

Affidavit of Gabriele Spangler

State of Ohio)
) ss:
County of Geauga)

Now comes Gabriele Spangler, who, having first been duly sworn, states as follows from her own personal knowledge:

1. I am the mother of John Spangler and, along with my husband and John's father, Joseph Spangler, was originally appointed the guardian of John Spangler on June 15, 2006.
2. We were removed as the guardian by Judge Charles Henry pursuant to an action brought by Geauga Mental Retardation and Development Disability Board. The Board filed a motion to remove me as guardian and we were removed after several days of hearing in which evidence and testimony was introduced.
3. The Board actively sought my removal and they were a party to the guardianship, represented by the local county prosecutor.
4. As background, my son, who is now an adult, is not able to care for himself due to a complex condition that he has, which includes an intermittent explosive disorder, as well as autism, mental retardation and mitochondrial disease.
5. Prior to the establishment of the guardianship, my son was in the Warrensville Development Center. He entered the facility on June 7, 2006 voluntarily, but based on the recommendations of Geauga MRDD. During his stay there, he was assaulted on June 11, 2006. At that point, he checked himself out of Warrensville Development Center. At this point, no guardianship had been established and my son was an adult.
6. On June 12, 2006, I and my husband and John's father, Joseph Spangler, met with the house manager to discuss the incident.
7. On June 13, 2006, we participated in an emergency team meeting to address some of the issues with John.

8. On June 14, 2006, Geauga MRDD issued a memo from Suzanne Joseph indicating that no further emergency services would be provided. It was made clear to me through my contact with Geauga MRDD that the agency did not agree with our decisions regarding son, who was not yet under a guardianship, and therefore they were trying to control the choices for John by withholding funding. It was clear to me at this point that my relationships with Geauga MRDD had become adversarial.
9. I applied and was appointed emergency guardian on June 15, 2006, by Judge Forrest Burt. He handled my case because Judge Henry, the probate judge, was not available. On June 19, 2006, I appeared before Judge Henry, who then reappointed me.
10. I sought the guardianship because I knew that John was not capable of making decisions for himself and I know that the Board had considered seeking guardianship over John as early as the previous March.
11. Because I was concerned about the issues I was having with Geauga MRDD and I was further concerned about John's legal rights and remedies regarding the assault, I made an appointment with Frank Hickman to discuss my legal rights.
12. I met with Frank Hickman on June 21, 2006. I explained to him the situation with John, the problems I was having with Geauga MRDD, and the investigation into the incident at Warrensville Development Center. In the course of my meeting with him, I made it clear that I was seeking legal advice and legal representation from him. In addition, I disclosed confidential information to him that was pertinent to this matter. Much of the confidential information I disclosed to him has remained confidential at this point and I wish it to continue to remain confidential.
13. I sought the legal advice of Frank Hickman because I know him professionally through my job as an advocate for special needs children in the school setting. I was aware that Mr. Hickman was well versed in the legal rights of these children and their families.

14. The meeting with Mr. Hickman lasted at least two hours. During the course of the meeting, Mr. Hickman advised me regarding certain matters and explained a plan for pursuing John's legal rights, part of which included Mr. Hickman filing a case on John's behalf at some point in the immediate future. It was made clear to me that Mr. Hickman was intending to represent me in the matter and had merely asked me to take some steps in anticipation of that representation.
15. I relied on Mr. Hickman's advice and acted on it by following his suggestions.
16. During that meeting, Mr. Hickman also indicated that he was a friend with Sue Joseph, but did not indicate that there was a conflict regarding his representation.
17. Subsequently, Geauga MRDD filed a motion in the guardianship to have us removed as guardians because they were concerned about certain complaints I had made about John's care. In particular, I had expressed concern to the Board that the care providers were not following John's Service Plan. I also had expressed concerns that the Board was not properly supervising my son's care.
18. We were removed as guardian and APSI was appointed as the guardian instead, as requested by Geauga MRDD in late October, 2006.
19. On November 13, 2006, I was at a conference and saw Frank Hickman at that event.
20. In order to update him on the status of the matter, I asked to speak with him after the conference.
21. He agreed to meet with me. We spoke for 45 minutes to an hour. During that time, I updated Mr. Hickman on everything that was going on in the case, and I also confided in him regarding some personal matters pertaining to this matter. I also explained to him the steps I had taken to follow his legal advice.

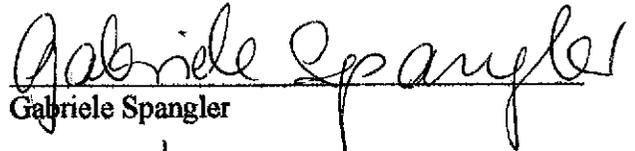
22. At the end of this meeting, while in the parking lot, Mr. Hickman told me that he had represented Geauga MRDD in the past and that it would be unethical for him to advise me on this matter.
23. I was immediately concerned as I had provided him with confidential information. At the time, I determined that it was better to end my discussions with him due to the conflict of interest that he identified.
24. Subsequently, Mr. Hickman made an appearance in the case representing an *amicus* in the Court of Appeals. He was involved in a limited issue involving whether the Board had the right to file the motion to have me removed as a guardian. The *amicus* was not involved in any of the issues pertaining to my care of John.
25. While I consulted with my attorney regarding a potential conflict of interest in this matter, I ultimately understood that the only work being done by Mr. Hickman was regarding this precise legal issue, that he was not actually representing Geauga MRDD and that he had confirmed with my counsel that he was not getting involved in the issues that applied to my removal as guardian. I believed that the confidential information I had provided him would remain confidential.
26. In the matter now pending before the Ohio Supreme Court, Mr. Hickman has now entered an appearance on behalf of Geauga MRDD. I understand through my counsel that Mr. Hickman has indicated that he is only handling the issue pertaining to the right to file the motion to remove me. However, I believe that his representation of Geauga MRDD is in direct conflict with his earlier representation of me in which he advised me how to handle various matters regarding my son, knowing at that time that the relationship between me and Geauga MRDD was adversarial. In addition, Mr. Hickman did in fact indicate to me in November that he could no longer advise me due to a

conflict, indicating that he was aware of the adversarial nature of the relationship between the two of us.

27. I wish to have Mr. Hickman removed as counsel in this case because I am concerned that the confidential information I gave him will be compromised. In addition, I am concerned that he had advised me and I followed his advise. The underlying issues in this case include the Board's disagreement with the way that I handled John's case and decisions I made and positions I advocated on behalf of John. Part of this advocacy included things that I did after consulting with Mr. Hickman and that were consistent with the advice that he gave me.

28. I believe that there is also a conflict because Mr. Hickman had previously advised me on how to handle matters knowing that this would be reviewed by Geauga MRDD. I have relied on that advice and I am now concerned that in doing so, Mr. Hickman is aware of that and will be able to share that with Geauga MRDD.

Further affiant sayeth naught.


Gabriele Spangler

Sworn to before me and subscribed in my presence this 7th day of July, 2009.


Notary Public



Christopher L. Franklin
Notary Public, State of Ohio
My Comm. Exp. Dec. 11, 2013

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Affidavit was served this 24th day of July, 2009, upon the following counsel of record by U.S. Mail, postage prepaid, addressed as follows:

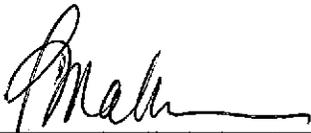
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