



# **Guidelines for Court-Appointed Attorneys in Guardianship Matters**

**Approved by the Supreme Court of New Jersey**

**Prepared by the Judiciary-Surrogates Liaison Committee**

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# Introduction

Pursuant to *N.J.S.A. 3B:1-2*, an “incapacitated individual” is an individual who is impaired by reason of mental illness or intellectual disability to the extent that the individual lacks sufficient capacity to self-govern and manage their own affairs. The term is also used to designate an individual who is impaired by reason of physical illness or disability, chronic use of drugs, chronic alcoholism, or other cause (except minority) to the extent that the individual lacks sufficient capacity to govern themselves and manage their affairs.

*Rule 4:86-4(a)(7)* requires the court to appoint legal counsel to represent persons alleged to be incapacitated if they are not already represented by counsel. Your role as court-appointed attorney is critical for the protection of the most vulnerable citizens in our society. In representing an alleged incapacitated person (“AIP”), you are helping to provide fair and equal treatment for those who cannot protect themselves. These guidelines are intended to assist a court-appointed attorney in fulfilling the requirements of the Rules of Court in the representation of an AIP.

# Overview



After a guardianship complaint is filed, the court enters an Order for Hearing setting forth a hearing date and appointing counsel for the AIP. *R. 4:86-4(b)* outlines the duties of counsel appointed to represent an AIP:

- personally interview the AIP;
- make inquiry of persons having knowledge of the AIP's circumstances, physical and mental state and property;
- make reasonable inquiry to locate any will, powers of attorney, or health care directives previously executed by the AIP or to discover any interests the AIP may have as beneficiary of a will or trust.

A written report of findings and recommendations, in such form and including all such provisions as promulgated by the Administrative Director of the Courts except to the extent that the court explicitly directs otherwise, must be filed with the court at least 10 days before the guardianship hearing. *R. 4:86-4(b)(2)* specifies

the contents of the report, including the following:

- the information developed by counsel's inquiry;
- recommendations concerning the court's determination on the issue of incapacity;
- any recommendations concerning the suitability of less restrictive alternatives such as a conservatorship, or a delineation of those areas of decision making that the AIP may be capable of exercising;
- whether a case plan for the AIP should thereafter be submitted to the court;
- whether the AIP has expressed dispositional preferences and, if so, counsel shall argue for their inclusion in the judgment of the court; and
- recommendations concerning whether good cause exists for the court to order that any power of attorney, health care directive, or revocable trust created by the AIP be revoked or the authority of the person or persons acting thereunder be modified or restricted.

# Standard Procedures for Representing an AIP

*The following is a general guideline for how to approach your role as court-appointed attorney. The particular facts and circumstances of a case will dictate what is needed from you.*

## **OBTAIN BACKGROUND INFORMATION**

You will need to obtain copies of the complaint, Order for Hearing, physicians' affidavits, Certification of Assets, and any other pleadings. Many guardianship plaintiffs are self-represented. Contact the Surrogate's Office for the case file if the pleadings cannot be obtained from a self-represented plaintiff. If the plaintiff is represented by counsel, call the plaintiff's attorney to obtain the pleadings and any other background information. In addition, confirm that the AIP was personally served with a copy of the order, complaint, supporting affidavits, and notice of right to oppose the action and demand a trial by jury as required by R. 4:86- 4(a)(2) and (5).

## **INTERVIEW THE AIP**

You must personally interview the AIP in order to observe and report on their condition. Attempt to converse with your client. Examine available medical records. Speak with caregivers and other persons familiar with the AIP's physical and mental state and property. Inquire into the physician's opinions about the functional abilities of the AIP.

## **INTERVIEW THE PROPOSED GUARDIAN**

If possible, interview the person who seeks to be appointed the guardian. Attempt to elicit the intentions of the proposed guardian for the future care of the AIP, as well as the proposed guardian's qualifications to be guardian. It is also prudent to discuss the potential bonding and reporting requirements to ensure that the person seeking guardianship appointment is capable

of qualifying for a surety bond and is willing to assume responsibility for periodic reporting.

## **REVIEW BACKGROUND SCREENING RESULTS**

In some guardianships, the court will provide the results of the proposed guardian's background screening obtained pursuant to the New Jersey Judiciary Background Screening Policy for Proposed Guardians of Incapacitated Adults. This information must be incorporated into your report. After reviewing the results, return the records to the court for destruction in accordance with the policy and local procedures.

