

RCW 11.96A.250 Special representative. (1)(a) Any party or the parent of a minor or unborn party may petition the court for the appointment of a special representative to represent a party: (i) Who is a minor; (ii) who is incapacitated without an appointed guardian of his or her estate; (iii) who is yet unborn or unascertained; or (iv) whose identity or address is unknown. The petition may be heard by the court without notice.

(b) In appointing the special representative the court shall give due consideration and deference to any nomination(s) made in the petition, the special skills required in the representation, and the need for a representative who will act independently and prudently. The nomination of a person as special representative by the petitioner and the person's willingness to serve as special representative are not grounds by themselves for finding a lack of independence, however, the court may consider any interests that the nominating party may have in the estate or trust in making the determination.

(c) The special representative may enter into a binding agreement on behalf of the person or beneficiary. The special representative may be appointed for more than one person or class of persons if the interests of such persons or class are not in conflict. The petition must be verified. The petition and order appointing the special representative may be in the following form:

CAPTION PETITION FOR APPOINTMENT
OF CASE OF SPECIAL REPRESENTATIVE
UNDER RCW 11.96A.250

The undersigned petitioner petitions the court for the appointment of a special representative in accordance with RCW 11.96A.250 and shows the court as follows:

1. Petitioner. Petitioner . . . [is the qualified and presently acting (personal representative) (trustee) of the above (estate) (trust) having been named (personal representative) (trustee) under (describe will and reference probate order or describe trust instrument)] or [is the (describe relationship of the petitioner to the party to be represented or to the matter at issue)].

2. Matter. A question concerning . . . has arisen as to (describe issue, for example: Related to interpretation, construction, administration, distribution). The issue is a matter as defined in RCW 11.96A.030 and is appropriate for determination under RCW 11.96A.210 through 11.96A.250.

3. Party/Parties to be Represented. This matter involves (include description of asset(s) and related beneficiaries and/or interested parties). Resolution of this matter will require the involvement of (name of person or class of persons), who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown).

4. Special Representative. The nominated special representative . . . is a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The nominated special representative does not have an interest in the matter and is not related to any person interested in the matter. The nominated special representative is willing to serve. The petitioner has no reason to believe that the nominated special representative will not act in an independent and prudent manner and in the best interests of the represented parties. (It is recommended that the petitioner also

include information specifying the particular skills of the nominated special representative that relate to the matter in issue.)

5. Resolution. Petitioner desires to achieve a resolution of the questions that have arisen in this matter. Petitioner believes that proceeding in accordance with the procedures permitted under RCW 11.96A.210 through 11.96A.250 would be in the best interests of the parties, including the party requiring a special representative.

6. Request of Court. Petitioner requests that an attorney licensed to practice in the State of Washington,

(OR)

. . . . an individual with special skill or training in the administration of estates or trusts

be appointed special representative for . . . (describe party or parties being represented), who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown), as provided under RCW 11.96A.250.

DATED this . . . day of,

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(Petitioner)

VERIFICATION

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED, (year), at, Washington.

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(Petitioner or other person
having knowledge)

CAPTION PETITION FOR APPOINTMENT
OF CASE OF SPECIAL REPRESENTATIVE
 UNDER RCW 11.96A.250

THIS MATTER having come on for hearing before this Court on Petition for Appointment of Special Representative filed herein, and it appearing that it would be in the best interests of the parties related to the matter described in the Petition to appoint a special representative to address the issues that have arisen in the matter and the Court finding that the facts stated in the Petition are true, now, therefore,

IT IS ORDERED that . . . is appointed under RCW 11.96A.250 as special representative (describe party or parties being represented) who is/are (minors), (incapacitated and without an appointed guardian), (unborn or unascertained) (whose identity or address is unknown), to represent their respective interests in the matter as provided in RCW 11.96A.250. The special representative shall be discharged of responsibility with respect to the matter as provided in RCW 11.96A.250. The special representative is discharged of responsibility with respect to the matter at such time as a written agreement is executed resolving the present issues, all as provided in that statute, or if an agreement is not reached within six months from entry of this Order, the special representative appointed under this Order is discharged of responsibility, subject to subsequent reappointment under RCW 11.96A.250.

DONE IN OPEN COURT this . . . day of,

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JUDGE/COURT COMMISSIONER

(2) Upon appointment by the court, the special representative must file a certification made under penalty of perjury in accordance with chapter 5.50 RCW that he or she (a) is not interested in the matter; (b) is not related to any person interested in the matter; (c) is willing to serve; and (d) will act independently, prudently, and in the best interests of the represented parties.

(3) The special representative must be a lawyer licensed to practice before the courts of this state or an individual with special skill or training in the administration of estates or trusts. The special representative may not have an interest in the matter, and may not be related to a person interested in the matter. The special representative is entitled to reasonable compensation for services that must be paid from the principal of an asset involved in the matter.

(4) The special representative is discharged from any responsibility and will have no further duties with respect to the matter or with respect to any party, on the earlier of: (a) The expiration of six months from the date the special representative was appointed unless the order appointing the special representative provides otherwise, or (b) the execution of the written agreement by all parties or their virtual representatives. Any action against a special representative must be brought within the time limits provided by RCW 11.96A.070(3)(c)(i). [2019 c 232 s 12; 2013 c 272 s 21; 2001 c 14 s 3; 1999 c 42 s 405.]

Application—2013 c 272: See note following RCW 11.98.002.

Retroactive application—1999 c 42 s 405: "Section 405 of this act is remedial in nature and applies to all actions taken by special representatives from January 1, 1985, and thereafter." [1999 c 42 s 704.]