
the respondent.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

In the Matter of the Necessity for the Hospitalization of:  
ROSLYN WETHERHORN  
Respondent.

Case No. 3AN-05-0459 PR

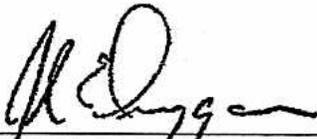
NOTICE OF HEARING AND ORDER FOR APPOINTMENT OF COURT VISITOR

A hearing on the Petition for Court Approval of Administration of Psychotropic Medication will take place in the Superior Court at Anchorage, Alaska in the hearing room at Alaska Psychiatric Institution on May 3, 2005, at 1:30 PM before the Honorable John E. Duggan.

The Court has appointed Public Defender Agency as counsel for the respondent in this matter.

OPA is appointed as visitor and is authorized to receive all medical/psychiatric, financial, educational and vocational records including those from secondary sources, and any pertinent information necessary information necessary to formulate recommendations to the court.

DATED at Anchorage, Alaska on May 3, 2005.

  
\_\_\_\_\_  
JOHN E. DUGGAN  
PROBATE MASTER

I certified that on 05/03/05  
copies of this form were sent  
To: AG/PD/OPA/API/RESP

Clerk: TPM

EXHIBIT **E**  
Page 1 of 1

000043

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
AT Anchorage

In the Matter of the Necessity )  
for the Hospitalization of: )  
Roslyn Wetherborn )  
Respondent. )

Case No. 3AN05459PR

AFFIDAVIT OF SERVICE  
OF DOCUMENTS

I state on oath or affirm that on 5/3/05,  
at 1110 .m., I served a copy of REV 904 Meds /  
Notices

(title of document)

on respondent and API  
(institution)

by hand delivery  
(manner in which service was accomplished)

5/3/05  
Date

Mary Mark  
Signature

Print Name

Title

Subscribed and sworn to or affirmed before me at \_\_\_\_\_,  
Alaska, on \_\_\_\_\_, 19\_\_\_\_.

(SEAL)

Notary Public for Alaska  
My commission expires: \_\_\_\_\_

EXHIBIT F  
Page 1 of 1

IN THE  DISTRICT  SUPERIOR COURT AT ANC ALASKA

TAPE NO. 2-6-05-57 (c) PAGE NO. 1 COURT CONVENE<sup>D</sup> AT 1:49  AM  PM DATE 5/3 2005

CASE NO. 05-459 PLS JUDGE Wiggan CLERK Adams

CASE TITLE ITMO VS. Koolyn Wetherborn

PROCEEDINGS: Spent 90 day of med's  
cont'd 2/5/6/05 @ 1:30pm

COUNSEL PRESENT: PLAINTIFF: Choni Kiel

DEFENDANT: Thoszek

DEFENDANT  PRESENT  NOT PRESENT  IN CUSTODY  NOT IN CUSTODY

LOG NUMBER DESCRIPTION

2106 (7 id's)

2120 PD

- don't represent Mr)
- call clerk & st
- signed shp 4/sub of counsel
- on 4/25/05
- not rec'd shp, nothing n/f'd
- spoke w/ Mr Wetherborn 2/5/6/05 represented by Mr Galtstein
- understood name 2/5/6/05

AG  
- shp at court 2/ following Tues

CF  
- cont bag fill 5/6/05 @ 1:30pm  
- med's not pending

2224 Excused 1:53pm

EXHIBIT G  
Page 1 of 1

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907-274-7686 phone  
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FILED in the Trial Courts  
State of Alaska, Third District

MAY 5 2005

By \_\_\_\_\_ Clerk of Trial Courts  
Deputy

Attorney for Roslyn Wetherhorn, Respondent

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT, AT ANCHORAGE

In The Matter of the Necessity for the )  
Hospitalization of: )  
 )  
Roslyn Wetherhorn, )  
Respondent. )  
\_\_\_\_\_ )

