

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
In the Matter of the Application of

ORDER TO SHOW CAUSE
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**

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

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;

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

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)

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.

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.