SUPREME COURT, CIVIL BRANCH
RICHMOND COUNTY
26 CENTRAL AVENUE, STATEN ISLAND N.Y. 10301

HELP CENTER
25 HYATT STREET, 5TH FLOOR
STATEN ISLAND, N.Y. 10301
718 675-8589

SEEKING GUARDIANSHIP WITHOUT AN ATTORNEY

This instructional packet was created to assist individuals, who cannot afford an attorney, with guardianship proceedings. Because guardianship proceedings are very serious, can deprive a person of many rights, and are complex, **we recommend that all individuals who can hire an attorney!**

If you cannot hire an attorney, and must commenced a guardianship proceeding, this packet will assist in making the process easier. For further assistance, enclosed are contact information and website links to other guardianship resources.

Any further questions, regarding guardianship, please contact The Richmond County Office of Self Help (information is listed above).

Sincerely,

Richmond County Office
Of Self Help

GUARDIANSHIP PROCEDURE

1. Fill out the Verified Petition, Order to Show Cause, Notice of Proceeding and Request for Judicial Intervention. **Have the Verified Petition notarized**. Make at least 5 copies of **ALL** documents. Note- more may be needed depending on the number of interested parties involved.
2. Take the original notarized petition to the County Clerk located at 130 Stuyvesant Place, 2nd floor and file it with the Application for the Index number and the required $210.00 fee.
3. Write the index number, exactly as it appears on the receipt, on all documents and proceed to the Civil Term office located at 26 Central Avenue, room 131. Payment of $95.00 will be required for the filing of the Request for Judicial Intervention, After payment, a Judge will be assigned and you will be sent to that Judge for review/signature of the Order to Show Cause.
4. After signature copies of the signed Order to Show Cause should be attached to the copies of all documents made in step 1 and served upon the following:

   A. City of New York-Human Resources Administration
   150 Greenwich Street 38th Floor
   NY, NY 10007

   B. Mental Hygiene Legal Services
   777 Seaview Avenue-Bldg 10
   Staten Island, NY 10305

   C. Court Evaluator-Name Address will be given by the Court

   D. Alleged Incapacitated Person

   E. Facility the Incapacitated person is living in(i.e. Hospital, Nursing home)

   F. Any Other Interested Parties indicated

5. The Court will assign a return/appearance date for the initial hearing, usually within 28 days.

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),

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

An Alleged Incapacitated Person.

----------X

ORDER TO SHOW CAUSE FOR THE APPOINTMENT OF A GUARDIAN

Index No.:

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 _____, the alleged incapacitated person is in need
(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

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND
----------X
In the Matter of the Application of

Petitioner(s),

VERIFIED PETITION FOR THE APPOINTMENT OF A GUARDIAN

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

Index No.:

An Alleged Incapacitated Person.

REQUESTING IMMEDIATE TEMPORARY GUARDIAN BE APPOINTED
_____ YES _____ NO
JUSTIFICATION PARAGRAPH 7A

----------X

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

The petition of (petitioner's name)_____,

(petitioner's address)_____,

(petitioner's email)_____,

(petitioner's cell#)_____ alleges as follows:

1. The alleged capacitated person is my: (Please Check One)

____Spouse, ____Mother, ____Father, ____Daughter, ____Son,

____Sister, ____Brother, ____Aunt, ____Uncle, ____Cousin,

____Other: _____(Please Specify)

2. As such I am fully familiar with the facts and circumstances surrounding this matter. I am making this Petition to ask the Court to appoint me as Guardian of the Person and Property of the alleged incapacitated person.

3. The alleged incapacitated person was born on _____.

4. He/She has the following family members: (Please list the names, addresses, email, telephone/cell of the alleged incapacitated person's living spouse, children, parents, brothers, sisters, and if none, any extended family if known):

_____

_____

_____

_____

_____

5. The alleged incapacitated person currently resides at the following address (If the alleged incapacitated person is temporarily in a hospital, rehabilitation center or some other type of facility, please indicate the name and address of the facility as well as his/her home address):

_____

_____

_____

_____

6. I am requesting to be the guardian because the AIP suffers from the following condition(s) and functional limitations. Therefore, he/she cannot understand and appreciate the nature and consequences of his/her inability/limitations to provide for his/her own personal and property management and prevent harm to himself/herself: (Please explain all physical and/or mental disabilities and/or medical conditions that impair the alleged incapacitated person's ability to function in a manner necessary to prevent harm to himself/herself):

_____

_____

_____

_____

_____

_____

_____

7. Due to the alleged incapacitated person's condition described above, he/she has an inability to protect himself/herself. Therefore, I am requesting the following powers to protect the alleged incapacitated person: (Please check **all** activities of daily living and/or financial matters that you believe the alleged incapacitated person cannot do for themselves):

