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IN THE SUPREME COURT OF THE STATE OF NEVADA

WILLIAM BAUER and AMY
BAUER

Supreme Court No. _____

vs.

District Ct. Case No. PRCV98-03405

THE SECOND JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA
IN AND FOR THE COUNTY OF
WASHOE AND THE HONORABLE
EGAN WALKER, DISTRICT
JUDGE,
RESPONDENTS

and

In the Matter of Guardianship
ELIZABETH ELAINE BAUER,
Adult Ward

Real Party in Interest

**PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE,
WRIT OF PROHIBITION**

COMES NOW, WILLIAM BAUER and AMY BAUER by and through
their attorney, Jason D. Guinasso, Esq., of GUINASSO LAW, LTD., and
pursuant to Nevada Law¹ respectfully petitions this Honorable Court to issue a
Writ of Mandamus to direct the Honorable Egan Walker to dismiss the
underlying action.

¹ NRS 34.150 and NRS 34.320 *et seq.*

I.

RELIEF SOUGHT BY PETITIONERS

1. An Order directing District Court Judge Egan Walker to dismiss the action commenced on October 16, 2012; and
2. An Order directing District Court Judge Egan Walker to halt proceedings to determine if the Ward, Elizabeth Elaine Bauer should be forced to undergo an abortion.

II.

ISSUES PRESENTED

1. Did the Honorable Egan Walker, District Court Judge, act in an arbitrary and/or capricious manner when he set the underlying action for a “status” hearing based upon an “informal” *ex parte* communication with state agents?
2. Did the Honorable Egan Walker, District Court Judge, act in an arbitrary and/or capricious manner when he refused to dismiss the “status” hearing in the underlying action because he did not have jurisdiction to initiate such a proceeding when no one had petitioned the court for relief pursuant to NRS 159.185 *et seq.*, and NRS 159.1905, *et. seq.*?
3. Did the Honorable Egan Walker, District Court Judge, act in an arbitrary and/or capricious manner when he deprived Elisa and her Guardians of their statutory due process rights and set the underlying action for a

1 series of evidentiary hearings to determine if the Ward, Elizabeth Elaine
2 Bauer, should undergo a forced abortion procedure?

3 III.

4 STATEMENT OF FACTS

5
6 On July 28, 1998, William and Amy Bauer were appointed as guardians
7 of Elizabeth Elaine Bauer (hereinafter "Elisa"). **Exhibit B.**

8 On September 27, 2012, Washoe County Social Services, Adult
9 Division, provided an *ex parte* "informal" report to the Court advising the
10 Court that Elisa was approximately 7 weeks pregnant and that her treating
11 physicians had concerns regarding the medications she is taking and the effects
12 they may have on her pregnancy.² **Exhibit C.**

13
14 Based on the "informal" *ex parte* report, the Court set a "Status
15 Conference" for October 9, 2012. **Exhibit C, pg. 1.** All parties appeared at the
16 Status Conference; however, Elizabeth, Amy, and William Bauer were not
17 represented by counsel.

18 In response to the information provided at the Status Conference, the
19 Court set a hearing on October 16, 2012 at 9:30 a.m., to further address the
20 issues raised in the physicians' reports as well as the issues raised by Elisa's
21 guardians. **Exhibit F, pg. 2.** Additionally, the Court found that counsel should
22

23
24 ² Apparently, according to Dr. Torch's report, this was precipitated by a
25 discussion that Dr. Torch had with Former District Attorney, Cal Dunlap.
Exhibit E, pg. 4.

1 be appointed for Elisa and that the Washoe County Public Guardian's Office
2 should conduct an investigation. **Exhibit F.**

3 Because counsel for Elisa was not present at the October 16, 2012,
4 hearing, the Court continued the "status hearing" to Thursday, October 25,
5 2012 at 9:00 a.m. **Exhibit K.**

6
7 On October 17, 2012, counsel for William and Amy Bauer (herein after
8 "Guardians") filed a motion to dismiss stating that the District Court lacked
9 jurisdiction to usurp the judgment of the Guardians without due process of law,
10 namely without complying with Nevada Revised Statutes Chapter 159 *et seq.*
11 **Exhibit J.**

