STATE OF NEW YORK

SUPREME COURT : COUNTY OF

In the Matter of the Application of **PETITION**

***(NAME OF PETITIONER)***, Petitioner, Index No.:

Pursuant to Article 81 of the Mental

Hygiene Law for the Appointment of a RJI No.:

Guardian of the Person and Property of

Judge Assigned:

***(NAME OF ALLEGED INCAPACITATED PERSON)***,

an Alleged Incapacitated Person .

TO THE SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF :

The petition of ***(NAME OF PETITIONER)*** respectfully states and alleges:

**PETITIONER**

1. That your petitioner is ***(NAME OF PETITIONER)*** and resides at (Telephone number: .)

2. I am the of ***(NAME OF ALLEGED INCAPACITATED PERSON)***, an alleged incapacitated person.

**ALLEGED INCAPACITATED PERSON**

3. ***(NAME OF ALLEGED INCAPACITATED PERSON)***, the alleged incapacitated person, is years of age having been born on and currently resides at . The telephone number is . ***(NAME OF ALLEGED INCAPACITATED PERSON)*** ‘s attending physician is .

4. **Functional limitations*: (NOTE: State specific factual allegations as to the personal actions and/or financial transactions* *or other actual occurrences involving the alleged incapacitated person which are claimed to demonstrate that the alleged incapacitated person is likely to suffer harm because (he/she) cannot adequately understand and appreciate the nature and consequences of (his/her) inability to provide for personal needs and/or property management.*)**

**NEED FOR PROPERTY MANAGEMENT AND PERSONAL NEEDS POWERS**

5. Because of the aforementioned functional limitations, ***(NAME OF ALLEGED INCAPACITATED PERSON)*** has been unable to manage (his/her) personal and property needs. Petitioner submits that ***(NAME OF ALLEGED INCAPACITATED PERSON)*** is likely to suffer harm because (he/she) cannot adequately understand and appreciate the nature and consequences of (his/her) inability to provide for (his/her) personal needs and property management. The appointment of a Guardian of (his/her) Personal and Property Needs will ensure the preservation, maintenance and care of (him/her) and (his/her) financial affairs.

6. As a result of the foregoing, Petitioner submits that ***(NAME OF ALLEGED INCAPACITATED PERSON)***’s incapacities as described above require that a guardian be appointed.

**POWERS BEING SOUGHT UNDER MHL §81.21(a) and 81.22(a)**

7. The powers being sought on behalf of ***(NAME OF ALLEGED INCAPACITATED PERSON)*** pursuant to Mental Hygiene Law Sections 81.21(a) and 81.22(a), respectively, are as follows:

***(CHOOSE POWERS FROM SAMPLE “GUARDIAN’S POWERS UNDER ARTICLE 81" AND ADD SUCH ADDITIONAL POWERS FROM MHL §81.21 AND §81.22 AS MAY BE NECESSARY***, ***AS WELL AS ANY OTHER POWERS WHICH MAY BE APPLICABLE IN THE PARTICULAR SITUATION)***

**COURT AUTHORIZATION TO RETAIN PROFESSIONALS**

8. ***(IF APPLICABLE)*** Court authorization is requested to retain

as **(attorney, accountant, auctioneer, appraiser, property manager, real estate broker).**

**DURATION OF THE POWERS BEING SOUGHT**

9. ***(NAME OF ALLEGED INCAPACITATED PERSON)***’s medical condition is irreversible and (he/she) will never be able to make any decision regarding (his/her) personal care or property management. Accordingly, Petitioner requests that the duration of the Guardianship be for an indefinite period **(or, state requested duration of condition and Guardianship).**

**FINANCIAL RESOURCES**

10. To the best of the Petitioner's knowledge, ***(NAME OF ALLEGED INCAPACITATED PERSON)***’s assets consist of the following:

***(NOTE: LIST EACH KNOWN ASSET WITH CURRENT VALUE)***

11. Upon information and belief, ***(NAME OF ALLEGED INCAPACITATED PERSON)*** receives the following monthly income:

Social Security: $

Pension: $

Other: $ ***(NOTE: LIST ALL KNOWN INCOME RECEIVED)***

12. The nature and amount of all claims, debts or obligations of ***(NAME OF ALLEGED INCAPACITATED PERSON)*** known to Petitioner are:

Creditor Amount of Claim

***(NOTE: LIST ALL KNOWN CREDITORS)***

13. To the best of Petitioner's knowledge,***(NAME OF ALLEGED INCAPACITATED PERSON)*** (does not/does) have a safe deposit box.

***(NOTE: ADD BANK NAME AND BOX #, IF KNOWN)***

14. On , ***(NAME OF ALLEGED INCAPACITATED PERSON)*** executed a Will, which was drawn by . The original Will is now located at the offices of at .