## **IDENTIFY ASSETS**

Make reasonable inquiry concerning the extent of the AIP's assets. Your inquiry should include whether the AIP has any property interests as a beneficiary of a last will and testament, special needs trust, or other trust instrument. Identify any assets that are not mentioned in the plaintiff's pleadings. If questions arise about the prior handling of those assets, bring them to the attention of the court in your report.

Many AIPs have limited assets and no income other than Social Security benefits. In those cases, your report should identify the AIP's Social Security representative payee, and the representative payee's relationship to the AIP.

## IDENTIFY ADVANCE PLANNING DOCUMENTS

Advance planning documents executed prior to the AIP's incapacity may supply insight into the AIP's medical and financial condition and preferences. These may include:

- Power of attorney
- Last Will and Testament
- Inter vivos trust
- Advance directive for healthcare

Determine whether your client has advance planning documents. If so, identify any individuals in possession of the documents. Obtain copies of the documents, review them and report on their contents to the court. In particular, note individuals designated as attorney-in-fact or health care proxy, and whether they have ever exercised those powers. If a testamentary designation of guardian was made, note this as well.

## DRAFT AND FILE REPORT

A form Report of Court-Appointed Counsel for the Alleged Incapacitated Person is provided at Appendix A. For the fillable Microsoft Word version of this form, go to [www.njcourts.gov](http://www.njcourts.gov) and search for "Report of Court-Appointed Counsel" (CN 12789). Except to the extent that the court explicitly directs otherwise, this form must be used to draft the report in compliance with *R. 4:86-4(b)* (2). Its provisions may be supplemented or amended as needed, based on the facts and circumstances of the case.

File the written report with the court at least 10 days prior to the date of guardianship hearing. Serve a copy of the report on the plaintiff's attorney and any other party who has appeared in the matter.

## FILE APPLICATION FOR ATTORNEY'S FEES

Prior to the hearing, file and serve on interested parties an application for payment of attorney's fees and expenses, supported by an affidavit or certification of services.

## APPEAR AT THE HEARING

On the date of the hearing, appear in court to represent the AIP. Although counsel must appear at the hearing, *R. 4:86-5(c)* allows the AIP's appearance to be waived if the plaintiff and court-appointed attorney certify that the AIP is unable to appear because of physical or mental incapacity. In addition, *R. 4:86-6(a)* allows the court – with your consent – to dispense with the oral testimony of a person who has filed an affidavit or certification pursuant to *R. 4:86-2(b)* at the hearing and to instead rely on their submitted affidavits or certifications. Be prepared to place an oral summary of your findings and conclusions on the record.

The person challenging the AIP's capacity bears the burden of proving such incapacity by clear and convincing evidence. See *In re M.R.*, 135 N.J. 155, 168-69 (1994). The plaintiff must establish that the AIP is unfit and unable to govern themselves and to manage their affairs in a particular area or as to all areas. The plaintiff should also establish that no less restrictive form of intervention is reasonable that is consistent with the AIP's welfare and safety. Additionally, the plaintiff should also present evidence that the proposed guardian is a fit and proper person to be appointed and that they are capable of carrying out the responsibilities of a guardian. If appropriate, be prepared to cross-examine the plaintiff's witnesses.

Finally, if the AIP possesses assets, request that the court consider your fee request and provide for the payment of attorney's fees in the judgment. Under *R. 4:86-5(e)*, the compensation of the court-appointed counsel for the AIP may be fixed by the court to be paid out of the estate of the AIP, or in such other manner as the court shall direct. In matters where funds are not available, the court-appointed attorney may be appointed to serve pro bono with the appreciation of the court.

# Potential Issues Unique to Guardianship Proceedings

## MAINTAINING AN ATTORNEY-CLIENT RELATIONSHIP WITH THE AIP

A court-appointed attorney must be aware of the obligations and responsibilities inherent in the legal representation of an AIP. The court-appointed attorney acts as an advocate for the interests of the AIP and takes an active part in the proceedings. *Matter of Mason*, 305 N.J. Super. 120, 127 (Chan. Div. 1997). The Rules of Professional Conduct (“RPC”) mandate that an attorney representing a disabled person should maintain, as much as possible, a normal attorney-client relationship with that person. RPC 1.14(a).

