

IRGINIA: IN THE CIRCUIT COURT OF THE CITY OF NEWPORT NEWS

JULIA S. ROSS  
and  
RICHARD W. ROSS,

Petitioners,

v.

FIDUCIARY NO. CWF120000426-DP

MARGARET J. HATCH,

Respondent.

FILED  
8-8-12

SERVE: MARGARET J. HATCH  
20 Betz Lane  
Hampton, Virginia 23666

PERSONAL SERVICE REQUIRED

PETITION FOR APPOINTMENT OF GUARDIANS

COME NOW your Petitioners, JULIA S. ROSS and RICHARD W. ROSS, by Counsel, pursuant to section 37.2-1000 *et seq.* of the Virginia Code and petition this Court to appoint guardians for the person of MARGARET J. HATCH. In support of this petition, and to the extent known as of the filing of this Petition, Petitioners state the following:

1. The Petitioners are: Julia S. Ross and Richard W. Ross. Their place of residence is 31 Timberline Crescent, Newport News, Virginia 23606; their post office address is the same. Julia S. Ross is the natural mother of Margaret J. Hatch, and Richard W. Ross is the step-father of Margaret J. Hatch.

2. ~~Until August 6, 2012, the Respondent, Margaret J. Hatch, resided at~~ Rosezanne's Ark Group Home, 3716 Pinebark Road, Portsmouth, Virginia 23703, as her permanent residence address. To the best of the Petitioners' knowledge, the Respondent is currently residing at 20 Betz Lane, Hampton, Virginia 23666, in the home of James P. Talbert. The

Respondent's date of birth is March 11, 1984; her Social Security number is provided by

Addendum to Petition – Under Seal, filed herewith.

3. The Respondent, Margaret J. Hatch's, family relationships are as follows:

- A. Her natural mother is **Julia S. Ross**, whose post office address is 31  
Timberline Crescent, Newport News, Virginia 23606.
- B. Her natural father is **Richard D. Hatch**, whose post office address is 116  
Circle View Drive, Hendersonville, North Carolina 28792.
- C. Her step-father is **Richard W. Ross**, whose post office address is 31  
Timberline Crescent, Newport News, Virginia 23606.
- D. She has two (2) minor half-siblings, named as follows:
- (a) **Sawyer Hatch**, (age 16), whose post office address is 116 Circle  
View Drive, Hendersonville, North Carolina 28792.
- (b) **Madeleine Hatch**, (age 14), whose post office address is 116  
Circle View Drive, Hendersonville, North Carolina 28792.

4. ~~The Respondent is currently responsible for her own care and custody.~~

5. Julia S. Ross and Richard W. Ross have been designated by Respondent as co-agents under a Property Power of Attorney dated December 30, 2002, a copy of which is attached hereto and marked **Exhibit "A"**. Julia S. Ross and Richard W. Ross have been designated by Respondent as co-agents under an Advance Medical Directive/Living Will, dated December 30, 2002, a copy of which is attached hereto and marked **Exhibit "B"**.

6. ~~No guardian, committee, or conservator is currently acting, whether in this state or elsewhere, for the Respondent.~~

7.

By letter dated August 2, 2012, a copy of which is attached hereto and marked

~~Exhibit "C"~~, Patrick B. McDermott, Esquire, who represents the Hampton-Newport News Community Services Board, expressed his concern that the Petitioners' powers as attorneys in fact for the Respondent do not overcome Respondent's "free will even if her physicians feel she is not competent to make her own medical decisions". He further urged Petitioners to seek Court ordered guardianship.

8.

A. The type of guardianship requested by the Petitioners is that they be appointed the guardians of Margaret J. Hatch to be responsible for the personal affairs of Margaret J. Hatch, including the responsibility for making decisions regarding visitation of individuals with Respondent and regarding Respondent's support, care, health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of ~~commitment, residence.~~

B.

Further, it is requested that each guardian shall be permitted to act individually and that upon one guardian's death, incapacity, resignation, unavailability or failure or refusal to so serve as guardian at any time for any reason, the remaining guardian shall be authorized to act alone.

9.

A. The nature and extent of Respondent's incapacity is that she "suffers from developmental delays with an IQ of 70 or less due to Down Syndrome. Recent incidents have demonstrated decisions and behaviors that are contrary to those that a competent person would make regarding their own ~~health and safety.~~" Please see the Report dated March 14, 2012, from Sinclair B. McCracken, M.D., a copy of which is attached hereto and marked **Exhibit "D"**. Further, the Respondent does not have "the mental capabilities of understanding the significance of her situation and making reasonable decisions about what is in her best interest, both

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medically as well as legally". Please see the Report dated March 19, 2012 from William H. McAllister, IV, M.D., a copy of which is attached hereto and marked Exhibit "E".

B. Respondent is incapable of receiving and evaluating information effectively or responding to people, events, or environments to such an extent that she lacks the capacity to meet the essential requirements of her health, care, safety, or therapeutic needs without the assistance or protection of a guardian.