**AVAILABLE RESOURCES**

15. To the best of Petitioner's knowledge, there are no Powers of Attorney, Health Care Proxies, Do Not Resuscitate Orders or other available resources which would sufficiently and reliably provide for ***(NAME OF ALLEGED INCAPACITATED PERSON)***’s personal and property management needs, except:

***(LIST ANY SUCH AVAILABLE RESOURCES)***

**INTERESTED PARTIES**

16. The names, addresses, telephone numbers and relationships of the interested parties are:

Name Address Telephone No. Relationship

***[NOTE: LIST ALL DISTRIBUTEES, AS WELL AS ANY OTHER INTERESTED******PARTIES AS SET FORTH IN MHL 81.07(g)]***

**PROPOSED GUARDIAN**

17. The name, address, telephone number and relationship of the proposed Guardian are:

Name Address Telephone No. Relationship

18. The reasons why the proposed Guardian is suitable to exercise the powers necessary to assist ***(NAME OF ALLEGED INCAPACITATED PERSON)*** are that the proposed Guardian, ***(NAME OF***

***PROPOSED GUARDIAN)*** is ***(NAME OF ALLEGED INCAPACITATED PERSON)***’s and has (his/her) best interests at heart.

**PROPOSED STANDBY GUARDIAN**

19. The Petitioner hereby requests that the Court appoint ***(NAME OF PROPOSED STANDBY GUARDIAN)*** of ,***(NAME OF ALLEGED INCAPACITATED PERSON)***’s

, as a Standby Guardian of the Respondent in the event that the appointed Guardian shall resign, die, be removed, discharged, suspended or become incapacitated.

**ADDITIONAL POWERS SOUGHT UNDER MHL §81.21(b)**

20. a) ***(List any other powers sought - ex: power to transfer assets)***

***Note: If requesting power to transfer assets to or for the benefit of another person, must include information set forth in MHL § 81 (21)(b).***

***(Example: The Petitioner also respectfully submits that the reason the requested transfer should be permitted is that the Petitioner believes that if the alleged incapacitated person were competent, (he/she) would desire to gift to (his/her) children as much of the assets as possible without jeopardizing (his/her) entitlement to Medicaid.*)**

b) ***(NAME OF ALLEGED INCAPACITATED PERSON)***’s only financial obligation is ***(ex: monthly payments to \_\_\_\_\_\_\_\_\_ Nursing Home)***

**OTHER INFORMATION**

21. ***(Example: (NAME OF ALLEGED INCAPACITATED PERSON )’s presence at the hearing on this matter will be physically impossible due to (his/her)medical condition. The Petitioner further submits that the (NAME OF ALLEGED INCAPACITATED PERSON) would not be able to participate in the proceedings in any meaningful manner as (he/she) is not able to communicate and does not possess the cognitive ability to understand the nature of these proceedings.*)**

22. ***(Note: if Temporary Guardian is requested:)*** There is change in the reasonably foreseeable future to the health and well being of ***(NAME OF ALLEGED INCAPACITATED PERSON)***, or danger of waste, misappropriation, or loss of (his/her) property, in that ***( add facts in support of appointment of Temporary Guardian, if requested).***

23. ***(NAME OF ALLEGED INCAPACITATED PERSON)*** (does/does not) receive public assistance or protective services under article nine-B of the social services law.

24. No previous application has ever been made for the relief sought herein to this Court or any other Court of competent jurisdiction.

WHEREFORE, the Petitioner requests:

1. That the annexed Order to Show Cause be signed by this Court;

2. That in the discretion of the Court, some proper person(s) be appointed as Court Evaluator and/or Counsel for ***(NAME OF ALLEGED INCAPACITATED PERSON)***, an Alleged Incapacitated Person, to protect (his/her) interest in this proceeding;

3. That a Guardian of the person and property of ***(NAME OF ALLEGED INCAPACITATED PERSON)***,the Alleged Incapacitated Person, be appointed;

4. (IF REQUESTED) That a Temporary Guardian of the person and property of ***(NAME OF ALLEGED INCAPACITATED PERSON)***be appointed;

5. (IF REQUESTED) That the presence of ***(NAME OF ALLEGED INCAPACITATED PERSON)***be dispensed with at the hearing on this matter;

6. That the Petitioner have such other, further or different relief as the court deems just and proper.

Dated:

Petitioner

STATE OF NEW YORK )

) ss.:

COUNTY OF )

being duly sworn, deposes and says:

I am the Petitioner in the within action; I have read the foregoing Petition and know the contents thereof; the same is true to my own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matter I believe them to be true.

Petitioner

Subscribed and sworn to before me

this day of , 20 .

Notary Public