____Mobility, ____Travel, ____Eating, ____Bathing, ____Bathroom,

____Grooming, ____Dressing, ____Housekeeping, ____Cooking, ____Shopping,

____Nutrition, ____Healthcare, ____Driving, ____Money Management,

____Banking, ____Applying for Medicaid, ____Real Property Management,

____Balance Checkbook, ____Budget and Allocate Resources, ____Insurance,

____Paying Bills, ____Safe Living Environment, ____Medical Decisions,

____Prevent Financial Exploitation by Others,

____Prevent Personal Harm by Others

Other (Please explain):_____

_____

_____

_____

_____

_____

_____

7A. JUSTIFICATION FOR THE APPOINTMENT OF AN IMMEDIATE TEMPORARY GUARDIAN:

(CHECK ALL THAT APPLY AND/OR FILL IN OTHER)

____ Impending foreclosure and/or eviction.

____ AIP has nowhere to live.

____ AIP unable to walk, cook, get food, feed themselves.

____ Other _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

8. The alleged incapacitated person has the following assets and sources of income which need to be marshalled and protected (Please list all pensions, salaries, annuities, social security benefits, government benefits, real property, stocks and bonds, saving and/or checking accounts, etc.):

_____

_____

_____

_____

9. The alleged incapacitated person has the following monthly bills that require payment (Please list all utilities, rent payments, mortgage payments, insurance, medical expenses, medications, etc.):

_____

_____

_____

_____

10. I am also requesting the power to do the following for the alleged incapacitated person (Please specify any other powers you are requesting, including whether you are seeking the appointment of a temporary guardian pending a hearing and determination of this application. If you are requesting the appointment of a temporary guardian, please set forth the reasons below.):

_____

_____

_____

_____

_____

_____

11. In light of the alleged incapacitated person's foregoing medical condition and functional limitations, I believe that he/she cannot adequately understand and appreciate the nature and consequences of his/her functional limitations and is likely to suffer harm. The least restrictive form of intervention is the appointment of a guardian of the person and property as set forth herein.

12. To the best of my knowledge, a prior request for a guardian herein has/has not been ***(circle one)*** made to the Supreme Court, Surrogate's Court, Family Court or a Court in another State. If a prior application has been made, please set forth the name and address of the Court, together with the docket/index number assigned, and the outcome of the proceeding, if known.

_____

_____

_____

_____

WHEREFORE, your petitioner requests that the court grant the relief requested herein, appoint a court evaluator and appoint the petitioner as guardian of the person and property of the alleged incapacitated person, together with such other and further relief as to the court may seem just and proper.

Dated:

_____
(Petitioner's Signature)

_____
(Print Name)

VERIFICATION

STATE
OF NEW
YORK
COUNTY
OF

_____, being duly sworn, deposes and says:

I am the petitioner herein. I have read the foregoing petition and the same is true of my own knowledge except as to the matters therein stated to be alleged on information and belief, and as to those matters, I believe them to be true.

_____
(Petitioner's Signature)

_____
(Print Name)

Sworn to before me
this _____day of _____, 20___

_____
Notary Public

REQUEST FOR JUDICIAL INTERVENTION

UCS-840
(rev. 07/29/2019)

_____ COURT, COUNTY OF _____

Index No: _____ Date Index Issued: _____

For Court Use Only:
IAS Entry Date
Judge Assigned
RJI Filed Date

CAPTION Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

Plaintiff(s)/Petitioner(s)

-against-

Defendant(s)/Respondent(s)

NATURE OF ACTION OR PROCEEDING Check only one box and specify where indicated.

COMMERICIAL

- ☐ Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)
- ☐ Contract
- ☐ Insurance (where insurance company is a party, except arbitration)
- ☐ UCC (includes sales and negotiable instruments)
- ☐ Other Commercial (specify):_____

NOTE: *For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the* ***COMMERCIAL DIVISION RJI ADDENDUM (UCS-840C)****.*

REAL PROPERTY Specify how many properties the application includes: _____

- ☐ Condemnation
- ☐ Mortgage Foreclosure (specify): ☐ Residential ☐ Commercial
  Property Address: _____
  NOTE: *For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the* ***FORECLOSURE RJI ADDENDUM (UCS-840F)****.*
- ☐ Tax Certiorari
- ☐ Tax Foreclosure
- ☐ Other Real Property (specify): _____

OTHER MATTERS

- ☐ Certificate of Incorporation/Dissolution [see ***NOTE*** in **COMMERCIAL** section]
- ☐ Emergency Medical Treatment
- ☐ Habeas Corpus
- ☐ Local Court Appeal
- ☐ Mechanic's Lien
- ☐ Name Change
- ☐ Pistol Permit Revocation Hearing
- ☐ Sale or Finance of Religious/Not-for-Profit Property
- ☐ Other (specify): _____