12
13 On October 25, 2012, the Judge took up the Guardians' motion at the
14 October 25, 2012, hearing. In denying the motion to dismiss, the Judge
15 reasoned from the bench that:

- 16 a) He had "inherent authority" to call the hearing and to consider the
17 decisions being made about Elisa's health care;
18 b) Guardians are "agents" of the Court;
19 c) The express provisions of Chapter 159 do not in any way limit his
20 authority to take action to usurp the authority of the guardians and make
21 health care decisions, if and when necessary.
22

23 To support this reasoning, the District Court cited *In re Spangler*, 162 Ohio
24 App.3d 83, 832 N.E.2d 805 (Ohio App. 3 Dist., 2005) and a law review article

1 titled "Is A Guardian The Alter Ego of the Ward" 37 Stetson Law Review 54
2 (4/7/2008).³ However, in reviewing these citations, it is not clear how they
3 support the District Court Judge's position that he has "inherent" authority to
4 call the hearings he has initiated and then make decisions regarding Elisa's
5 pregnancy.
6

7 To date, the District Court has not provided a written decision.⁴

8 After denying the Bauers' motion to dismiss, the Judge explained that he
9 would like to have weekly evidentiary hearings to take evidence and testimony
10 to address the questions:

11 (a) Whether Elisa has the mental capacity to understand the risks of
12 pregnancy and whether she is competent to make a decision about
13 carrying her unborn child to term;
14

15 (b) If Elisa had the mental capacity to understand the risks of her
16 pregnancy, would she decide to carry the pregnancy to term or would
17 she elect to have an abortion?
18

19 After framing the questions, the Judge ordered a psychological evaluation.

20 Additionally, he set two evidentiary hearings. **Exhibit N.** One for Thursday,
21

22 ³ This Ohio case and Florida law review article do not support the District
23 Court's conclusions. Moreover, this Ohio case and Florida law review article
24 do not establish the District Court's jurisdiction to conduct the rogue
25 proceedings.

⁴ Upon request of undersigned counsel, the District Court said it would file a
written decision and order right away.

1 November 1, 2012, and the other for Tuesday, November 6, 2012. **Exhibit N.**
2 At the first hearing, the Judge asked to hear from Dr. Torch, Dr. Slotnick, Dr.
3 Mellum and any other doctor who could address the risks of Elisa's pregnancy.
4 At the second hearing, the Judge would like to hear from doctors who will
5 address Elisa's mental capacity. Additional hearings will be scheduled as
6 needed to take evidence and hear arguments.
7

8 **IV.**

9 **STATEMENT OF REASONING FOR THE ISSUANCE OF A WRIT**

10 A Writ of Mandamus is available “to compel the performance of an act
11 that the law requires as a duty resulting from an ‘office, trust or station’ or to
12 control an arbitrary or capricious exercise of discretion.”⁵ Writs of Prohibition
13 are “the counterpart of the Writ of Mandamus.” It arrests the proceeding of
14 any “tribunal, corporation, board or person exercising judicial functions, when
15 such proceedings are without or in excess of the jurisdiction of such tribunal,
16 corporation, board or person.”⁶ Such writs may be issued when no plain,
17 speedy and adequate remedy exists in the ordinary course of law.⁷
18
19

20 The Nevada Supreme Court has held:

21 As a writ protection seeks an extraordinary remedy, we will
22 exercise our discretion to consider such a petition only when there

23 ⁵ See *Cheung v. Dist Ct.*, 121 Nev. 867, 868-69, 124 P. 3d 550, 552
24 (2005)(quoting NRS 34.160).

25 ⁶ NRS 34.320

⁷ NRS 34.020; NRS 34.170; NRS 34.330

1 is no “plain, speedy and adequate remedy in the ordinary course of
2 law” or there are either urgent circumstances or important legal
3 issues that need clarification in order to promote judicial economy
and administration.⁸

4 In the case at bar, there is a lack of remedy at law. The District Court
5 has issued a *sua sponte* order, which is not appealable, for a “status
6 conference” and now for a series of proceedings to hear evidence to determine
7 if Elisa should be forced to have an abortion procedure to terminate her
8 pregnancy. There is an urgent and strong necessity for a remedy plus a gross
9 miscarriage of justice will occur if this petition is not granted.⁹ Even if the
10 order were appealable, should the District Court decide to order a forced
11 abortion on Elisa, then the pregnancy will be terminated before the appeal
12 could be heard.
13

14 Absent a clear abuse of discretion this Honorable Court will not overrule
15 a District Court which has been granted broad powers of discretion.¹⁰ The
16 Honorable Egan Walker acted outside of his statutory authority, arbitrarily and
17 capriciously, in ordering the status conference and the ensuing evidentiary
18 hearings to determine if it should order a forced abortion on Elisa. Such
19 actions by the District Court constitute a manifest abuse of discretion.
20

21 ///
22

23 ⁸ See *Cheung*, 124 P. 3d at 552.