Attorneys must be mindful that an adjudication of incapacity need not deprive the incapacitated person of the right to make all decisions. The primary duty of the attorney for an AIP is to protect their client’s rights, including the right to make decisions on specific matters.

Ordinarily, an attorney should abide by the client’s decisions concerning the objectives of representation, and act with reasonable diligence in representing and advocating on behalf of the client. In the context of a guardianship case, this requires you to try to communicate with the AIP, and present the AIP’s opinions and preferences to the court, provided the opinions or preferences are not patently absurd or pose an undue risk of harm. *In the Matter of M.R.*, 135 N.J. 155 (1994).

The AIP may retain counsel independently. If the AIP obtains other counsel, such counsel shall notify the court and you at least 10 days prior to the hearing date.

## GUARDIANSHIPS INVOLVING THE DIVISION OF DEVELOPMENTAL DISABILITIES

Individuals that are eligible for services from the Division of Developmental Disabilities (“DDD”) may file a verified complaint for guardianship pursuant to N.J.S.A. 30:4-165.8 and R. 4:86-10 (as opposed to R. 4:86-2, which applies to individuals seeking guardianship that are not eligible for DDD services). In these cases, a copy of an Individualized Education Program, a certification from a director of the DDD, or a certification of a treating professional may be attached to the complaint in lieu of a second affidavit or certification from a physician or psychologist. Unless private counsel is requested, the Public Defender should be appointed pro bono to

represent AIPs in proceedings brought under Title 30 for guardianship of the person only. N.J.S.A. 30:4-165.14 and R. 4:86-10(c). If the Public Defender is not available, a private attorney may be appointed pro bono.

If you are appointed to represent an AIP who is eligible for services from the DDD, your duties and responsibilities as counsel do not change. Typically, there are minimal assets in the guardianship estate, so funding for additional expert witnesses may be limited if needed.

## TEMPORARY PENDENTE LITE GUARDIANSHIPS

A temporary *pendente lite* guardian may be in place while you are representing the AIP. A temporary *pendente lite* guardian may be requested in the verified complaint in accordance with N.J.S.A. 3B:12-24.1(c) if there is a critical need or risk of substantial harm to the AIP. Appointment of a temporary *pendente lite* guardian is not an adjudication of incapacity, and does not limit the rights of the AIP, except as specified. The temporary *pendente lite* guardianship expires after 45 days unless extended for good cause shown. Your investigation should include interviewing the temporary *pendente lite* guardian to obtain the most current information.

## CONTESTING THE GUARDIANSHIP INCAPACITY

In many cases, upon investigation, there will be little question of incapacity. Your report should clearly express this conclusion and the facts upon which it is based. However, there are cases in which the issue of incapacity is a close question of fact.

If an AIP opposes an adjudication of incapacity and appointment of a guardian, then you should file an answer – not a report – at least 10 days before the hearing. R. 4:86-5(d). You may attach affidavits from physicians to the answer, or you may need to petition the court for an independent physical or psychiatric evaluation of the AIP by a medical or mental health professional. You will have to argue that the plaintiff has not met their burden of establishing incapacity by clear and convincing evidence, and that the case should be dismissed.

**Note:** Interested parties may also contest an adjudication of incapacity and/or appointment of a guardian.

## CHOICE OF GUARDIAN OR CARE PLAN

Even if incapacity is uncontested, the AIP may want to contest other issues. An AIP often has the ability to understand matters affecting their own well-being, and may express personal opinions and preferences – for example, about the identity of the proposed guardian or where they want to live. Your task is to identify these opinions and preferences and convey them to the court.

In some cases, the interested parties will argue and file petitions seeking to be appointed as guardian. It is your responsibility to interview all of the interested parties and include your findings in your report.

Occasionally, a guardianship application will be filed without identification of a proposed guardian. In this circumstance, inquire as to whether any interested parties are suitable and willing to be appointed guardian. These may include a person acting as the AIP's attorney-in-fact or health care proxy. If no individual is available and willing to be appointed guardian, determine whether another individual or entity may be relied upon for appointment. These may include a nonprofit organization, volunteer guardian, or public agency. The Office of Public Guardians for Elderly Adults may be appointed if the AIP is over 60 years old. The Bureau of Guardianship Services may be appointed as guardian of the person if the AIP is eligible or receiving services from the Division of Developmental Disabilities.

