

At an I. A. S. Part of the Supreme Court of
the State of New York, held in and for the
County of Queens, at the Courthouse, 88-11
Sutphin Boulevard, Jamaica, New York on
day of

PRESENT:

HON.

Justice

-----X

In the Matter of the Application of _____
for the Appointment of a Guardian of

_____ a person Alleged To Be Incapacitated.

**ORDER TO SHOW
CAUSE**

Index No.

-----X

IMPORTANT

**AN APPLICATION HAS BEEN FILED IN COURT BY
WHO BELIEVES YOU MAY BE UNABLE TO CARE
FOR YOUR PERSONAL NEEDS OR FINANCIAL AFFAIRS.**

**IS ASKING THAT SOMEONE BE
APPOINTED TO MAKE DECISIONS FOR YOU. WITH THIS
PAPER IS A COPY OF THE APPLICATION TO THE COURT**

SHOWING WHY

BELIEVES

YOU MAY BE UNABLE TO TAKE CARE OF YOUR PERSONAL NEEDS OR FINANCIAL AFFAIRS. BEFORE THE COURT MAKES THE APPOINTMENT OF SOMEONE TO MAKE DECISIONS FOR YOU THE COURT HOLDS A HEARING AT WHICH YOU ARE ENTITLED TO BE PRESENT AND TO TELL THE JUDGE IF YOU DO NOT WANT ANYONE APPOINTED. THIS PAPER TELLS YOU WHEN THE COURT HEARING WILL TAKE PLACE. IF YOU DO NOT APPEAR IN COURT, YOUR RIGHTS MAY BE SERIOUSLY AFFECTED. YOU HAVE THE RIGHT TO DEMAND A TRIAL BY JURY. YOU MUST TELL THE COURT IF YOU WISH TO HAVE A TRIAL BY JURY. IF YOU DO NOT TELL THE COURT, THE HEARING WILL BE CONDUCTED WITHOUT A JURY.

**THE NAME AND ADDRESS, AND TELEPHONE NUMBER OF
THE CLERK OF THE COURT ARE:**

CONNIE LI, GUARDIANSHIP CLERK

88-11 SUTPHIN BOULEVARD, ROOM 100

JAMAICA, NEW YORK 11435 (718) 298-1040

**THE COURT HAS APPOINTED A COURT EVALUATOR TO
EXPLAIN THIS PROCEEDING TO YOU AND TO
INVESTIGATE THE CLAIMS MADE IN THE APPLICATION.
THE COURT MAY GIVE THE COURT EVALUATOR
PERMISSION TO INSPECT YOUR MEDICAL,
PSYCHOLOGICAL, OR PSYCHIATRIC RECORDS. YOU
HAVE THE RIGHT TO TELL THE JUDGE IF YOU DO NOT
WANT THE COURT EVALUATOR TO BE GIVEN THAT
PERMISSION. THE COURT EVALUATOR'S NAME,
ADDRESS, AND TELEPHONE NUMBER ARE:**

YOU ARE ENTITLED TO HAVE A LAWYER OF YOUR CHOICE REPRESENT YOU. IF YOU WANT THE COURT TO APPOINT A LAWYER TO HELP YOU AND REPRESENT YOU, THE COURT WILL APPOINT A LAWYER FOR YOU. YOU WILL BE REQUIRED TO PAY THAT LAWYER UNLESS YOU DO NOT HAVE THE MONEY TO DO SO.

1. A hearing on this application shall be held at an I A S Part ; Room , 88-11 Sutphin Boulevard, Jamaica, New York on the day of 20 at a.m.

2. At that hearing and in this proceeding you have the following rights:

(a) You have the right to present evidence.

(b) You have the right to call witnesses, including expert witnesses.

(c) You have the right to cross examine witnesses, including any witnesses called

by the Court.

(d) You have the right to be represented by a lawyer of your own choice. If you want the Court to appoint a lawyer to help you and represent you, the Court will appoint a lawyer for you. You will

be requested to pay that lawyer unless you do not have the money to do so.

3. If a Guardian is appointed for you, he or she shall have the authority to exercise the following powers on your behalf:

- (a) determining who shall provide personal care or assistance to you;
- (b) making decisions regarding the social environment and other social aspects of your life;
- (c) determine whether you should travel;
- (d) be authorized access to or release of your confidential records;
- (e) applying for government and private benefits on your behalf;
- (f) consenting to or refusing generally accepted routine or major medical or dental treatment;
- (g) maintain you in an appropriate long term care facility;
- (h) choosing the place of your abode;
- (I) any other power which the Court in its discretion shall deem appropriate to meet your personal needs;
- (j) marshaling your assets, and to invest and reinvest such assets as a prudent person of discretion and intelligence in such matters seeking reasonable income, and to apply so much of the income and principal as necessary for your comfort, support, maintenance and well-being;
- (k) collecting all your income, including but not limited to Social Security, dividends, interest, and pension.
- (l) paying all bills necessary to maintain you;
- (n) providing for your maintenance and support;
- (n) determining who shall provide personal care to you, and having the ability to pay for said se~rices;
- (o) any other power which the Court in its discretion shall deem appropriate to meet your property management needs.

4. This Order to Show Cause and a copy of the Petition upon which it is based shall be served upon the person alleged to be incapacitated, by personally delivering to them not less than fourteen (14) days prior to the return date of this Order to Show Cause.

