

HONORABLE LISA A. SOKOLOFF
SUPREME NEW YORK, CIVIL TERM

60 Centre Street, New York, NY 10013

PART 19, Courtroom 540

Courtroom Part Clerk: Janice Young, jyoung@nycourts.gov, 646-386-3979

Court Attorney: Esther T. Fernando, etfernan@nycourts.gov, 646-386-4608

RULES SPECIFIC TO GUARDIANSHIP MATTERS:

Most applications or requests for relief should be made by Order to Show Cause [as opposed to by motion] filed with the Guardianship Office if a paper case or online through NYSCEF if an electronic case. Questions regarding the process may be posed to the Guardianship Office at (646) 386-3328 or SFC_Guardianship@nycourts.gov or to the NYSCEF Help Center at nyscef@nycourts.gov.

For simple issues [such as orders for bank or medical records, to convert a case to e-file, or for adjournments], application may be made by email to the Court Attorney with a copy to the Court Attorney, Part Clerk and all other essential parties to the matter, outlining the relief sought.

For ex-parte relief, the e-mail application need not copy other parties but must explain why ex-parte relief is requested.

The court requests that efforts be made to convert paper files to e-file whenever possible.

PETITIONER:

- It is Petitioner's burden to prove the incapacity of the alleged incapacitated person by *evidence in admissible form*.

COURT EVALUATOR:

The court evaluator [CE] shall perform the following:

- Interview the AIP [alleged incapacitated person] and all interested parties in the presence of counsel if they have counsel
- Promptly notify the Court if the AIP wants or requires an attorney
- If an attorney is assigned, make sure to contact the attorney for the AIP before meeting the AIP
- Promptly notify the Part Clerk if an interpreter is required for the AIP or any witness
- Promptly notify the court if there is a pending Landlord/Tenant proceeding and advise the counsel in that proceeding of the Guardianship action
- If the court evaluator believes that the AIP or his/her property is in danger, the CE is to immediately apply to the court for restraining orders, the appointment of a Temporary Guardian, etc.
- Assess the AIP's financial status including income, investments, and property or lack thereof
- Assess the AIP's physical and mental status
- Assess the condition of AIP's place of residence
- Provide a report to the Court via email to the Court Attorney and Part Clerk ***at least 2 business days before the hearing*** [notify the court if you are unable to comply with this requirement]. The report shall be a comprehensive view of the case with a recommendation, not a step by step commentary of how the information was obtained.
- The CE shall disseminate the report to all parties by email once granted permission by the Court. The report shall not be e-filed and shall remain in the chambers file.
- Redact sensitive personal information such as full social security numbers and finance account identifiers from all reports and exhibits.
- Attend all court hearings and subsequent proceedings

ATTORNEY FOR THE AIP:

- Meet or videoconference with the AIP and explain the proceedings and the petition.
- Attend all proceedings.
- Represent the AIP at the hearing vigorously.

COURT EXAMINER:

- The assigned Court Examiner shall examine reports within 30 days of their filing.
- If the guardian fails to timely file a report, the examiner shall demand a report by letter [via certified mail] and also by email, copied to the court requiring compliance.
- If the examiner finds the report incomplete or unsatisfactory, the examiner shall outline the deficiencies and forward them to the guardian requiring a response by letter [via certified mail] and also by email, copied to the court.
- If the examiner does not receive an adequate response, s/he shall move for the appropriate relief which may include reducing the guardian's commission or removing the guardian.

During the current state of Covid 19, all guardianship proceedings will be conducted by videoconference on Microsoft Teams or by teleconference. There will be no "in court" appearances or bedside hearings.

RULES SPECIFIC TO HEARINGS VIA MICROSOFT TEAMS:

- There is a Microsoft Teams Q&A available on the Court Website or available from the clerk if requested in advance. Review the Q&A before using the application the first few times.
- The Court will forward links to all counsel. Please send the links to your witnesses. The Court evaluator shall provide links to all persons entitled to notice or who wish to be involved and shall notify the Part clerk of their identity.
- Please join the virtual hearing a few minutes before the scheduled time and be prepared to start promptly.
- When joining please enter your first and last name and your relationship to the case. For example: "Mary Smith, attorney for the AIP"; "John Doe, Father of the AIP." Court evaluators, experts, witnesses, relatives and friends should all be identified as such.
- Kindly wait in the lobby until the Judge admits you to the proceedings.
- Essential parties shall attend by video whenever possible; however, call-in numbers shall be provided for those who do not have equipment for video conferencing.

- The AIP's appearance may not be waived unless the AIP cannot participate via videoconference and the Court has consented to the waiver in advance.
- Where parties, such as the AIP, seek in-court appearances, the court has the limited ability to place them in rooms at the courthouse set up for conferencing; however, prior notice of at least 24 hours is required.
- Witnesses will not be admitted from the virtual lobby until it is their turn to testify. They should be informed that they may have to wait up to an hour in certain cases by the party who will be calling them.
- To prevent feedback and other interference with sound quality, parties shall keep their microphones muted until called upon to speak or question.
- Proper decorum is to be observed: parties are not to speak over each other or the Court as the court reporter can only take down one person speaking at a time. Moreover, counsel are to be appropriately attired.