Case No. 3AN 05-459 P/R

**ELECTIONS BY RESPONDENT**

COMES NOW Respondent Roslyn Wetherhorn, by and through her attorney,  
and makes the following elections:

1. Pursuant to AS 47.30.735(b), to have the hearing in a real court room, presumably at a downtown Anchorage court house, which will not have the harmful effect on her mental health that conducting the hearing at her place of confinement will have;
2. Pursuant to AS 47.30.735(b)(3) to have the hearing open to the public;
3. Pursuant to AS 47.30.745(c), to have a jury trial; and
4. Pursuant to AS 47.30.725(e), to be free of the effects of medication.

DATED: May 5, 2005.

Law Project for Psychiatric Rights, Inc.

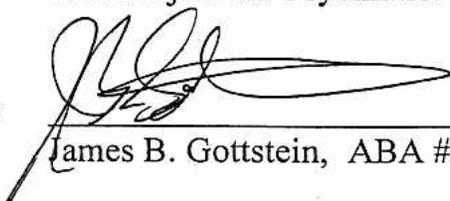
By:   
James B. Gottstein, ABA # 7811100

EXHIBIT H  
Page 1 of 1

IN THE  DISTRICT  SUPERIOR COURT AT Anch ALASKA

TAPE NO. 2605-57 (C) PAGE NO. 1 COURT CONVENED AT 1:49  AM  PM DATE 5/16 2005

CASE NO. 05-459 PLS JUDGE Duggan CLERK Adams

CASE TITLE ITMO VS. Koslyn Wetherbee

PROCEEDINGS: Re 90 day jury trial req

COUNSEL PRESENT: PLAINTIFF: Heffernan  
DEFENDANT: Stottstein (telephonic)  
 DEFENDANT  PRESENT  NOT PRESENT  IN CUSTODY  NOT IN CUSTODY

LOG NUMBER DESCRIPTION

3110 (F id's)  
- matter 2/10/cont 4/ jury trial

Stottstein  
- 4/10/05 prep work

CF - stipulation of counsel  
- moving got filed w/ the ct  
- filed, dict not here

AK  
- hosp wld like appeal at respnd

Stottstein  
- able at resolve 6/4  
- wking towards

CF  
- refer 2/ Jui Suddock

3215 Excused 1:50 pm

EXHIBIT I  
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138 Admission Date: 04/05/05 Patient # 01-58-97  
05/06/05 @ 15:16:21 Patient Response - Active,  
Physician Note

Patient evaluated at various times throughout the day in brief conversations. She is very pleasant and polite at times, but at times she abruptly changes tone and affect to anger or irrational opposition. She does have some trouble processing information, although this has improved greatly since admission. Right now she has no place to go after discharge. Family members are apparently unable to take her in, and she cannot return to her previous place of residence. The Attorney General's office was successful in getting the patient's car towing and storage fees dramatically reduced, which is definitely a plus. Patient's insight and judgment are still sufficiently impaired that I am very concerned that she have a clearly safe place to stay lined up before she is discharged. She talks about suing the hospital for forced medications. Her attorney has requested a jury trial regarding her ongoing commitment proceedings. Plan: Advance to level 3. Continue present care otherwise, while we work aggressively toward placement.

Electronically signed by:  
JEK\_JAN\_E\_KIELE, MD

EXHIBIT J  
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X-Sender: michele@mailhost.touchngo.com  
X-Mailer: QUALCOMM Windows Eudora Version 5.1  
Date: Mon, 09 May 2005 15:20:34 -0800  
To: Jim Gottstein <jim@psychrights.org>  
From: Michele Turner <michele@touchngo.com>  
Subject: Doreen / API Records (see msg)

Hi Jim,

Per our discussion, I called Doreen back and told her that if Ross is being discharged tomorrow that it was okay to wait until then for a complete chart, however, if it turns out that she isn't discharged tomorrow, you would like a copy of what they had now. She said okay.