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9 **5998 Alcalá Park**
10 **San Diego, CA 92101**
11 **619-260-4806 / 619-260-4753 (fax)**

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF AMES**

10
11 IN THE MATTER OF
12 **JANET D.**

13
14 a child

CASE NUMBER _____
PETITION FOR AUTHORIZATION TO
ESTABLISH A SPECIAL NEEDS
TRUST FOR THE BENEFIT
OF THE MINOR CHILD
Probate Code § 1517 (b)

Hearing Date:
Hearing Time:
Department:

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18 Petitioner, **Children's Advocacy Institute**, as the court appointed counsel and CAPTA guardian
19 ad-litem for the above referenced minor, alleges as follows:

20 1. The child is a dependent of the court pursuant to Welfare and Institutions Code § 300, *et*
21 *seq*; she is over **16 years of age (DOB _____)** and resides in a **foster home**. The minor was
22 removed from her home and the court assumed parental jurisdiction over her pursuant to Welfare
23 and Institutions Code Section 300 et seq on _____. The minor remains under such court
24 jurisdiction. She is eligible for transition assistance when she reaches the age of 18, following
25 court hearing pursuant to Welfare and Institutions Code Section 391..

26
27
28 2. Currently, Petitioner is eligible for and should receive approximately \$_____ in

1 assistance to ameliorate her special needs and to achieve self-sufficiency as she transitions from
2 foster care to adult status.

3
4 3. Petitioner asks that this court order the establishment of a bank account under court
5 jurisdiction for the payment of funds pursuant to a special needs trust to be ordered by this court.
6 The account may be a single account for all such children receiving such trust directed benefits,
7 but each child who is the beneficiary of such a trust shall have a separate accounting of funds
8 available and expended for such purposes. Petitioner requests that counsel for the child and the
9 county have access to the separate accounting information relevant to a particular child
10 represented.

11
12 4. Petitioner desires to protect these funds for the special and unique needs of this child
13 while at the same time enabling her to be eligible for all public benefit programs that should
14 provide services to her. Currently, as a dependent of this court, the child is supported by **Ames**
15 County and his medical care is provided by the Medi-Cal program. When she is no longer eligible
16 for these county services, at age 18 or 19, she will have to find housing, employment and private
17 health care with no help from a family.

18
19 5. Because the damage done to this child, both physically and psychologically, she may be
20 considered disabled, not able to be employed and therefore eligible for Supplemental Security
21 Income (SSI). Petitioner desires to preserve these funds and other funds that may be received in
22 the future, so that funds will be available to supplant other resources and programs for which she
23 may be eligible. If **Janet D.** is able to be employed, these funds would be available to help her
24 transition into adulthood, and provide the kind of assistance normally provided by a parent to
25 ameliorate her special needs, safeguard her mental health, and provide minimum opportunity for
26 self-sufficiency as a functional adult.
27
28

6. Petitioner also asks that the court order petitioner and the County of **Ames** to

1 cooperatively apply for monies to fund said special needs trust, including funds from the Mental
2 Health Services Act Fund, monies from social security SSI and other insurance sources, and
3 appropriate federal funds match under Title IV-E of the Social Security Act. With regard to SSI
4 eligibility, petitioner asks that the court find that the attached Exhibit A trust agreement constitute
5 a qualified “special needs trust” properly exempt from inclusion as income or assets for purposes
6 of SSI or other benefit qualification. With regard to the Title IV-E match eligibility, petitioners
7 ask that the court find that Exhibit A hereto, constitutes a continuing “supervised setting” in
8 which **Janet D.** is “living independently,” in accordance with applicable regulations of the U.S.
9 Department of Health and Human Services and with the provisions of 42 USC Section 672, as
10 amended by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008.
11 Such a federal match shall apply only during the trust’s application until **Janet D.** reaches age 21
12 under the terms of the Social Security Act, as amended.

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15
16 7. Probate Code Section 1517(b) provides that a court assumes jurisdiction of a minor
17 child pursuant to Welfare and Institutions Code Section 300 has the authority to make orders
18 necessary to ensure the appropriate administration of funds for the benefit of the child.

19
20 8. Petitioner request this Honorable Court to order that the County of Ames and the
21 Children’s Advocacy Institute, assisted by **Janet D.**’s foster care provider, begin preparations for
22 the transition to self-sufficient adult status. Such preparation shall include when or shortly after
23 **Janet D.** reaches age 16 to include development of a transitional plan and candidates for trustee
24 (to be termed Janet D.’s “coach”) status for a special needs trust to commence upon **Janet D.’s**
25 aging into adult status, consistent with the description for such preparation in the attached Exhibit
26 A trust agreement. That development and appointment would include petitioner and Ames
27 County cooperatively: (a) soliciting funds for deposit into the described court account for
28 designation solely consistent with the trust agreement and plan attached as Exhibit A hereto, (b)

1 applying for appropriate funding under the terms of the California Mental Health Services Act
2 (MHSA), (c) applying for funding pursuant to the Social Security Act (disability and insurance
3 benefit provisions), (d) applying for Social Security Act Section IV-E match funding, and (e)
4 assuring continued Medi-Cal coverage consistent with California law applicable to former foster
5 youth over the age of 18. **Janet D's** Irrevocable Special Needs Trust, 2009 is attached hereto
6 and incorporated herein by reference.
7

8 9. The names and addresses of the persons entitled to notice are as follows:
9

10 Janet D. c/o Children's Advocacy Institute	Child
11 Melanie Delgado Children's Advocacy Institute	Attorney for Child
12 Vickie Jackson Ames Office of County Counsel	Attorney for Ames County
13 Jack Goldin	Family Foster Care Provider
14 James Smith	Proposed Trustee ("Coach" 15 for Janet D.)

16 10. Petitioner, Robert Fellmeth, as executive director of the Children's Advocacy Institute,
17 requests that the Court approve the terms of the trust, attached as Exhibit A to this petition and
18 incorporated herein as though fully set forth.
19

20 11. The proposed Trustee is an experienced private professional fiduciary, the former
21 Public Guardian of Sacramento County and well known to Sacramento County Courts. Given the
22 initial small amount of the trust corpus, the fact that the child has competent counsel and a
23 guardian as-litem and a desire of all to minimize administration fees, Petitioner requests that bond
24 be waived.
25

26 **WHEREFORE**, The Petitioner prays for an order as follows:
27

28 1. That the Court approve and authorize the creation and funding of **Janet D.'s**

1 Irrevocable Special Needs Trust;

2 2. Waiving bond, and

3 3. That Ames County and Petitioners shall perform the enumerated steps as prayed
4 *supra*, and as proposed in the attached Trust Agreement and the self-sufficiency
5 plan it includes, both as presented and as it will be reviewed by this court and
6 amended pursuant to Trust terms and conditions.
7

8 4. For such other orders as the court may deem just and proper.
9

10
11 Dated: _____

_____ **Robert Fellmeth**

12 VERIFICATION

13
14 I, Robert Fellmeth, Executive Director of the Children’s Advocacy Institute, the Petitioner in this
15 matter, declare that I have read the Petition for Order Authorizing him to Establish a Special
16 Needs Trust, and know its contents, which are true to my own knowledge except for those matters
17 stated on my information and belief, and as to those matters I believe the Petition to be true.
18

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct.
21

22 Dated: _____

_____ **Robert Fellmeth**

24 IT IS SO ORDERED.
25

26
27 Dated: _____

_____ **Judge of the Superior Court**