

At Part _____ of the Supreme Court of the State of New York, held in and for the County of Richmond, at the Courthouse, 26 Central Avenue, Staten Island, New York on the _____ day of _____ 202____.

HON. _____
Justice of the Supreme Court

-----X

In the Matter of the Application of

Petitioner(s),

**ORDER TO SHOW
CAUSE FOR THE
APPOINTMENT OF
A GUARDIAN**

For the Appointment of a Guardian of the Person and Property of

Index No.:

An Alleged Incapacitated Person.
-----X

REQUESTING IMMEDIATE TEMPORARY GUARDIAN BE APPOINTED _____ YES _____ NO

IMPORTANT

An application has been filed in Court by

_____ who believes you may be
(insert petitioner's name)

unable to take care of your personal needs or financial affairs.

_____ is asking that HE/SHE
(insert petitioner's name)

be appointed to make decisions for you.

With this paper is a copy of the application to the Court

showing why _____
(insert petitioner's name)

believes you may be unable to take care of her personal needs or financial affairs. Before the Court makes the appointment of someone to make decisions for

_____ **the Court holds a**
(insert the Alleged Incapacitated Person's name)

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:**

**GUARDIANSHIP DEPARTMENT
25 Hyatt Street, 4th Floor
Staten Island, New York 10301
718 - 675-8586**

The Court has appointed a Court Evaluator to explain this proceeding to you and to investigate the claims made in this 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 phone number are:

**The Court has appointed an IMMEDIATE
TEMPORARY GUARDIAN based on the request in the
petition indicating that you are not able to:**

(Name, address, phone, email) _____

**You are entitled to have a lawyer of your choice to
represent you. You will be required to pay that lawyer
unless you do not have the money to do so. The Court has
appointed _____**

to represent you.

At the hearing and in this case 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.

Said Guardian, if appointed for you, shall have the authority, pursuant to Section 81.22 of the Mental Hygiene Law, to exercise the following personal 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) consent to or refuse generally accepted routine or major medical or dental treatment;

(f) choosing the place of your abode;

(g) reimburse Medicaid for any funds expended on your behalf to the extent that you have available resources to pay for your care;

(h) any other power which the Court in its discretion shall deem appropriate to meet your personal needs;

Said Guardian, if appointed for you, shall have the authority, pursuant to

Section 81.21 of the Mental Hygiene Law, to exercise the following property powers on your behalf;

- (a) 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;
- (b) collecting all your income, including but not limited to Social Security, dividends, interest and pension;
- (c) paying all bills necessary to maintain you;
- (d) providing for your maintenance and support;
- (e) applying for government and private benefits on your behalf, including social security and Medicaid;
- (f) determining who shall provide personal care to you, and having this ability to pay for said services;
- (g) any other power which the Court in its discretion shall deem appropriate to meet your property management needs;

On reading and filing the annexed Petition of _____,
(Petitioner's Name)

duly verified on the ___ day of _____, 20__, from which it appears that _____,
(Alleged Incapacitated Person's Name)

of a guardian of his person and property as he is presently unable to manage his person and property by reason of illness, infirmity, and mental weakness; and it appears that the said alleged incapacitated person owns or possesses certain real and personal property within the State of New York,

LET _____

show cause before the Justice presiding at 26 Central Avenue, Staten Island, New York Part _____ of this Court, to be held in and for the County of Richmond at the Courthouse, 26 Central Avenue, Staten Island, New York, Courtroom _____ on the _____ day of _____ 20__ at _____ A.M./P.M. of that day, or as soon thereafter as counsel can be heard why and Order should not be made and entered herein:

Appointing _____ as Guardian of the personal needs, and property management within the State of New York, based upon his/her 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 therefore, it is

ORDERED, that _____ of _____ is hereby appointed Court Evaluator herein to explain this proceeding to the alleged incapacitated person, and to investigate the claims made in the application, and it is further

ORDERED, that _____ is hereby appointed Attorney to represent the alleged incapacitated person in this proceeding, and it is further

ORDERED, that _____

_____ is hereby appointed as
Temporary Guardian of the person and property of the alleged incapacitated person,
pursuant to MHL 81.23(a), and it is further

ORDERED, that this Order shall be deemed the commission of the Temporary
Guardian and it is further

ORDERED, that the filing of the bond by the Temporary Guardian is hereby waived,
and it is further

ORDERED, that 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 them to him/her not less than
(14) fourteen days prior to the return date of this Order to Show Cause; and it is further

ORDERED, that this Order to Show Cause and a copy of the Petition shall be
served by mail or by delivery to the office of the Temporary Guardian, Court Evaluator, Attorney
appointed herein, within three (3) days following the appointment of said Court Evaluator
Attorney and Temporary Guardian, and it is further

ORDERED, that this Order to Show Cause and Notice of the Petition shall
be served by mail upon _____

not less than fourteen (14) days prior to the return date of this Order to Show Cause, be deemed good and sufficient service, and it is further

ORDERED, that the Court Evaluator appointed herein shall comply with Part 36 of the Rules of the Chief Judge and file the certificate required by Section 36.1(d) and notice of appointment required by Section 36.3 of the Rules of the Chief Judge.

E N T E R:

HON. _____, J.S.C