24 ⁹ See *State v. Babayan*, 106 Nev. 155, 787 P. 2d 805 (1990; see also *Jeep Corp.*
v. Dist. Ct., 98 Nev. 440, 652 P 2d. 244 (1983).

25 ¹⁰ See *Primm v. Lopes*, 109 Nev. 502, 504, 856 P 2d. 103, 104 (1993).

V.

ARGUMENT AND AUTHORITIES

A. The decision to procreate and to terminate or not terminate a pregnancy is a fundamental right of Elisa.

The right to procreate is one of the most closely guarded rights in our Federal Constitution. It has been well established that there is no dispute that there exists a fundamental right to procreation.¹¹ In fact, the U.S. Supreme Court has said that procreation is “one of the basic civil rights of man” and is “fundamental to the very existence and survival of the race.”¹² Further, it has been said that many of those rights and liberties (including procreation) involve the most intimate and personal choices a person may make in a lifetime.¹³ In the present case, Elisa is an Adult Ward and mentally handicapped. However, just because a person is mentally handicapped does not mean that the person has lost their constitutional rights.

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¹¹ See *Carey v. Population Servs. Int'l*, 431 U.S. 678, 685, 97 S. Ct. 2010, 52 L.Ed.2d 675 (1977)(citing the right of personal privacy in decisions relating to marriage, procreation, contraception, family relationships, and child rearing and education, and stating that “[t]he decision whether or not to beget or bear a child is at the very heart of this cluster of constitutionally protected choices”).

¹² See *Skinner v. Oklahoma*, 316 U.S. 535, 541, 62 S.Ct. 1110, 86 L.Ed. 1655 (1942).

¹³ See *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U.S. 833, 851, 112 S.Ct. 2791, 120 L.Ed.2d 674 (1992).

1 **B. The District Court is violating both the guardians' and**
2 **the ward's due process rights.**

3 Since the Court, *sua sponte* and based upon *ex parte* "informal"
4 communications, initiated the current proceedings, the Court failed to provide
5 the Guardians and the Ward due process notice and a right to be heard as
6 required by Nevada Statutes.¹⁴ The essential elements of procedural due
7 process are adequate notice, a neutral decision-maker, an opportunity to present
8 one's case, representation by an attorney, and a decision based on the record
9 with a statement of reasons for the decision.¹⁵ Fundamental to the requirement
10 of due process is an opportunity to be heard at a meaningful time and in a
11 meaningful manner.¹⁶

12 A fundamental requirement of due process of law in any proceeding
13 which is to be accorded finality is notice reasonably calculated under all the
14 circumstances to apprise interested parties of the pendency of the action and
15 afford them an opportunity to present their objections; and the notice must be
16 of such nature that it reasonably conveys the required information, and must
17 afford a reasonable time for those interested to make their appearance.¹⁷

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22 ¹⁴ See NRS chapter 159 *et seq.*

23 ¹⁵ See *Mullane v. Central Hanover Bank & Trust*, 339 U.S. 306, 314, 70 S.Ct.
24 652, 94 L.Ed. 865 (1950).

25 ¹⁶ See *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976).

