

1 that, there are -- it appears to be a finding by Judge -- well,  
2 now Judge Quigley, Referee Quigley at the time, saying that her  
3 fees were excessive and unreasonable, but that she was going to  
4 give Ms. Marino an opportunity to respond to that before -- the  
5 way I read it, before saying -- she said I find, but then says  
6 I'm going to give you an opportunity, I guess, to convince me  
7 that I shouldn't find.

8 MR. EBY: Uh-huh.

9 THE COURT: Then it gets confusing because there's an  
10 order that I think Ms. Marino is referring to as a stipulation,  
11 but it says order and it says, you know, it says guardianship  
12 of [REDACTED] and signed by Judge Hampe. And in it, it  
13 says Jeannette Marino voluntarily resigns as guardian over the  
14 person and the Court accepts her resignation. Tracy Culbertson  
15 is appointed to replace her; however, Ms. Marino will continue  
16 to serve as guardian over the estate and as trustee of her  
17 special needs trust until the affairs of the trust in which Ms.  
18 [REDACTED] is a beneficiary are resolved, to such an extent as  
19 to avoid waste and duplication of efforts.

20 As soon as practical, once the trust affairs have  
21 been resolved, Ms. Marino will resign as guardian over the  
22 estate and be replaced by another guardian to be determined,  
23 subject to the trustee's discretionary authority and the  
24 special needs trust to make or not make distributions to Ms.

25 [REDACTED] Jeannette Marino, as guardian of the estate, will

1 September 1st -- September 30th of 2014?

2 THE WITNESS: It would have been within that year,  
3 yes.

4 THE COURT: Okay. I think that covers what I was --  
5 except for our inability to, as I've indicated, I hope within  
6 the next week or two, we can get the, whatever documentation we  
7 haven't gotten from clerks and judges. The only thing I got is  
8 this Burroughs thing -- matter. And if there is anything that  
9 comes in, I'll notify you and give you an -- you know, let you  
10 look at it and just see whether you want to be heard on it. If  
11 there is nothing, then we're done.

12 THE WITNESS: Did you want me to clarify what --

13 MR. EBY: Oh, okay.

14 THE WITNESS: -- that issue --

15 MR. EBY: There was a question that you had earlier,  
16 Your Honor, about the [redacted] matter?

17 THE COURT: Yeah. It clearly says she was removed in  
18 that.

19 MR. EBY: It does. The language is what it is. But  
20 there was some question, I think, as to whether she was --  
21 well, a couple things. Number one, there was a reference to  
22 the reasonableness of her fees, and there's no order --

23 THE COURT: Right.

24 MR. EBY: There's a follow-up order that determines  
25 whether her fees were reasonable or not.

1 THE COURT: Right. Right.

2 MR. EBY: And I think Jeannette has a --

3 THE COURT: She testified they were approved. But I  
4 don't have anything, and I don't know, was there a hearing?  
5 Was it just somebody signed an account?

6 FURTHER DIRECT EXAMINATION

7 BY MR. EBY:

8 Q Can you address that --

9 A Yes.

10 Q -- issue of the reasonableness of the fees and how that  
11 came up and how it was resolved?

12 A Yes.

13 Q Please do.

14 A Well, I was, for [redacted] (phonetic), guardian of her  
15 person, guardian of her estate, and trustee for the special  
16 needs trust. [redacted] became unhappy with me being her guardian  
17 and wanted a new guardian, and a hearing was held, and I had  
18 agreed to, you know, what's -- grant her her wish, and she can  
19 have a new guardian.

20 So there was agreement in court that Jody Stephens would  
21 be guardian over her person. But due to the complication of  
22 her estate and her trust, that I would remain over the estate  
23 until outstanding matters were resolved.

24 THE COURT: And it was Tracy Culberson, right?

25 THE WITNESS: Well, she had Jody for a week and then

1 would be Jody Stephens. And then New Hampshire hospital filed  
2 something on her behalf. She didn't want Jody. So the Judge  
3 came back and did another order now putting in Tracy.