10. Prior to her removal from Rosezanne's Ark Group Home on August 6, 2012, Respondent's safety, daily care assistance and supervised activities were provided at Rosezanne's Ark Group Home, located at 3716 Pinebark Road, Portsmouth, Virginia 23703. Assistance with Respondent's health care needs and rehabilitation is being provided by the Petitioners, Julia S. Ross and Richard W. Ross. The Petitioners recommendation as to the living arrangement and treatment plan for Margaret J. Hatch is that she return to and reside at Rosezanne's Ark Group Home as a resident, which provides supervised activities and a secure environment for individuals with cognitive disorders.

11. In the evening of August 6, 2012, despite the Respondent's lack of capacity, as evidenced by the Reports of Sinclair B. McCracken, M.D. and William H. McAllister, IV, M.D., (previously referred to herein and attached hereto as Exhibits "D" and "E"), Respondent executed a witnessed and notarized Power of Attorney provided by Robert M. Brown, Esquire in an attempt to revoke the Power of Attorney referred to herein and attached hereto as Exhibit "A". Subsequent to execution of this document on August 6, 2012, Respondent was removed from the

Rosezanne's Ark Group Home and is allegedly residing at the residence of James P. Talbert, at 40 Betz Lane, Hampton, Virginia 23666.

12. The name and post office address of the proposed Guardians are: Julia S. Ross and Richard W. Ross, whose post office address is 31 Timberline Crescent, Newport News, Virginia 23606.

13. English is the native language of the Respondent, and no alternative mode of communication is necessary.

14. Respondent is the recipient of Supplemental Security Income (SSI) currently in the amount of \$653.50 per month. The Center for Child and Family Services, 2021 Cunningham Drive, Suite 400, Hampton, Virginia 23666, is the representative payee for Respondent's SSI.

15. Respondent is the recipient of a Medicaid "Mental Retardation/Intellectual Disabilities (MR/ID) Waiver" that provides home and community-based services. This Waiver allows use of SSI funds for residential (group home) support services, along with monies appropriated by the Virginia General Assembly. Respondent currently holds one of a limited number of funded Commonwealth slots.

16. Respondent is the owner of a BB&T checking Account No. 0000157131044, with a current balance of \$286.77. Personal property assets are limited to clothing and small personal items.

17. Petitioners believe that Respondent's attendance at the hearing on this Petition would not be detrimental to Respondent's health, care, or safety.

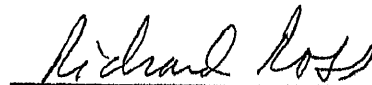
**WHEREFORE**, your Petitioners, **Julia S. Ross** and **Richard W. Ross**, ask this Court to:

1. Appoint **CLARA P. SWANSON**, (707 Mobjack Place, Newport News, VA 23606; Telephone: 757-873-8808) as guardian ad litem to represent and protect the interests of Margaret J. Hatch.

2. Promptly schedule a date, time, and location for a hearing on this Petition.
3. Appoint the Petitioners, **Julia S. Ross** and **Richard W. Ross**, the co-guardians of **Margaret J. Hatch**, pursuant to Virginia Code Section 37.2-1000, *et seq.*, and authorize the Petitioners to be responsible for the personal affairs of **Margaret J. Hatch**, including the authority, pursuant to Virginia Code Section 37.2-805.1B, to consent to the admission of Respondent to a facility as defined in Virginia Code Section 37.2-100, *et seq.*, for no more than ten (10) days pursuant to the provisions of Code Section 37.2-805.1B; and the responsibility for making decisions regarding visitation of individuals with Respondent, Respondent's support, care, health, safety, habilitation, education, therapeutic treatment, and, if not inconsistent with an order of commitment, residence.
4. Order that the Petitioners be reimbursed from the estate of Margaret J. Hatch for all expenses, costs, and fees involving this Petition, including, but not limited to, accounting, legal, medical, and other related fees and expenses.
5. Grant Petitioners such other and further relief as the nature of this case may require or to equity shall seem fair.

Respectfully submitted,

  
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JULIA S. ROSS

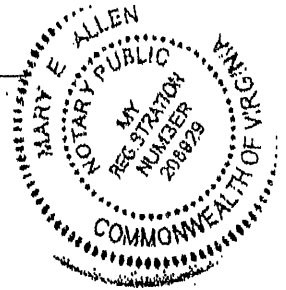
  
\_\_\_\_\_  
RICHARD W. ROSS

STATE OF VIRGINIA  
CITY OF NEWPORT NEWS

Julia S. Ross personally appeared before me, Mary E. Allen, a Notary Public for the City and State aforesaid, and stated that she has read this document and that the facts and matters contained in this document are true according to the best of her knowledge, and she has sworn and subscribed to this document before me on this 7th day of August, 2012.

Mary E. Allen  
Notary Public

My Commissioner Expires: Jan. 31, 2015



STATE OF VIRGINIA  
CITY OF NEWPORT NEWS

Richard W. Ross personally appeared before me, Mary E. Allen, a Notary Public for the City and State aforesaid, and stated that he has read this document and that the facts and matters contained in this document are true according to the best of his knowledge, and he has sworn and subscribed to this document before me on this 7th day of August, 2012.

Mary E. Allen  
Notary Public

My Commissioner Expires: Jan. 31, 2015



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