¹⁷ See *Mullane* at 314; the fundamental requisite of due process is the
 opportunity to be heard. See *Browning v. Dixon*, 114 Nev. 213, 954 P. 2d 741

1 NRS Chapter 159 requires that an interested party petition the court for
2 relief. If the Ward's life is in danger, there remains a statutory mechanism to
3 get the court involved. Even in life threatening situations involving children,
4 the Statutes and the Court still require compliance and due process to obtain
5 emergency guardianship to authorize emergency medical care.¹⁸
6

7 **C. The District Court lacks jurisdiction to order a status**
8 **conference and evidentiary hearing to decide whether**
9 **Elisa should undergo a forced abortion.**

10 Under Nevada Law, only the duly appointed guardian may exercise the
11 right to consent to a medical procedure for the ward. Once a guardian is
12 appointed in accordance with the requirements of NRS Chapter 159, the
13 guardian has broad authority and responsibility. Namely, NRS 159.079,
14 provides for the following general functions and powers of a guardian of a
15 person:

16 1. Except as otherwise ordered by the court, a guardian of the person has
17 the care, custody and control of the person of the ward, and has the
18 authority and, subject to subsection 2, shall perform the duties necessary

19
20 (1998) (Citing *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306,
21 314, 70 S.Ct. 652, 657, 94 L.Ed. 865 (1949) "This right to be heard has little
22 reality or worth unless one is informed that the matter is pending and can
23 choose for himself whether to appear or default, acquiesce or contest ... An
24 elementary and fundamental requirement of due process in any proceeding
25 which is to be accorded finality is notice reasonably calculated, under all the
circumstances, to apprise interested parties of the pendency of the action and
afford them an opportunity to present their objections.")

¹⁸ See *In The Matter of the Guardianship of L.S and H.S., Minor Wards*, 120
Nev. 157, 87 P.3d 521 (2004).

1 for the proper care, maintenance, education and support of the ward,
2 including, without limitation, the following:

3 (a) Supplying the ward with food, clothing, shelter and all incidental
4 necessities, including locating an appropriate residence for the ward.

5 **(b) Authorizing medical, surgical, dental, psychiatric, psychological,
6 hygienic or other remedial care and treatment for the ward.**

7 (c) Seeing that the ward is properly trained and educated and that the
8 ward has the opportunity to learn a trade, occupation or profession.

9 2. In the performance of the duties enumerated in subsection 1 by a
10 guardian of the person, due regard must be given to the extent of the
11 estate of the ward. A guardian of the person is not required to incur
12 expenses on behalf of the ward except to the extent that the estate of the
13 ward is sufficient to reimburse the guardian.

14 3. A guardian of the person is the ward's personal representative for
15 purposes of the Health Insurance Portability and Accountability Act of
16 19961, Public Law 104-191, and any applicable regulations. The
17 guardian of the person has authority to obtain information from any
18 government agency, medical provider, business, creditor or third party
19 who may have information pertaining to the ward's health care or health
20 insurance.

21 (emphasis added)

22 ***

23 Nothing in NRS Chapter 159 requires the guardian to seek permission
24 from the Court to make health care decisions for the Ward, including the very
25 personal health care decision regarding whether to carry a pregnancy to term or
not.¹⁹ NRS Chapter 159 leaves the decisions regarding health care, including
pregnancy, to the guardian's sole discretion.

¹⁹ The only limitations to a Guardian's authority regarding health care
decisions are decisions involving "experimental medical, biomedical or
behavioral treatment of a ward" or "sterilization of a ward" or "the
participation of a ward in any biomedical or behavioral experiment." NRS
159.0805(1).

1 Moreover, there are no statutes that give this Court or Washoe County
2 the authority to compel Elisa to have an abortion. Again, such decisions are
3 left to the sound discretion of the duly appointed guardian(s).²⁰
4

5 There are no statutes or cases that allow an “informal” ex parte
6 communication to the Court to serve as a pre-text to compel a “status hearing”
7 to call into question the decisions of a duly appointed guardian of an adult
8 ward. If Washoe County Social Services had questions about Elisa’s health
9 and welfare and the Guardians’ decisions related thereto, Washoe County
10 Social Services was required to follow the procedures set forth in NRS Chapter
11 159. Specifically, Washoe County was required to file a “Petition for
12 Termination or Modification of Guardianship.” In this regard, the statute sets
13 forth what must be contained in the Petition:
14

15 1. A ward, the guardian or another person may petition the court for the
16 termination or modification of a guardianship. The petition must state or
17 contain:

- 18 (a) The name and address of the petitioner.
19 (b) The relationship of the petitioner to the ward.
20 (c) The name, age and address of the ward, if the ward is not the
21 petitioner, or the date of death of the ward if the ward is deceased.

