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

4 In the Matter of the Necessity )  
5 For the Hospitalization of: )  
6 WILLIAM BIGLEY, )  
7 Respondent. )

RECEIVED  
DEC 15 2008

Case No. 3AN 08-1252 PR

8 ENTRY OF APPEARANCE

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

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

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

25 In State v. Weidner, 684 P2d 103 (Alaska 1984), the Supreme Court enumerated a  
26 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.

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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.

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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 11<sup>th</sup> day of December, 2008.

OFFICE OF PUBLIC ADVOCACY



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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