## GUARDIAN AD LITEM

A guardian *ad litem* ("GAL") may be appointed at any time prior to entry of judgment where special circumstances come to the attention of the court. Unlike a court-appointed attorney, who has a duty to advocate for the expressed preferences of the AIP, a GAL evaluates the best interest of the AIP and presents that evaluation to the court. If a conflict arises between the preferences of the AIP and their best interests, you should inform the court of the conflict and the possible need for appointment of a GAL. See *In the Matter of M.R.*, 135 N.J. 155 (1994); *In re C.F.C.*, 2013 N.J. Super. Unpub. LEXIS 1104 (App. Div. 2013); *S.T. v. 1515 Broad St., LLC*, 241 N.J. 257 (2020).

## CONSENT ORDERS AND SETTLEMENT

A verified complaint for guardianship and supporting certifications establish a prima facie case of incapacity. As such, the matter cannot be withdrawn absent proof that the AIP has capacity and does not require a guardian. Withdrawal without court order is permitted only if the AIP dies prior to service of the Order for Hearing.

An AIP cannot consent to an adjudication of incapacity or the appointment of a plenary guardian. See *In re Guardianship of Macak*, 377 N.J. Super. 167 (App. Div. 2005). However, certain aspects of a guardianship – such as residential arrangement or care plan – may be resolved through consent subject to court approval.

## SUBSEQUENT PROCEEDINGS IN EXISTING GUARDIANSHIPS

You may be appointed in a case where a guardianship was already established – either in New Jersey or another jurisdiction. Your role as the court-appointed attorney remains the same, but your inquiry may change depending on the particular facts of your assigned case.

In some cases, the incapacitated person may be in need of a substitute or successor guardian because the originally appointed guardian has been removed or is no longer able or willing to serve as guardian. In addition to evaluating the suitability of the proposed substitute or successor guardian, you should determine whether there are any changes to the capacity, assets, medical and/or residential/care needs of the incapacitated person since the guardianship was first established. In your report, include any other changed circumstances or relationships that should be brought to the court's attention.

In other cases, a guardian may seek to transfer an out-of-state or – in rare instances – an out-of-country guardianship to New Jersey. The New Jersey Adult Guardianship and Protective Proceedings Jurisdiction Act, *N.J.S.A. 3B:12B-1 et seq.*, governs such transfers. *N.J.S.A. 3B:12B-18* outlines the procedure for transferring a guardianship from another state to New Jersey. *N.J.S.A. 3B:12B-4* states that a court may treat a foreign country as if it were a state of this country for the purpose of applying the act, with certain exceptions. While rare, international transfers can be accomplished with great care. In these instances, it is important to be sensitive to unique circumstances that may exist due to the absence of available guardians in the country from which the guardianship is transferred.

## ENDING REPRESENTATION: FEES AND DISCHARGE

A certification requesting attorney's fees should be filed and served on interested parties prior to the guardianship hearing date. The certification may include fees for services as a temporary *pendente lite* guardian if you served in that capacity. Under *R. 4:86-5(e)*, the compensation of the court-appointed counsel for the AIP – as well as the attorney for the party seeking guardianship and the GAL, if any – may be fixed by the court to be paid out of the estate of the AIP, or in such other manner as the court shall direct. In rare circumstances, fees may be allocated against one or more parties. See *I.M.O. Sally Dinoia*, 2019 N.J. Super. LEXIS 194 (App. Div. Dec. 26, 2019) (affirming payment of attorney fees by county Adult Protective Services to court-appointed counsel). In matters where funds are not available, the court-appointed attorney may be appointed to serve pro bono with the appreciation of the court.

Typically, the judgment will include a paragraph discharging the court-appointed attorney. If the judgment does not discharge you from the case, you will receive copies of all court-issued notices related to the guardianship. These notices may pertain to the guardian's failure to qualify or comply with periodic reporting requirements.

