

At an I.A.S. Part 76__ of the Supreme Court of the State of New York, held in and for the County of Kings, at 360 Adams Street, Brooklyn, New York, on the _____ day of

_____ 20_____.

P R E S E N T:

**HONORABLE _____
JUSTICE**

-----X

In the Matter of the Application of

ORDER TO SHOW CAUSE

for the Appointment of a Guardian of the Person and/or Property of

Index No. _____

A Person Alleged to be Incapacitated

-----X

SAMPLE

IMPORTANT

AN APPLICATION HAS BEEN FILED IN COURT BY

----- **WHO BELIEVES YOU MAY BE UNABLE TO**

TAKE CARE OF 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, ADDRESS AND
TELEPHONE NUMBER OF THE CLERK OF THE COURT IS:**

**JOSEPH MUSOLINO
CLERK IN CHARGE OF
GUARDIANSHIP DEPARTMENT
360 ADAMS STREET - ROOM 285
BROOKLYN, NEW YORK 11201
(347) 296-1757**

**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 IS:

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. 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 WITNESS 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 REQUIRED TO PAY THAT LAWYER UNLESS YOU DO NOT HAVE THE MONEY TO DO SO.

2. SAID GUARDIAN, IF APPOINTED FOR YOU, SHALL HAVE THE AUTHORITY TO EXERCISE THE FOLLOWING POWERS ON YOUR BEHALF. THE POWER TO MAKE ALL RESIDENTIAL AND CARE ARRANGEMENTS FOR YOU, AND COMPLETE POWER TO MANAGE, INVEST AND EXPEND YOUR MONIES AND ASSETS FOR YOUR NEEDS.

***(Sections §81:21 and §81:22 of the M.H.L. enumerate all powers. Be specific and list all those powers the petitioner is seeking for the guardian)**

On reading and filing the annexed petition of _____
duly verified the ____ day of _____, 20____, from which it appears that
_____, the Alleged Incapacitated Person, resides at

_____, Brooklyn, New York, is presently unable to manage his/her person and property by reason of illness, infirmity and mental weakness; and it appearing that said _____ owns or possesses certain personal property within the State of New York,

LET, _____ (A.I.P) _____, and the Court Evaluator appointed herein, and _____

_____, the distributees of _____

(A.I.P. & their relationship) _____ show cause before the Justice presiding at an I.A.S. Part 76__ of this Court, to be held in and for the County of Kings, at the Courthouse, 360 Adams Street, Brooklyn, New York, on the _____ day of _____, 20____, at 9:30 A.M. of that day or soon thereafter as counsel can be

heard why an order should not be made and entered herein:

Appointing (Proposed Guardian _____) or some suitable person, as Guardian of the personal needs, and/or property management of _____ (A.I.P.) within the State of New York, based upon their qualifying in accordance with the laws of the State of New York:

WHY Petitioner shall not have such other and further and different relief as may be just and proper.

SUFFICIENT reason appearing therefor; it is

ORDERED, that _____ of _____

_____ New York , is hereby appointed Court

Evaluator herein to explain this proceeding to _____ (A.I.P.) _____ and to investigate the claims made in the petition; and it is further

ORDERED, that _____ of _____
_____ Brooklyn, New York is hereby appointed as attorney for the above-named _____ (A.I.P.) _____ to protect his/her interest in this proceeding and it is further

*** **ORDERED**, that _____ be and he/she is hereby appointed **Temporary Guardian** of the property of _____ (A.I.P.) _____, to protect his/her health and well-being pending the hearing on this application; and it is further

*** **ORDERED**, that _____ (Nominee) _____ is directed to file a bond in the amount _____ of \$ _____ with the Clerk of the Court within (10) days after the issuance of the Commission of temporary guardianship; and it is further

*** **ORDERED**, that _____ shall upon presentation of a certified copy of this Order, turn over to _____ the sum of \$ _____ from the funds of _____; and it is further

*** **ORDERED**, that _____ shall maintain the aforesaid funds in a separate bank account to be used exclusively for the care, support and maintenance of _____ and that _____ shall account therefore at such time as the annual accounting of the Guardian to be appointed is submitted; and it is further

*****These paragraphs are to be used where a Temporary Guardian is being appointed.**

ORDERED, that this Order to Show Cause, a copy of the Petition and the Notice of

Proceeding upon which it is based, shall be served upon _____,
the person alleged to be incapacitated, by **personally delivering** to _____
_____not less than fourteen (14) days prior to the hearing date of this Order to Show
Cause .(**Upon a showing by the Petitioner that service can not be effectuated in the above
manner, the Court may direct an alternative means of service-changes - effective 12/13/04**),
and it is further

ORDERED, that this Order to Show Cause, Petition and Notice of Proceeding shall be
served by facsimile, personal or by overnight delivery service to the office of
_____the Court Evaluator and _____,
the Court appointed attorney, within three (3)business days following the appointment of
said _____and _____;and it is further

ORDERED, that this Order to Show Cause and the Notice of Proceeding shall be
personally served or served by mail upon _____, not less than
fourteen (14)days prior to the return date of this Order to Show Cause; and it is further

ORDERED, that the Court Evaluator and (any Court Appointee) appointed herein shall
comply with Part 36 of the Rules of the Chief Judge and file the notice of appointment and
certification of compliance required by Section 36.4 (a) of the Rules of the Chief Judge.

E N T E R

J. S. C.