



## OFFICE of the GUARDIAN AD LITEM and CASA

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### STATEMENT OF THE GUARDIAN AD LITEM IN THE PARKER JENSEN CASE SEPTEMBER 2, 2003

This statement must begin with a clarification: The Office of the Guardian ad Litem does not represent the juvenile court. Federal and state law require that a Guardian ad Litem attorney be appointed by the court in all cases involving child abuse or neglect. The Guardian ad Litem is charged with the responsibility of representing the child's best interests and ensuring the those interests are protected in the court proceedings.

The Guardian ad Litem has been informed today that the meeting previously scheduled for 11:00 a.m. to discuss settlement negotiations has been canceled. It is my understanding that Mark May who has taken over the case for the Attorney General's Office, and Richard Anderson, Head of DCFS are meeting with the Jensens in Pocatello this morning. The Office of the Guardian ad Litem has not been invited to this meeting.

The goal of the Guardian ad Litem in this case has always been to get Parker into treatment for his cancer. To that end, last week, we drafted a proposed settlement agreement that includes the following terms:

- 1) Parker must be evaluated by a board certified pediatric oncologist of the Jensens' choice. If that physician's diagnoses confirms that Parker has Ewing's Sarcoma, Parker must immediately begin chemotherapy or any alternative treatment that meets the standard of care for children with Ewing's Sarcoma
- 2) The Jensens must sign a release of info. which allows the A.G., DCFS and the GAL to communicate with the selected physician about Parker's diagnosis and treatment.
- 3) Neither PCMC, nor the State's expert witnesses will contact the selected physician, however, if the selected physician contacts PCMC or the State's expert witnesses they may discuss Parker's case.
- 4) If the Jensens agree to take Parker to a board certified pediatric oncologist, the A.G. and the GAL will ask the Court to stay the warrants pending treatment.
- 5) Once Parker enters treatment, he will remain in the legal custody of the State of Utah, however, he will not be removed from the physical custody of the Jensens unless the Jensens attempt to discontinue treatment against the advice of the treating physician.

6) The Jensens must disclose the address and phone number where they will be staying during the time Parker is in treatment and the address and phone number where they intend to reside when he is not in treatment.

7) The Jensens must surrender Parker's passport.

Obviously, any agreement the parties came to would have to be approved by Judge Yeates. Based on the Jensens' statements to the media that they believe Parker is healthy and does not need chemotherapy, it appears unlikely that they would agree to these proposed terms.

In order to alleviate any concerns the Jensens have about the validity of the previous pathology testing, the Guardian ad Litem encourages the Jensens to send Parker's tissue samples to any pathologist they select to have them tested again. Additionally, if the Jensens are aware of any alternative treatment that meets the standard of care for Ewing's Sarcoma that does not involve chemotherapy, it would be helpful to have that information.

Attached to this statement is the criteria previously referred to regarding when the Court can direct medical treatment for children. We believe it is eminently reasonable and is in compliance with federal case law concerning state's rights to intervene in medical treatment for children.

Dated this \_\_\_\_\_ day of September, 2003.

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Mollie McDonald, Guardian ad Litem

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Tracy Mills, Managing Attorney

## CRITERIA FOR COURT-ORDERED MEDICAL TREATMENT OF A MINOR

1. The outcome of failure to treat is death, permanent loss of a body function, or significant physical or mental impairment.
2. The parent or guardian has been fully informed of the probable consequences if the condition is left untreated, the alternative treatments available, the consequences of each treatment, the risks of each treatment and the probability of each alternative outcome.
3. The treatment is well established and universally accepted by the medical profession.
4. A reasonable parent or guardian would not refuse treatment for the child yet treatment is refused.
5. Delay in treatment increases the probability of harm.
6. The probability that the treatment will be successful and that it will provide the child a good quality of life, outweigh possible negative consequences and side effects.
7. No alternative will provide a better more probable benefit.