21 ²⁰ By comparison, if the Guardians decided Elisa should have an abortion or
22 they had decided to allow Elisa to use contraception and Washoe County
23 Social Services had moral and ethical concerns about contraception or the
24 efficacy of an abortion, neither Washoe County nor this Court would have
25 authority to prohibit the Guardians from allowing Elisa from using
contraception or undergoing an abortion. Similarly, neither Washoe County
nor this Court has the authority to prohibit the Guardians from allowing Elisa
to carry her pregnancy to term.

1 (d) The name and address of the guardian, if the guardian is not the
2 petitioner.

3 (e) The reason for termination or modification.

4 (f) Whether the termination or modification is sought for a guardianship
5 of the person, of the estate, or of the person and estate.

6 (g) A general description and the value of the remaining property of the
7 ward and the proposed disposition of that property.

8 2. Upon the filing of the petition, the court may appoint an attorney to
9 represent the ward if:

10 (a) The ward is unable to retain an attorney; and

11 (b) The court determines that the appointment is necessary to protect the
12 interests of the ward.

13 3. The petitioner has the burden of proof to show by clear and
14 convincing evidence that the termination or modification of the
15 guardianship of the person, of the estate, or of the person and estate is in
16 the best interests of the ward.

17 4. The court shall issue a citation to the guardian and all interested
18 persons requiring them to appear and show cause why termination or
19 modification of the guardianship should not be granted.

20 5. If the court finds that the petitioner did not file a petition for
21 termination or modification in good faith or in furtherance of the best
22 interests of the ward, the court may:

23 (a) Disallow the petitioner from petitioning the court for attorney's fees
24 from the estate of the ward; and

25 (b) Impose sanctions on the petitioner in an amount sufficient to
reimburse the estate of the ward for all or part of the expenses and for
any other pecuniary losses which are incurred by the estate of the ward
and associated with the petition.

Alternatively, if Washoe County Social Services believes Mr. and Mrs.
Bauer should be removed as duly appointed Guardians of Elisa, they must
submit a "Petition for Removal" that states with particularity the reasons the

1 Guardians should be removed and show cause for removal. NRS 159.1853.

2 Cause for Removal may include one of the following conditions:

3 (a) The guardian has become mentally incompetent, unsuitable or
4 otherwise incapable of exercising the authority and performing the duties
of a guardian as provided by law;

5 (b) The guardian is no longer qualified to act as a guardian pursuant to
6 NRS 159.059;

7 (c) The guardian has filed for bankruptcy within the previous 5 years;

8 (d) The guardian of the estate has mismanaged the estate of the ward;

9 (e) The guardian has negligently failed to perform any duty as provided
by law or by any order of the court and:

10 (1) The negligence resulted in injury to the ward or the estate of
the ward; or

11 (2) There was a substantial likelihood that the negligence would
result in injury to the ward or the estate of the ward;

12 (f) The guardian has intentionally failed to perform any duty as provided
by law or by any lawful order of the court, regardless of injury;

13 (g) The best interests of the ward will be served by the appointment of
another person as guardian; or

14 (h) The guardian is a private professional guardian who is no longer
qualified as a private professional guardian pursuant to NRS 159.0595.

15 NRS 159.185(1).

16
17 Notably, of the enumerated conditions for removal under the foregoing
18 statute, none of the conditions include a moral disagreement about health care
19 decisions being made by the Guardian.

20 In this case, Washoe County Social Services disregarded and completely
21 circumvented the established procedures for challenging the authority and
22 decisions of Mr. and Mrs. Bauer regarding Elisa's health and welfare.

23
24 Therefore, Mr. and Mrs. Bauer respectfully request that the scheduled status

1 hearing be dismissed and vacated and that the Court direct Washoe County
2 Social Services to follow the procedures of NRS Chapter 159 if they believe
3 that Elisa's Guardians are no longer qualified and should be removed and/or
4 Elisa's Guardians are somehow abusing their authority over Elisa's health and
5 welfare.
6

7 **D. Washoe County Social Services has no basis, in law or in fact,
8 to intervene and usurp the authority of Elisa's Guardians to
9 make decisions regarding her health and welfare.**