5. This Order to Show Cause and a copy of the Petition shall be served by mail or personally delivered to the office of

of

the Court evaluator and or Court Appointed Counsel within three (3) business days following the appointment of said Court Evaluator and or Court Appointed Counsel.

6. This Order to Show Cause and notice of proceeding shall be personally served or served by mail The Director of Mental Hygiene Legal Service, ~~170 Old Country Road, Mineola, New York, 11501~~; not less than fourteen (14) days prior to the return date of this Order to Show Cause.

Mental Hygiene Legal Services
Creedmoor Psychiatric Center
80-45 Winchester Blvd., Bldg 73 2nd Fl.
Queens Village, NY 11427
Tel (718) 264-6070
Fax (646) 963-6642

ENTER

J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

_____ X

In the Matter of the Application of
for the Appointment of a Guardian of

PETITION

Index No.

An Alleged
Incapacitated Person.

_____ X

TO THE SUPREME COURT OF THE STATE OF NEW YORK,
COUNTY OF QUEENS

The petition of
of
respectfully shows:

That your petitioner is very concerned about the health, welfare and personal well-being of the alleged incapacitated person (hereinafter referred to "AIP"). Your petitioner is thoroughly familiar with the facts and circumstances regarding the background and living conditions of AIP which necessitate this Court proceeding to bring help to the aforementioned AIP.

the AIP; determining whether the AIP should travel; be authorized access to or release of confidential records; applying for government and private benefits; consenting to or refusing generally accepted routine or major medical or dental treatment; choosing the place of abode of the AIP; maintain the AIP in an appropriate long term care facility; and any other power which the Court in its discretion shall deem appropriate to meet the personal needs of the AIP.

5. Your petitioner seeks powers relating to property management for the AIP. The powers of the Guardian for the property management of the AIP must include but not be limited to: marshalling the assets of the AIP, and to invest and reinvest such assets as a prudent person of discretion and intelligence in such matters seeking reasonable income, and to apply so much of the income and principal as necessary for the comfort, support, maintenance and well-being of the AIP; collecting all income of the AIP, including but not limited to Social Security, dividends, interest, and pension of the AIP; paying all bills necessary to maintain the AIP in an appropriate long term care facility; providing for maintenance and support of the AIP; applying for government and private benefits for the benefit of the AIP; determining who shall provide personal care to the AIP, and having the ability to pay for said services; and any other power which the Court in its discretion shall deem appropriate to meet the property management needs of the AIP.

6. The powers sought herein are for an indefinite duration as the infirmities suffered by the AIP are permanent in nature and not likely to improve.

7. The approximate value and description of the financial resources of AIP are as follows:

Social Security No. _____, monthly income of approximately _____

The within paragraph is upon information and belief, and is based on ongoing investigation by counsel. Subsequent to the execution of the petition if further details are discovered regarding the assets and income of the AIP, said information will be provided to the Court evaluator.

8. To the best of petitioner's knowledge, AIP is not a recipient of Public Assistance (Medicaid). It is anticipated that during the pendency of this proceeding, care and treatment for the alleged incapacitated person may be paid for by the New York City Medical Assistance Program. It is proposed that the guardian appointed herein be ordered to repay the Medicaid program for funds so expended to the extent that the income and resources of the alleged incapacitated person exceeded the Medicaid eligibility level at the time such assistance was granted.

9. To the best of petitioner's knowledge, the nature and amount of any claim, debt, or obligation is as follows:

As facts become known regarding liabilities, said information will be provided to the Court evaluator.

10. The names, addresses and telephone numbers of presumptive distributees of AIP are as follows:

AIP never married and never had any children. There are no known blood relatives.

11. All available resources for AIP have been considered by the petitioner, and relief is still necessary under Article 81 of the Mental Hygiene Law.

12. That the questions of fact upon the inability of AIP, the person with respect to whom petitioner prays for the appointment of a Guardian, be set down for a hearing or be tried by the Court at an I A S Part thereof, to be held in the County of Queens, for the County of Queens, at the Courthouse, 88-11 Sutphin Boulevard, Jamaica, New York, on such day as this Court may direct.

13. Your petitioner is not seeking to be the Guardian herein, proposes no nominee, and is not aware of any party seeking to be the Guardian. However, petitioner asks the Court to appoint a suitable party to be Guardian, as the AIP is a person definitely in need of the benefits afforded by Article 81.

14. That your petitioner has retained attorney and counselor at law, as attorney for the petitioner, to bring this proceeding for the benefit of AIP, and Mr. _____ has agreed to look to the Court for the fixing of his fees and disbursements, and your petitioner respectfully requests that the Court, in the Order appointing the Guardian, fix a fair and reasonable fee for the attorney for the petitioner, to come out of the property of AIP.

15. No previous application has been made for the relief requested herein.

WHEREFORE, your petitioner prays:

1. That the annexed Order to Show Cause be signed by the Court;
2. That a Court evaluator be designated for AIP.
3. That this Court finds AIP to be incapacitated and in need of a Court appointed Guardian with powers tailor made to meet the needs of AIP.
4. That the petitioner have such other, further or different relief in the premises as may be just.

Dated: _____ New York

STATE OF NEW YORK)
) ss.:
COUNTY OF QUEENS)

, being duly sworn, deposes and says:

That he is the petitioner named in the foregoing petition, that he is authorized to bring this petition, that he duly executed the same, and that the contents of said petition are true to his own knowledge, except as to the matters alleged upon information and belief, and that as to those matters, he believes same to be true.

Sworn to before me this
day of

Notary Public