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

In the Matter of the Necessity)
For the Hospitalization of:)
WILLIAM BIGLEY,)
Respondent.)

RECEIVED
DEC 15 2008

Case No. 3AN 08-1252 PR

ENTRY OF APPEARANCE

The Office of Public Advocacy, public guardian, through undersigned counsel, enters its appearance as the respondent's guardian in the above-captioned matter. The guardian is not filing a motion to intervene because it views its role in this proceeding as asserting the interests of its ward who is a party to the proceeding. See Alaska Rule of Civil Procedure 17(c).

In the alternative, the court may view this pleading as a Motion to Intervene pursuant to Alaska Rule of Civil Procedure 24. That rule states:

(a) **Intervention of Right.** Upon timely application anyone shall be permitted to intervene in an action when the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

In State v. Weidner, 684 P2d 103 (Alaska 1984), the Supreme Court enumerated a four-part test to determine if intervention is appropriate. The court noted that first, "the motion must be timely." Id. at 113. Secondly, the intervening party "must show an interest in the subject matter of the action." Id. Third, it must be shown that this

1 interest "may be impaired as a consequence of the action." Id. Finally, it must be
2 shown that no other party can adequately represent the intervening party's interest.

3
4 Id.

5 The Office of Public Advocacy, Public Guardian is the full guardian
6 (including conservatorship authority) for the respondent, William Bigley. Its powers
7 and duties can be found in AS 13.26.090 through .155 and AS 13.26.165 through
8 .320. Obviously it has a strong interest in the subject of these proceedings. It is
9 appearing in this proceeding at this seemingly late time because the Law Project for
10 Psychiatric Rights (Psychrights), is seeking to stay the medication order issued in
11 this proceeding as well as prevent any necessary emergency medication that may
12 be required to prevent injury to Mr. Bigley. If Pscyhrights is successful in these
13 efforts, Mr. Bigley will likely suffer serious and substantial harm. The guardian is
14 unable to effectively serve him because either 1) Mr. Bilgey has decompensated to
15 the point where he is unable to survive outside of a highly structured setting or 2)
16 Mr. Bigley will severely injure himself in an emergent situation. The public guardian
17 is the only entity charged by the court with protecting Mr. Bigley's interests. Thus,
18 all elements of Civil Rule 24 (a) are met.

19
20
21 Mr. Bigley is an extremely ill individual who is completely unable to live
22 outside of a supremely structured environment (even more so today than when he
23 was committed in May 2008, see 3AN-08-493 PR). If he is not allowed to receive
24 medication, he will continue to decline. His doctors have testified that the longer he
25 goes without medication, the lower his baseline will be. At a certain point, he may
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never be able to recover his prior ability to live a free life. Mr. Bigley is incapable, by the existence of his guardianship, to participate in strategy. See In re: Lillian P., 617 N.W.2d 849, 856 (Wis. 2000) (holding that, as a matter of law, a ward was incapable of waiving a conflict of interest her attorney had). Thus, the guardian has a duty to act in his stead. AS 13.26.150(c). No other party has this authority. Therefore, if the court does not wish to treat this pleading as an entry of appearance, it should treat it as a motion to intervene to protect Mr. Bigley.

Dated at Anchorage this 11th day of December, 2008.

OFFICE OF PUBLIC ADVOCACY



Elizabeth Russo
Assistant Public Advocate
Alaska Bar No. 0311064

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered to: Derry, AGO; Brennan, PDA; Marieann Vassar, CV and mailed to James B. Gottstein Esq.;

 12/11/08
Signature Date