# Ethical Issues in Guardianship Matters

## ACCEPTANCE OF APPOINTMENT AND REPRESENTATION OF AN ALLEGED INCAPACITATED PERSON

The court maintains a list of attorneys for appointment in guardianship actions. A court-appointed attorney for an AIP may serve pro bono or be paid, depending on the guardianship estate assets and the complexity of the case. Mentoring by experienced attorneys and training through local bar associations may be available for attorneys interested in guardianship appointments.

When accepting an appointment in a guardianship matter, representing an AIP in a contested guardianship, recommending that a GAL be appointed, and/or submitting a certification of attorney's fees, consider the following RPCs:

- RPC 1.1 (Competence);
- RPC 1.3 (Diligence);
- RPC 1.5 (Fees);
- RPC 1.6 (Confidentiality of Information);
- RPC 1.14 (Client Under a Disability);
- RPC 3.3 (Candor Toward the Tribunal);
- RPC 6.1 (Voluntary Public Interest Legal Service);
- RPC 6.2 (Accepting Appointments);
- Professional obligations of the court-appointed attorney to the client (alleged incapacitated person) and court; and
- Principles of competence, improvement of the justice system, advancement of the rule of law, and service to the community.

## INABILITY TO REPRESENT ALLEGED INCAPACITATED PERSON

A court-appointed attorney is obligated to inform the court if they are unable to handle an assigned matter professionally due to lack of expertise and inability to obtain sufficient knowledge to adequately represent their client and are also unable to retain a substitute attorney knowledgeable in the practice area. See *I.M.O. Adoption of a Child by C.J.*, 463 N.J. Super. 254 (App. Div. 2020).

## APPOINTMENT AS GUARDIAN

In rare cases in which no other individual, organization or public agency is available or willing to serve as guardian for an AIP, the court may request to appoint you as guardian. If you agree to the appointment, the judgment will end your service as court-appointed counsel and begin your role as guardian of the person and/or estate. In some cases, the judgment may set the length of time that you will serve as guardian.

As guardian, you are entitled to fiduciary commissions on the income and corpus of the guardianship estate under *N.J.S.A. 3B:18-24* and *N.J.S.A. 3B:18-25*. You may also request court approval for attorney's fees for any legal work performed. However, you may not charge the guardianship estate for your performance of non-legal guardianship tasks unless expressly authorized in the judgment.

## EXEMPTION FROM MADDEN REQUIREMENTS FOR PRO BONO SERVICES

New Jersey attorneys who provide at least 25 hours of services in adult guardianship matters may claim an exemption from the *Madden v. Delran*, 126 N.J. 591 (1992) pro bono requirement for the subsequent year.

The *Madden* exemption is available to attorneys who are appointed by the court to serve as:

- attorney for an alleged incapacitated person;
- Guardian Ad Litem in a guardianship matter;
- temporary pendente lite guardian;
- permanent guardian of an adjudicated incapacitated person; or
- special medical guardian.

An attorney who seeks to claim an exemption from *Madden* requirements based on pro bono services in adult guardianship matters must submit a certification via the Judiciary's pro bono unit.

# Appendix A

*Form Report of Court-Appointed Counsel for the  
Alleged Incapacitated Person*

*For the fillable Microsoft Word version of this form, go to [www.njcourts.gov](http://www.njcourts.gov)  
and search for "Report of Court-Appointed Counsel" (CN 12789).*

**Filing Attorney Information:**

Name \_\_\_\_\_  
NJ Attorney ID Number \_\_\_\_\_  
Law Firm/Agency Name \_\_\_\_\_  
Address \_\_\_\_\_  
\_\_\_\_\_  
Email Address \_\_\_\_\_  
Telephone Number \_\_\_\_\_

In the Matter of,

Superior Court of New Jersey  
Chancery Division - Probate Part  
County \_\_\_\_\_  
Docket Number \_\_\_\_\_

\_\_\_\_\_,  
Name of Alleged Incapacitated Person (AIP)  
an Alleged Incapacitated Person

**Civil Action**

**Report of Court-Appointed Counsel for  
the Alleged Incapacitated Person**

The following represents the report of \_\_\_\_\_, an attorney-at-law of the State of New Jersey, who was appointed by the court to serve as court appointed counsel for \_\_\_\_\_, an alleged incapacitated person (“AIP”), by way of Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person dated \_\_\_\_\_, and in accordance with R. 4:86-4(b) and other applicable law:

**Information Developed by Counsel’s Inquiry**

- 1. I obtained copies of and have reviewed the Verified Complaint, Certifications of Physician or Psychologist, Certification of Assets, Order Fixing Hearing Date and Appointing Attorney for Alleged Incapacitated Person, proposed Judgment of Incapacity and Appointment of Guardian(s) of the  Person /  Person and Estate, and background screening results of the proposed guardian(s).

