

**IN THE SUPREME COURT OF THE STATE OF MONTANA  
NO. OP 24-0494**

---

THE OFFICE OF THE STATE PUBLIC DEFENDER,  
Petitioner,

vs.

THE HONORABLE DAN WILSON,  
Montana Eleventh Judicial District Court Judge,  
Respondent.

---

**PETITIONER'S AFFIDAVIT IN SUPPORT OF  
PETITION FOR WRIT OF MANDAMUS**

---

Original Proceedings Arising from the  
Montana Eleventh Judicial District Court, Flathead County,  
In re the Matter of the Guardianship and Conservatorship  
of T.B., Cause No. DG-24-48 (D)  
The Honorable Dan Wilson Presiding Judge

---

Comes now, Dianne Rice, being first duly sworn, states under oath as follows:

1. I work for the office of the State Public Defender. I am an attorney in the Kalispell Public Defender's office. I am assigned to most the guardianship and conservatorship cases in our office. I was appointed to represent T.B. in DG-2024-35(C). The Petitioner in this matter was represented by Emily von Jentzen.
2. While representing T.B. in DG-2024-35(C), I represented a client in a guardianship and conservatorship case where the petitioner was represented

by Christina Larsen. The cause number in that case was DG-2024-11. In DG-2024-11, my client asserted his right to a jury trial. Judge Dan Wilson presided over that case and after we asked for a jury trial, Judge Wilson held a scheduling conference over the phone that was unrecorded. Before the scheduling conference began on the phone, the judge's clerk asked Ms. Larsen if she intended on filing a Rule 38 objection to the jury trial (alerting Ms. Larsen to the argument that my client's jury trial demand was untimely). Ms. Larsen said she would file one and the Judge then vacated the scheduling conference to give her time to do so. Ms. Larsen then filed an objection to the jury trial demand to which I replied, and the judge ultimately ruled that my client waived his jury trial by not asserting the demand within 14 days of the petition.

3. Ms. Larsen and I exchanged emails regarding our case, and Ms. Larsen then forwarded my email to multiple private attorneys in the community who usually represent petitioners in guardianship and conservatorship matters. Ms. von Jentzen received the email. Ms. Larsen also spoke to OPD manager Nick Aemisegger and told him she spoke with the clerk of Court and that she would not be having cases against OPD anymore. The Flathead County District Court has not appointed OPD to any cases where Ms. Larsen is the petitioner's attorney since this conversation.
4. After I met with T.B. and discussed her rights in DG-2024-35(C), I filed an answer to the petition and a demand for jury trial. Ms. von Jentzen then sent me an email explaining that she received the email that Ms. Larsen forwarded to the private attorneys in the community and that she was going to move to have OPD removed from the case. At a hearing on that issue, the Honorable Judge Heidi Ulbricht dismissed DG-2024-35 while explaining to Ms. von Jentzen that she can just refile with a private attorney being appointed, over my objection.
5. Ms. von Jentzen filed the second Petition for guardianship and conservatorship of T.B. the next day. I did not find out about this petition for quite some time because Ms. von Jentzen filed the case under a different last name. In DG-2024-35(c), it was filed under T.B., in DG-2024-48(D), it was filed under T.B.B.. When I found out about the new petition, I filed a motion

for leave to intervene on behalf of OPD in the new case. Judge Wilson denied that motion.

6. Since the cases with Ms. von Jentzen and Ms. Larson were concluded, it appears that the Flathead County District Court has not appointed OPD to any new petitions for guardianship or conservatorship unless the petitioner is pro se or specifically requests OPD be appointed.

DATED this 21<sup>st</sup> day of August, 2024.

Dianne Rice

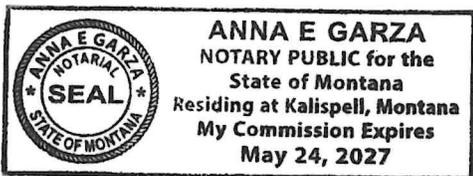
Dianne Rice, Office of the State Public Defender

STATE OF MONTANA )

: ss.

County of Flathead )

Subscribed and sworn to before me by Dianne Rice this 21<sup>st</sup> day of August, 2024



Anna E. Garza Anna E. Garza

Notary Public for State of Montana

## CERTIFICATE OF SERVICE

I, Dianne Ingrid Rice, hereby certify that I have served true and accurate copies of the foregoing Affidavit - Other to the following on 08-21-2024:

Christina Holte Larsen (Other)  
705 S Main Street  
Kalispell MT 59901  
Service Method: E-mail Delivery

Dianne Ingrid Rice (Petitioner)  
723 5th Ave E Ste 100  
Kalispell MT 59901  
Service Method: E-mail Delivery

Emily A. Von Jentzen (Other)  
22 2nd Ave. W, Suite 4000  
Kalispell MT 59901  
Service Method: E-mail Delivery

Dan Wilson (Respondent)  
Eleventh Judicial District Court  
920 South, Main, Suite 210  
Kalispell MT 59901  
Service Method: E-mail Delivery

Electronically Signed By: Dianne Ingrid Rice  
Dated: 08-21-2024