

**IN THE DISTRICT COURT OF JOHNSON COUNTY, KANSAS  
PROBATE COURT DEPARTMENT**

**In the Matter of Guardianship and  
Conservatorship of:**

**THOMAS J. PRICE, JR.**

**Case No. 22GC00224**

**Division 8**

**Chapter 59**

**PETITION FOR ORDER SETTING ASIDE ORDER APPOINTING  
GUARDIAN AD LITEM AND IN OPPOSITION TO  
APPOINTMENT OF GUARDIAN AD LITEM**

COMES NOW, Thomas J. Price, Jr., by and through his attorney, Jon A. Blongewicz of Jon A. Blongewicz, Attorney at Law, P.A., for his Petition for Order Setting Aside Order Appointing Guardian Ad Litem and in Opposition to Appointment of Guardian Ad Litem and seeks to be heard on whether or not he is in need of Guardian Ad Litem and alleges and states as follows:

1. On January 17, 2023, Petitioner, Teresa Kuhn filed an unverified Petition for Appointment of Guardian Ad Litem. Thereafter, three days later on January 20, 2023, without a hearing, the Court entered an ex parte Order Appointing Guardian Ad Litem, appointing Jason Covington, Guardian Ad Litem. There is no issue at all with Mr. Covington, but Mr. Price and his counsel do not feel the appointment of a Guardian Ad Litem is necessary and object to the appointment; and object to the Petition being granted without being able to be heard. Additionally, if after a hearing the Petition is granted, Mr. Price objects to being responsible for any costs associated with the appointment.

2. In that there were only three days between filing of the Petition and the granting of the unverified Petition, Mr. Price with this Petition seeks to have the Order Appointing Guardian Ad Litem set aside and a hearing be set to allow his objections to be heard.
3. The Proposed Ward and Proposed Conservatee feels that the appointment of a Guardian Ad Litem is unnecessary, and an unnecessary expense for which he does not wish to have to pay.
4. The appointment of Guardian Ad Litem is unnecessary for the reasons that Mr. Price is already represented by reasonably competent legal counsel, and the reasons stated in the Petition for needing a Guardian Ad Litem are insufficient and do not justify the appointment or could have been addressed by the Petitioner in less intrusive ways, without the added expense.
5. Petitioner states the reasons for the appointment of a Guardian Ad Litem are, briefly summarized, as:
  - A. She is concerned about the decline of Thomas J. Price, Jr., and why he has “shut her and the rest of the family out”. (Petition, Paragraph 27)
  - B. She is concerned he is not seeing his doctors or attending to his physical and mental health, and why he believes she was involved in the incident at the Edward Jones office. (Petition, Paragraph 28)
  - C. She wants the Guardian Ad Litem to investigate what happened at the Edward Jones office. (Petition, Paragraph 29)
  - D. She wants the Guardian Ad Litem to ascertain why and how the proposed Ward has been isolated from his family, and why Mr. Price has shut out and closed off all members of his family except Jeffrey Price. (Petition, Paragraph 30)

The Proposed Ward and Conservatee will address each of these and as to why these reasons are insufficient to require the appointment of a Guardian Ad Litem; why the issues are not particularly relevant to this case's issues; and why it appears that a Guardian Ad Litem is wanted to conduct the discovery that Petitioner, Teresa Kuhn as failed to do.

**A. A Guardian Ad Litem is not needed to investigate the feelings of the proposed Ward.**

Why is it required that Mr. Price reveal to anyone, including the Court, a Guardian Ad Litem, or the Petitioner why he may feel any certain way towards his family or the Petitioner?

Mr. Price is the respondent herein, and he has made it fairly clear to all that would listen that he does not desire a Guardian or Conservator and that he does not feel that this Petition should be granted. However, he does not have the burden to prove anything. The burden of proof in this case is solely upon the Petitioner. Mr. Price is not obligated to testify in this case or to even speak at the trial of this matter. So why would he have the obligation to be interviewed by a Guardian Ad Litem and provide information on why he has shut out his daughter and other family members? He has no such obligation. He does not have to tell anyone his feelings or reasons about anything.