9 To date, Washoe County has utterly failed to provide clear and
10 convincing evidence that the guardians' decision to support Elisa's efforts to
11 carry her child to term is unlawful or that the guardians are not acting in a
12 manner consistent with the best interests of Elisa's health and welfare. In this
13 regard, the medical opinions relied upon by Washoe County and the Court to
14 support the position that "abortion" and "sterilization" do not constitute the
15 appropriate medical standard of care for a woman with epilepsy.
16

17 The Bauers then argued that the *ipse dixit* opinions of Dr. Emani, Dr.
18 Torch, and Dr. Slotnick lacked factual foundation and were not supported by
19 any scholarly material. Indeed, the concerns expressed about the risks of
20 Elisa's pregnancy were grossly overstated. Therefore, the Guardians' decision
21 to give those opinions little weight regarding the best course of action to take
22 with Ms. Bauer and her pregnancy are reasonable and justified.
23
24

1 To further underscore the care and attention Mr. and Mrs. Bauer gave to
2 what the best medical course of action is for Elisa, Mr. and Mrs. Bauer
3 submitted an expert opinion from Stacy Mellum, M.D., a board certified,
4 practicing physician in Obstetrics/Gynecology to provide guidance and support
5 to the decisions that they must make regarding Ms. Bauer's health and welfare
6 relative to her pregnancy. **Exhibit I.** Dr. Mellum's biggest concern is Ms.
7 Bauer's seizure disorder. **Exhibit I, pg. 1.** In this regard, Dr. Mellum
8 explained that he is concerned about Ms. Bauer complying with her doctor's
9 orders to regularly take her seizure medications during pregnancy. **Exhibit I,**
10 **pg. 3.** Dr. Mellum acknowledged that women with seizures have a higher risk
11 of birth defects than the general population. **Exhibit I, pg. 1.** (In a normal
12 population the incidence of birth defects is 2-3%, while the risk of birth defects
13 is about double (6-8%) in women with seizures. **Exhibit I, pg. 1.**) However,
14 the current standard of care is to use the medication that is most effective in
15 controlling the seizures, not to compel the woman who has seizures to have an
16 abortion. **Exhibit I, pg. 1.** Accordingly, Dr. Mellum opined that, if Ms. Bauer
17 can take her prescribed seizure medications, then Ms. Bauer's pregnancy can be
18 followed as safely as other patients with seizure disorders. **Exhibit I, pg. 3.**

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21
22 Additionally, Mr. and Mrs. Bauer submitted another expert opinion from
23 Dr. Michael Czerkes, OB/GYN, St. Mary's Regional Medical Center in
24

1 Lewiston, Maine. **Exhibit L.** Dr. Czerkes reviewed all the medical facts and
2 concluded:

3 . . . monitoring and screening in pregnancy is the recommended course
4 of treatment in pregnancy for a baby who has been exposed to an anti-
5 epileptic medication, not abortion. The majority of the time the mother
6 may be kept on the same medication that has been controlling her
7 seizure disorder to remain seizure free. The risk of having a congenital
8 abnormality is increased when taking these medications, however the
9 risk is not great enough to recommend the ending of the pregnancy and
10 the life through abortion. With our excellent technology and ability to
11 determine if a baby has a severe malformation, this should be detected
prenatally and then recommended treatment for the baby can be
undertaken. In this circumstance, I would not recommend termination of
this pregnancy. As you can see from this discussion, treatment of
epilepsy in pregnancy is often necessary and the vast majority of the
time there is no harmful effects on the fetus, or the mother.

12 **Exhibit L, pg. 2.**

13 The Judge's refusal to allow Elisa and her parents the protections of NRS
14 159.185 *et seq.*, and NRS 159.1905, *et. seq.*, have been extremely detrimental
15 to Elisa. After learning of Elisa's pregnancy, the Bauers continued to act in the
16 absolute best interests of their daughter and sought to immediately remove her
17 from the facility, which was unable to prevent her from wandering aoff and
18 becoming pregnant. The Bauers restructured their entire life so that Elisa could
19 be with the family she loves (from whom she never wanders) and so that they
20 could provide strict medication monitoring and loving, supervised care.
21 However, on October 29, 2012, the District Judge refused to allow the Bauers
22 to remove Elisa and rendered an order that Elisa must be forced to remain in
23
24

1 the facility which obviously is not structured in a manner capable of providing
2 adequate supervision for her.