MATRIMONIAL

- ☐ Contested
  NOTE: *If there are children under the age of 18, complete and attach the* ***MATRIMONIAL RJI ADDENDUM (UCS-840M)****.*
  *For Uncontested Matrimonial actions, use the Uncontested Divorce RJI (****UD-13****).*

TORTS

- ☐ Asbestos
- ☐ Child Victims Act
- ☐ Environmental (specify): _____
- ☐ Medical, Dental or Podiatric Malpractice
- ☐ Motor Vehicle
- ☐ Products Liability (specify): _____
- ☐ Other Negligence (specify): _____
- ☐ Other Professional Malpractice (specify): _____
- ☐ Other Tort (specify): _____

SPECIAL PROCEEDINGS

- ☐ CPLR Article 75 (Arbitration) [see ***NOTE*** in **COMMERCIAL** section]
- ☐ CPLR Article 78 (Body or Officer)
- ☐ Election Law
- ☐ Extreme Risk Protection Order
- ☐ MHL Article 9.60 (Kendra's Law)
- ☐ MHL Article 10 (Sex Offender Confinement-Initial)
- ☐ MHL Article 10 (Sex Offender Confinement-Review)
- ☐ MHL Article 81 (Guardianship)
- ☐ Other Mental Hygiene (specify): _____
- ☐ Other Special Proceeding (specify): _____

STATUS OF ACTION OR PROCEEDING Answer YES or NO for every question and enter additional information where indicated.

	YES	NO	
Has a summons and complaint or summons with notice been filed?	☐	☐	If yes, date filed: _____/_____/_____
Has a summons and complaint or summons with notice been served?	☐	☐	If yes, date served: _____/_____/_____
Is this action/proceeding being filed post-judgment?	☐	☐	If yes, judgment date: _____/_____/_____

NATURE OF JUDICIAL INTERVENTION Check one box only and enter additional information where indicated.

- ☐ Infant's Compromise
- ☐ Extreme Risk Protection Order Application
- ☐ Note of Issue/Certificate of Readiness
- ☐ Notice of Medical, Dental or Podiatric Malpractice Date Issue Joined: _____/_____/_____
- ☐ Notice of Motion Relief Requested: _____ Return Date: _____/_____/_____
- ☐ Notice of Petition Relief Requested: _____ Return Date: _____/_____/_____
- ☐ Order to Show Cause Relief Requested: _____ Return Date: _____/_____/_____
- ☐ Other Ex Parte Application Relief Requested: _____
- ☐ Poor Person Application
- ☐ Request for Preliminary Conference
- ☐ Residential Mortgage Foreclosure Settlement Conference
- ☐ Writ of Habeas Corpus
- ☐ Other (specify): _____

RELATED CASES	List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the **RJI ADDENDUM (UCS-840A)**.			
Case Title	**Index/Case Number**	**Court**	**Judge (if assigned)**	**Relationship to instant case**

PARTIES	For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the **RJI ADDENDUM (UCS-840A)**.			
Un-Rep	**Parties** List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3rd party plaintiff, etc.)	**Attorneys and Unrepresented Litigants** For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	**Issue Joined** For each defendant, indicate if issue has been joined.	**Insurance Carriers** For each defendant, indicate insurance carrier, if applicable.
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	
☐	Name: Role(s):		☐ YES ☐ NO	

I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.

Dated: _____/_____/_____

_____
Signature

_____
Attorney Registration Number

_____
Print Name

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND
----------X
In the Matter of the Application of

Petitioner(s),

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

An Alleged Incapacitated Person.
----------X

NOTICE OF GUARDIANSHIP PROCEEDING PURSUANT TO M.H.L. § 81.07 (f)

Index No.:

DATE AND PLACE OF HEARING:

_____20___ at _____ A.M./P.M.
HON. _____, J.S.C.
26 Central Avenue, Room **230**
Staten Island, New York 10301

NATURE OF PROCEEDING:

Article 81 Guardianship Proceeding
Seeking the Appointment of a
Guardian of the Person and Property of

_____
(insert A.I.P.'s Name)

ALLEGED INCAPACITATED PERSON:
(Name and Address)

_____

_____

_____

NAMES AND ADDRESSES OF OTHER POTENTIAL INTERESTED PARTIES:

_____

_____

_____

_____

NAMES AND ADDRESSES OF OTHER POTENTIAL INTERESTED PARTIES: (continued)

_____

_____

_____

_____

ATTORNEY PETITIONER/PETITIONER PRO SE: _____

_____

_____

COURT EVALUATOR: _____

_____

_____

COURT APPOINTED ATTORNEY: _____

_____

_____

DATED: _____

_____
PETITIONER'S SIGNATURE