However, it does not take a Guardian Ad Litem to figure out that it is very strongly possible that he is angry, hurt and upset with his daughter for bringing this Petition, and for refusing to dismiss it when asked to do so. This anger and frustration may be the source of why he is not inclined to communicate with his daughter and why he may be skeptical of the motives of his grandchildren. (Additionally, Mr. Price disputes that he has shut out his daughter. He did attempt to communicate with her on one occasion after the filing of this action, and she did not respond.)

The Court should rest assured that Mr. Price is not being "isolated". He presently lives independently in an apartment at Cedar Lake Village. Even if he does not wish to see his daughter, and is skeptical concerning the motives of his grandchildren, he interacts daily with residents and

staff at Cedar Lake Village. Mr. Price attends two daily meals and interacts with friends and staff. He has been visited by friends such as, Brian Budde. He has recently attended events at Cedar Lake Village, including Christmas concerts, a New Year's Eve event, and a Taco party. He has voluntarily agreed to move to assisted living where his interactions with staff will be increased. In no way is he being isolated. He just may be angry and hurt at his daughter for bringing this legal action; making him defend himself in Court; and for stating things about him he believes to be untrue. But in any event, he is not obligated to assist in an investigation by a Guardian Ad Litem on how he feels about his family, and thus, no such appointment should occur.

**B. Concerns about not seeing doctors is unfounded.**

The Petitioner, Teresa Kuhn was appointed Temporary Guardian by this Court on October 7, 2022. That temporary appointment expired 30 days later, and no attempt was made to renew that appointment. Nonetheless, during that 30-day period, Ms. Kuhn was the Temporary Guardian. Apparently during that appointment, she did not seek to investigate the medical appointments of the proposed Ward; did not confer with Mr. Price's regular physician, Dr. Martin J. Schermoly as to Mr. Price's condition or attempt any discovery from Dr. Schermoly or anyone – all of which might have revealed to Ms. Kuhn what Ms. Kuhn now seeks to have a Guardian Ad Litem look into.

Additionally, there has been filed with this Court, a Report of Examination/Evaluation per K.S.A. §59-3064 on November 25, 2022 (Doc. 23), which includes a report from Dr. Schermoly from an examination on November 4, 2022, which may explain any cancelled appointments. As stated therein, Dr. Schermoly agreed with the decision not to do additional neurologic testing, which led to the cancelling of those appointments. Dr. Schermoly has treated Mr. Price since 2011. Mr. Price has a very trusting patient-physician relationship with Dr. Schermoly and continues to

desire to follow the guidance of Dr. Schermoly. Dr. Schermoly's office is very close to where Mr. Price resides. If he was having medical issues, he can readily access medical treatment. Furthermore, Mr. Price is presently scheduled to meet with Dr. Schermoly again on March 6, 2023. It is unlikely that the appointment of a Guardian Ad Litem will provide greater insight concerning the cancellation of doctor's appointments than what is contained in Dr. Schermoly's report, or what could have been revealed had Ms. Kuhn exercised the authority granted to her as Temporary Guardian.

**C. Investigation of Edward Jones incident.**

It is not exactly clear why there needs to be an appointment of a Guardian Ad Litem to inquire of Edward Jones personnel and what that has to do with the issues in this case. The relevance to whether or not Mr. Price is an impaired adult is a mystery. However, and again, it should be noted that Ms. Kuhn was Temporary Guardian starting on October 7, 2022 for 30 days. No attempt to renew that appointment was made. During that time, and to the present, Ms. Kuhn could have conducted her own investigation, or conducted discovery such as, depositions of Edward Jones personnel, if this information was so crucial to her case. Now, she wants a Guardian Ad Litem to conduct an investigation. Mr. Price asserts that such an investigation is unnecessary to any issues in this case. Or, if the information is so crucial, Ms. Kuhn should have investigated while she was Temporary Guardian, or should conduct discovery without the need of paying a Guardian Ad Litem to do so.

