1-6-2021 At an IAS Part of the Supreme

Court of the State of New York, held in the County of Nassau, in the Supreme Court,

Supreme Court Building, Mineola, New

York, on the \_\_\_\_day of \_\_\_\_\_\_\_\_\_\_, 2021

PRESENT:

HON.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Justice

-------------------------------------------------------------X ORDER TO SHOW CAUSE

In the Matter of the Application of TO APPOINT GUARDIAN

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

for the Appointment of a Guardian of INDEX NO.\_\_\_\_\_\_\_\_\_\_-I-\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

an Alleged Incapacitated Person.

-------------------------------------------------------------X

**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**

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**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 THE TELEPHONE NUMBER OF THE CLERK OF**

**THE COURT ARE: Guardianship Clerk**

**100 Supreme Court Drive, Room 152**

**Mineola, New York 11501**

**Telephone No. (516) 493-3121**

**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**

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**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. YOU HAVE THE RIGHT TO PRESENT EVIDENCE, CALL**

**WITNESSES AND EXPERT WITNESSES AND CROSS-EXAMINE WITNESSES**

**INCLUDING WITNESSES CALLED BY THE COURT.**

On reading and filing the annexed petition of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,

duly verified the \_\_\_\_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_, from which it appears that

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, an alleged incapacitated person above named, resides at

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_and is likely to suffer harm because:

the person is unable to provide for personal needs and/or property management; and the person

cannot adequately understand and appreciate the nature and consequences of such inability; and

it appearing that the said alleged incapacitated person owns or possesses certain property within

the State of New York

LET \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the alleged

incapacitated person (**\*list all parties entitled to notice–**see Mental Hygiene Law §81.07(e)).

SHOW CAUSE before the Hon.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Justice

presiding at IAS Part\_\_\_\_, of this Court, to be held in the County of Nassau, at the Supreme

Court building, 100 Supreme Court Drive, \_\_\_\_ floor, Mineola, New York 11501, OR VIA

MICROSOFT TEAMS on the \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 202\_\_ at \_\_\_\_\_\_a.m./p.m.

of that day or as soon thereafter

as counsel can be heard;

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WHY a guardian should not be appointed for the alleged incapacitated person within the

State of New York, upon his/her qualifying in accordance with the statutes of the State of New

York in such cases made and provided to exercise one of more of the following powers as set

forth in §81.21, with relation to property management and §81.22, with relation to personal

needs management of the Mental Hygiene Law;

(**\* list powers–**see Mental Hygiene Law §81.07(c)(5)).

WHY the presence of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the alleged

incapacitated person at the hearing or trial (should) (should not) be required; and

WHY petitioner should not have such other and further or different relief as may be just

in the premises.

**(Use the following three (3) “Ordered” paragraphs where the APPOINTMENT of**

**a TEMPORARY GUARDIAN– (Mental Hygiene Law §81.23) is appropriate.)**

Sufficient reason appearing therefor, it is

ORDERED, that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_be and hereby is appointed temporary guardian of

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**, the alleged incapacitated person and shall have the

following temporary powers as provided in §81.23 of the Mental Hygiene Law:

**(\* List all the temporary powers here)**

(1) The filing of a bond by the temporary guardian is waived **OR**

(2) The temporary guardian shall execute and file with this court within ten (10)

days after the issuance of the temporary guardian’s commission (or attorney-certified

copy of this order), a bond with sufficient sureties in the sum of $\_\_\_\_\_\_\_\_\_\_\_\_ to be

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approved by one of the justices of this court, upon condition that he/she will, in all

things, faithfully discharge the trust imposed upon him/her and obey all the directions

of the court in regard to the trust, and will make and render a just and true account of

all the monies or other properties received by him/her and the application thereof, and

of his/her acts in the administration of his/her trust whenever so required to do so

by the court pursuant to Mental Hygiene Law §81.23(a)(1); and it is further

ORDERED, that EITHER a Commission may be issued to the said temporary guardian

under the seal of this court upon filing the Designation required by statute in the office of the

Clerk of the County of Nassau pursuant to Mental Hygiene Law §81.26 OR an attorney-certified

copy of this order can serve as the authority of the temporary guardian to act hereunder, provided

that the temporary guardian files a Consent to Act and Designation with the office of the Clerk

of the County of Nassau within TEN (10) DAYS of the date hereof. A certified copy of

said Commission OR a copy of the attorney-certified copy of this order shall be served

personally upon \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the alleged incapacitated person or by

certified mail upon any person having custody over the person or property of the alleged

incapacitated person; and it is further

ORDERED, that \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_is hereby appointed counsel for the alleged

incapacitated person named herein pursuant to Mental Hygiene Law §81.10(c)(5).

**(End of temporary guardian provisions)**

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Sufficient reason appearing therefor,

LET personal service pursuant to CPLR §308(1) in accordance with Mental Hygiene Law

§81.07(e)(2)(i) of a copy of this Order to Show Cause and of the papers upon which it is granted

upon\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the alleged incapacitated person not less

than fourteen (14) days prior to the return date of this Order to Show Cause; and it is further

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

only, be served personally or by regular mail, pursuant to Mental Hygiene Law §81.07(g)(2),

upon (**\* list all parties entitled to notice** **and include Mental Hygiene Legal Service if**

**alleged incapacitated person is in a hospital or facility**–see Mental Hygiene Law

§81.07(g)(1)**)**, not less than fourteen (14) days prior to the return date of this Order to Show

Cause; and it is further

ORDERED, that a copy of this Order to Show Cause, Petition and supporting papers be

served upon\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Telephone No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ who is hereby

appointed Court Evaluator to investigate the claims made in the petition and to report to the

court pursuant to §81.09 of the Mental Hygiene Law, within three (3) business days of this Order

to Show Cause, pursuant to §81.07(e)(2)(ii) of the Mental Hygiene Law be deemed good and

sufficient service.

ENTER:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

J.S.C.

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Use this Ordered paragraph instead of the last Ordered paragraph if a Temporary Guardian and/or counsel for AIP is sought to be appointed in the OSC:

ORDERED, that a copy of this Order to Show Cause, Petition and supporting papers be

served upon\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_of\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Telephone No.\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ who is hereby

appointed Court Evaluator to investigate the claims made in the petition and to report to the

court pursuant to §81.09 of the Mental Hygiene Law, and upon the Temporary Guardian

appointed herein and the counsel for the AIP appointed herein within three (3) business days of

this Order to Show Cause, pursuant to §81.07(e)(2)(ii) of the Mental Hygiene Law be deemed

good and sufficient service.

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