3 In addition, the Judge's decision to deprive Elisa and her
4 parent/guardians of the protections of NRS 159.185 *et seq.*, and NRS 159.1905,
5 *et seq.*, have forced Elisa to be harassed and stressed by countless interviews,
6 interrogations and unwarranted medical and/or psychological examinations.
7 Elisa, a mentally disabled woman, is now overwhelmed by a new Guardian ad
8 Litem, a new attorney and others who are attempting to determine her wishes
9 when no one could possibly know or understand Elisa better than the parents
10 who love her, raised her, picked her up off of the streets of a foreign country
11 and who have been her duly appointed Guardians since she was 18 years old.
12 Because of the foregoing, the reasonable sound decisions of Elisa's
13 Parent/Guardians have been thwarted by the District Court.

16 VI.

17 CONCLUSION

18 In accordance with the foregoing, Petitioners respectfully request this
19 Honorable court for a Writ of Mandamus or, in the alternative, a Writ of
20 Prohibition directing District Court Judge Egan Walker to restore the statutory
21 due process rights of Elisa and her Guardians and discontinue the proceedings
22 commenced on October 16, 2012 designed to determine whether Judge Walker
23
24

1 will order a forced abortion upon Elisa over the objections of Elisa and her
2 Parent/Guardians.
3

4 DATED this _____ day of October, 2012.
5

6 Guinasso Law, Ltd.

7 By:

8 
9 JASON D. GUINASSO, ESQ.

10 NV Bar No.: 8478

11 190 W. HUFFAKER LANE, SUITE 402

12 RENO, NV 89511

13 (o) 775-853-8746

14 (f) 775-201-9611

15 Attorney for William Bauer and Amy
16 Bauer
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1 AFFIRMATION

2 The undersigned does hereby affirm that the PETITION FOR WRIT
3 OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF
4 PROHIBITION:

5 Does not contain the social security number of any person.

6
7 -OR-

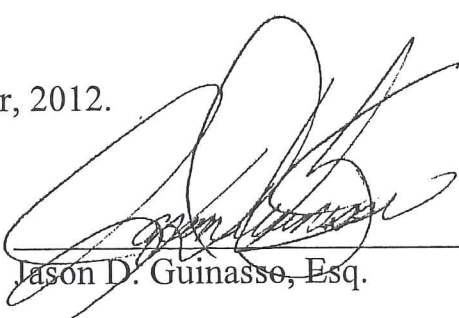
8 Contains the social security number of a person as required by:

9 A. A specific state or federal law, to wit: _____

10 -or-

11 B. For the administration of a public program or for an application
12 for a federal or state grant.
13

14
15 DATED this _____ day of November, 2012.



16
17 Jason D. Guinasso, Esq.

18 Attorney for William Bauer and Amy
19 Bauer
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CERTIFICATE OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 190 W. Huffaker Lane, Suite 402, Reno, Nevada, 89511.

On November 2, 2012, I served the following:

PETITION FOR WRIT OF MANDAMUS OR, IN THE ALTERNATIVE, WRIT OF PROHIBITION

on the following in said cause as indicated below:

KAREN SABO WASHOE LEGAL SERVICES 299 SO. ARLINGTON AVENUE RENO, NV 89501 (VIA U.S. MAIL)	WILLIAM AND AMY BAUER 1364 CANAL DR. FERNLEY, NV 89408 (VIA U.S. MAIL)
MARY BOETSCH, ESQ. SINAI, SCHROEDER, MOONEY, BOETSCH, BRADLEY & PACE 448 HILL STREET RENO, NV 89501 (VIA U.S. MAIL)	DANIA REID, ESQ. WASHOE COUNTY DEPUTY DISTRICT ATTORNEY ONE SOUTH SIERRA ST. PO BOX 11130 RENO, NV 89520 (VIA U.S. MAIL)
WASHOE COUNTY SOCIAL SERVICES ADULT DIVISION PO BOX 11130 RENO, NV 89520 (VIA U.S. MAIL)	JASON D. GUINASSO, ESQ. GUINASSO LAW, LTD. 190 W HUFFAKER LANE, SUITE 402 RENO, NV 89511 (FILE)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 2, 2012, at Reno, Nevada.