**D. No need for a Guardian Ad Litem to investigate isolation from family.**

As stated above, Mr. Price has no obligation to explain to anyone, including a Guardian Ad Litem, what his feelings are towards his family, and he denies that he is isolated in general. Further, he denies that any upset or hurt he may have concerning his daughter is solely associated

with an incident at Edward Jones. Yes, it is possible he was not pleased that his account was frozen by Edward Jones, and may be displeased with his Edward Jones representative, but potentially that is not the full basis for any hurt he feels as a result of this legal proceeding. Again, no Guardian Ad Litem or anyone can compel him to reveal his thoughts or feelings, unless he voluntarily chooses to do so. This matter is set for trial on March 9, 2023. Mr. Price, in conjunction with his legal counsel, will decide whether or not he desires to testify and express his feelings concerning his daughter or anyone else.

6. It should be noted that the parties have agreed upon a mediation with the Hon.

Thomas H. Sachse on February 1, 2023. It appears unlikely that a Guardian Ad Litem could investigate all that has been requested by Petitioner in advance of that scheduled mediation.

It is also possible that during the mediation process, Mr. Price will choose to address some of the questions and concerns posed by the Petition.

7. It should also be noted that Kansas Adult Protective Services recently completed an investigation, and they informed Mr. Price that they found that any claims of financial exploitation of Mr. Price were unsubstantiated.

8. Finally, counsel for Mr. Price feels compelled to respond to Paragraph 7 of the Petition for Appointment of Guardian Ad Litem, wherein it is suggested that Mr.

Price lacks the ability to hire counsel “during a time period he has been isolated from most of his family” (Petition for Appointment of Guardian Ad Litem at Paragraph 7).

First of all, it makes no sense that having recently decided not to communicate with his daughter has any impact on his ability to hire an attorney. Why would that decision somehow impact his ability to hire an attorney? It does not.

Second, a medical doctor who has a long standing relationship with the proposed Ward, Dr. Schermoly has expressed his professional, medical opinion that Mr. Price is capable of directing his case and finances, and is capable of expressing his wishes. (See Doc. 23.) This was taken into consideration when counsel was deciding whether or not to represent Mr. Price.

Ms. Stacey Janssen is an outstanding attorney, adored by much of the Bar, including Mr. Price's present counsel. Nonetheless, Mr. Price was not fully satisfied with Ms. Janssen's representation, and expressed to his present counsel that his voice was not being heard in this matter, and wished to retain his own counsel. Mr. Price believes he does not need a Guardian or Conservator. Dr. Schermoly does not believe Mr. Price is in need of a Guardian or Conservator. Present counsel has met with Mr. Price on several occasions and spoke with him by telephone on numerous occasions. Counsel is convinced that he has the capacity to hire his own attorney, and to imply that counsel has done anything improper is disputed, disappointing and offensive. Mr. Price wants his wishes expressed and he is entitled to his day in Court to dispute the need for a Guardianship, and wants counsel to assist him in having his voice heard. He does not need the appointment of a Guardian Ad Litem to accomplish that.

WHEREFORE based upon the above and foregoing, Proposed Ward and Conservatee, Thomas J. Price, Jr. requests that the Court set aside its previous Order Appointing Guardian Ad Litem; allow Mr. Price to be heard on the issue of whether or not such an appointment is necessary; and if the Court is convinced that such an appointment is necessary, Mr. Price requests that the Petitioner be responsible for the payment of any Guardian Ad Litem fees and for such other and further relief as the Court deems just and equitable.

Respectfully submitted,

/s/ Jon A. Blongewicz

Jon A. Blongewicz KS #12143 MO #41371

Jon A. Blongewicz, Attorney at Law, P.A.

10990 Quivira Road, Suite 200

Overland Park, KS 66210

913.335.1399

913.491.6398 Fax

blongewicz@leawoodattorneys.com

*Attorney for Proposed Ward and Conservatee,*

*Thomas J. Price, Jr.*



**VERIFICATION**

STATE OF KANSAS            )  
  ) ss.  
COUNTY OF JOHNSON    )

Thomas J. Price, Jr., of lawful age, being first duly sworn, upon oath states: He is the Petitioner above named; he has read the above Petition for Order Setting Aside Order Appointing Guardian Ad Litem and in Opposition to Appointment of Guardian Ad Litem, knows the content, and knows that all the statements made therein are true.

\_\_\_\_\_  
Thomas J. Price, Jr.

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of January, 2023.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_