4 THE COURT: So when you said that the stipulation  
5 you -- I think you said sometime earlier than that in like --

6 THE WITNESS: Yes.

7 THE COURT: -- the fall or sometime?

8 THE WITNESS: Yes.

9 THE COURT: That's not that?

10 THE WITNESS: No. This was subsequent to that  
11 because she wanted a different person again.

12 THE COURT: All right. Then I'm confused by Judge  
13 Leonard's order, which again refers to the issue concerning the  
14 third accounting and the reasonableness of Ms. Marino's fees  
15 were substantially heard in February 7 and will be addressed in  
16 a separate order by judge.

17 Was it ever?

18 THE WITNESS: Well, I -- I think what Judge Leonard  
19 did not realize at the time is that the matter of the fees had  
20 already been done and approved, but there was a different judge  
21 sitting on it at that point.

22 THE COURT: But I don't have that order here, right?  
23 I mean, all I have is this special needs trust order.

24 THE WITNESS: I don't believe there was ever a  
25 hearing on the fees.

1 THE COURT: No. I'm just trying to understand, was  
2 the period put on this or is it -- just never was addressed,  
3 finally addressed? And you're saying it was approved. I  
4 don't know if you mean it was approved by someone signing a  
5 third and final account -- a third account --

6 THE WITNESS: Yes --

7 THE COURT: -- that had the fees --

8 THE WITNESS: -- the accounting was --

9 THE COURT: -- in it?

10 THE WITNESS: Yes.

11 THE COURT: And did -- they were unaware that it was  
12 supposed to be heard and you were supposed to be given an  
13 opportunity to challenge what Judge Quigley or then referee  
14 Quigley had said, which was, I find this to be unreasonable but  
15 before I chisel that in granite, I'm going to give you an  
16 opportunity to present something? That's what I'm saying.

17 That's -- I go from there to Judge Leonard's without  
18 anything indicating it was resolved. And that -- and one of  
19 the issues here is your -- in your question of your fee. So  
20 that's, you know, I think we talked about that earlier. I'm  
21 going to have to get that.

22 THE WITNESS: I -- I would need to look at both the  
23 guardianship court file and the special needs --

24 THE COURT: Right. Absolutely.

25 THE WITNESS: -- trust court file because again, I

1 had --

2 THE COURT: But you'd have separate accounts. There  
3 wouldn't be one account for both. So --

4 THE WITNESS: Yes.

5 THE COURT: -- what I'm looking for is an order that  
6 either is an order on the account that says, that includes  
7 those fees that approves them by of allowance of the account.  
8 Or if I don't have that, then it doesn't seem like that issue  
9 has ever been resolved.

10 THE WITNESS: They were all approved, but they were  
11 approved without a hearing.

12 THE COURT: I understand.

13 THE WITNESS: But they were -- the accountings were  
14 approved.

15 THE COURT: All right. Thank you. I'll take that  
16 back.

17 Mr. Eby, anything further?

18 MR. EBY: No, except on -- so on that issue, we  
19 will -- I'm not sure --

20 THE COURT: I mean, I --

21 MR. EBY: -- what we're doing. I guess we need to  
22 find, if there is a subsequent order, we need it.

23 THE COURT: I think -- is that what we've asked for  
24 already, Denise?

25 MR. EBY: My understanding is that there is no

1 subsequent order, that -- I thought I heard Jeannette say that  
2 in response to the February 7, 2014 --

3 THE COURT: Right.

4 MR. EBY: -- Judge Michael, handwritten order, that  
5 says, I'll give the State sixty days to submit further data  
6 regarding the guardian and trustee fees issue.

7 THE COURT: Right.

8 MR. EBY: That there was never a follow up from the  
9 State.

10 THE COURT: Right.

11 MR. EBY: But maybe the trail stops then. We don't  
12 have a --

13 THE COURT: You can't -- there has to be -- somebody  
14 has to at some point say, these fees are reasonable because we  
15 already have Judge Quigley saying they're unreasonable.

16 MR. EBY: Yes. And so if I ask -- may I ask the  
17 question?

18 THE COURT: You may.

19 FURTHER DIRECT EXAMINATION

20 BY MR. EBY:

21 Q Do you recall ever receiving an order from Judge  
22 Quigley or others on this [redacted] matter where, whether it  
23 was the trust matter or the guardianship matter, that  
24 determined that your fees were unreasonable and cut your fees?

25 THE COURT: Or said they were reasonable?