

STATE OF MICHIGAN

IN THE PROBATE COURT FOR THE COUNTY OF OAKLAND

IN THE MATTER OF THE ESTATE OF
JEWELL ANN ANDERSON, A LEGALLY
INCAPACITATED INDIVIDUAL AND A
PROTECTED INDIVIDUAL

Hon. DAVID J. SZYMANSKI
(sitting by appointment)
CASE NO. 2004-295,192-GA
2004-295,193-CA

**AMENDED ORDER REGARDING CONSERVATOR'S PETITION
TO ENFORCE COURT ORDER OF 9-11-2007, DIANE
ANDERSON'S PETITION TO REMOVE GUARDIAN AND
OBJECTIONS TO ACCOUNT, THE GUARDIAN AND
CONSERVATOR'S PETITION TO ALLOW THE SECOND
ANNUAL ACCOUNT, PETITION FOR ENFORCEMENT OF
VISITATION SCHEDULE, PETITION TO RETURN JEWELL
ANDERSON TO HER HOME, and URGENCY PETITION
REGARDING PLACEMENT**

At a session of court held in the courthouse
in Pontiac, Michigan, County of Oakland, on August 29, 2008 and
in Wayne County Probate Court on September 17, 2008
Present: Honorable David J. Szymanski,
sitting as Oakland County Probate Court Judge

IT IS ORDERED:

1. With regards to the Petition to Return Jewell Anderson to her home, the Court is denying the request for Jewell Anderson to be returned home so long as any of her children live in her home. If her children vacate the home, then the Guardian should consider whether she could be returned to her home.
2. The Conservator will continue to accept the rent of \$900.00 per month paid by Diane Anderson to the Estate of Jewell Anderson to continue to reside in Jewell Anderson's home at 18487 San Jose, Lathrup Village, MI in lieu of seeking eviction at this time. If any of the parties disagree with the rental amount they may present evidence to the Court for a modification of rent.

3. The Guardian is to consider a change in placement for Jewell Anderson including consideration of the American House in Southfield or any other appropriate change of placement. When considering a change of placement for the Ward, the Guardian shall balance the impact that this change of location would have on the Ward considering her diagnosis and the detriment of moving the Ward from what may be familiar surroundings.
4. With regards to the Constructive Trust, any argument for a Constructive Trust for Diane Anderson is denied pursuant to the Order of Judge Grant and any Motion for Reconsideration is untimely. Further, this Court, having considered the matter ab initio, finds no Constructive Trust.
5. Objections to the Guardian's Report and Conservator's Account made by Diane Anderson are noted for the record.
6. The Motion for Change of Venue is denied as the matter is moot.
7. The Amended Second Annual Account of Conservator, Timothy Flynn, is allowed as stated. Should Diane Anderson wish to review the records and supporting documents with regards to the Accounts, she may request to do so in writing and the Conservator will make the records available at a mutually agreeable time and place.
8. The Conservator shall evaluate whether the rent generated from the Ward's home at 18487 San Jose is sufficient to repair the home, if not, then the Conservator can file a Motion for an increase in rent.
9. Late fees and penalties for late payments shall be the responsibility of the Conservator and not the estate.

10. The Motion to Remove the Guardian and Conservator, Timothy Flynn, is denied. If it is believed the court ward is placed at risk, notification should be made to the appropriate agencies including Recipient Rights and Adult Protective Services. Also the parties may notify the Court of such concerns and request an investigation.

11. The Guardian is charged with control of visitation. Subject to his control the visitation schedule with Jewell Anderson, effective as of this hearing date, shall be as follows:

- a. Diane Anderson- odd numbered days
- b. David Anderson- even numbered days
- c. Friends of Jewell Anderson can contact the Guardian or children of Jewell Anderson to set up visits with Jewell Anderson. Diane Anderson or David Anderson may arrange visits with Jewell Anderson's friends on their visit days.

d. Holiday Visitation Schedule- this portion of the rule will supercede the old/even day schedule:

Easter- David Anderson

Thanksgiving Day- Diane Anderson

Mother's Day- even numbered years will be with David Anderson
Odd numbered years will be with Diane Anderson

Memorial Day and Halloween- Diane Anderson

Independence Day- David Anderson shall have an eight day visitation period from the Saturday before Independence Day to the Saturday following Independence Day. Diane Anderson shall have an eight-day visitation period from Friday through Friday in the week preceding David Anderson's Independence Day Visitation period.

Labor Day- David Anderson shall have a 5 day visitation period in the odd numbered years and Diane Anderson shall have a 5 day visitation period in the even numbered years.

Christmas Eve- Diane Anderson

Christmas Day- David Anderson

New Year's Eve and New Year's Day- Diane Anderson

Jewell Anderson's Birthday- David Anderson shall have visitation even numbered years. Diane Anderson shall have visitation on odd numbered years. The parties should try to accommodate each other to allow for a visit by both children on their mother's birthday, such as by one having lunch with Mrs. Anderson and the other having dinner with Mrs. Anderson.

Father's Day- David Anderson

Diane's Birthday- January 20th- Diane Anderson

David's Birthday- September 11th- David Anderson

- e. Exclusivity Order- Each visit day is exclusive as to the assigned person except on non-holiday weekdays, Monday through Friday, Diane Anderson may visit with Jewell Anderson from 9:00 am to 3:00 pm, having returned Jewell Anderson no later than 3:00 pm. However, on any non-holiday weekday of David's visit days that David wishes to visit with Jewell Anderson earlier, David must give Diane notice 72 hours in advance by electronic mail and by telephone not to pick up Jewell Anderson that day. Diane Anderson must leave on her answering machine and parties must keep each other current as to their contact information, specifically e-mail addresses and phone numbers. Weekends are exclusive to the days assigned to that person.
- f. Neither David Anderson nor Diane Anderson shall call Jewell Anderson on her telephone during the visitation periods set forth in this Order for the

other party. If an emergency telephone message needs to be left with Jewell Anderson during the subject visitation periods set forth in this Order, David Anderson or Diane Anderson shall call the receptionist at the American House facility and ask that the emergency message be given to Jewell Anderson.

12. The "Urgency Motion" for placement is denied. Placement is left to the discretion of the Fiduciary.
13. Contact between Diane Anderson and the Guardian ad Litem and between Diane Anderson and the Fiduciary is to be limited to written communication. In case of emergency telephone communication is permitted.
14. The Court finds that Diane Anderson has filed the "Urgency Motion" in violation of MCR 2.114(D)(3) as the Motion was filed to increase the cost of litigation and to harass. The Court awards sanctions pursuant to MCR 2.114(E) and orders that Diane Anderson pay David Anderson \$750.00, Timothy Flynn \$630.00, and Erma Gillis \$1,480.00.
15. The Fiduciary is ordered to conduct quarterly meetings starting in November, 2008 with facility staff and the family of Jewell Anderson. At this meeting concerns over care are to be raised and discussed. Any concerns are to be submitted in writing three business days prior to the meeting with the writing being submitted to the Fiduciary, the family members, and the facility. Concerns otherwise should be brought to the

attention of the Fiduciary and, if necessary, addressed to appropriate agencies.

16. Costs may be assessed for violations of this Court Order.

DATED: 9/18/8

/s/ [Signature]
Probate Court Judge