**Personal Interview of the Alleged Incapacitated Person**

- 2. I met with and personally interviewed the AIP on (date) at (location). List the names and relationships to the AIP of any other individuals present:
- 3. Describe the physical appearance of the AIP:
- 4. Describe your observation of the disability of the AIP, and compare/contrast with the content of the Certifications of Physician or Psychologist:
- 5. Describe the mood and affect of the AIP:
- 6. Describe your explanation of the role of the court-appointed attorney to the AIP, and the AIP’s response:
- 7. Describe the AIP’s explanation of their daily activities:
- 8. Describe the AIP’s explanation of their relationships:
- 9. Describe the AIP’s interactions with any others present:
- 10. Describe other content of your interview of the AIP:
- 11. Describe your interactions with any other individuals present during your interview of the AIP:
- 12. Add additional paragraphs as necessary, setting forth any additional information developed by your personal interview of the AIP:
- 13. Describe the content and outcome of any follow-up interviews of the AIP:

### **Inquiry of Persons Having Knowledge of the Alleged Incapacitated Person's Circumstances, Physical and Mental State, and Property**

14. In addition, I made inquiry of the following individuals having knowledge of the AIP's circumstances, physical and mental state, and property. *List plaintiff(s), prospective guardian(s), interested parties, professionals or service providers involved in the care of the AIP's person and property, and any others contacted:*
15. I  met with and personally interviewed /  spoke with \_\_\_\_\_  in person /  by phone/video on (date).
- a. *Describe the individual's relationship to the AIP:*
  - b. *Describe content of your inquiry related to the AIP's circumstances, physical and mental state, and property:*
16. I  met with and personally interviewed /  spoke with Dr. \_\_\_\_\_  in person /  by phone/video on (date).
- a. *Describe the doctor's relationship to the AIP, frequency of appointments, etc:*
  - b. *Describe any change in the AIP's condition or status:*
17. *Describe any attempts to make inquiry of additional individuals who were not available or could not otherwise be reached:*
18. *Add additional paragraphs as necessary, setting forth any additional information developed by your inquiry:*

### **Inquiry as to Will, Powers of Attorney, Health Care Directives, or Interests as Beneficiary of Will or Trust**

19. I made reasonable inquiry to locate any will, powers of attorney, or health care directives previously executed by the AIP and to discover any interests that the AIP may have as beneficiary of a will or trust.
- a. *Describe how such inquiry was made and the outcome of the inquiry:*
20. *Add additional paragraphs as necessary, setting forth any additional information developed by your inquiry:*

### **Recommendations Concerning the Court's Determination on the Issue of Incapacity**

21. The complaint and supporting certifications assert that the AIP is incapacitated due to (describe the disability of the AIP). My interview and investigation  does /  does not support this conclusion because:
22. *Add additional paragraphs as necessary, setting forth any additional recommendations concerning the court's determination on the issue of incapacity:*

### **Recommendations Concerning a Case Plan**

23. *State whether a case plan for the AIP should thereafter be submitted to the court, and the basis for such recommendation:*
24. *Add additional paragraphs as necessary, setting forth any additional recommendations concerning a case plan for the AIP:*

### **Recommendations Concerning the Suitability of Less Restrictive Alternatives/Areas of Decision-making That the Alleged Incapacitated Person May be Capable of Exercising**

25. I have specifically considered the following types of arrangement less restrictive than a plenary guardianship (check all that apply):
- Limited guardianship
  - Protective arrangement per N.J.S.A. 3B:12-1 *et seq.*
  - Conservatorship
  - Durable Power of Attorney
  - Advanced Directive for Healthcare
  - Advanced Directive for Mental Healthcare
  - Supported Decision-making

(Complete **ONE** of the questions below, as appropriate)

26. I find that none of the above are appropriate because:

- the AIP lacks capacity in any area
- the AIP lacks capacity to consent to a conservatorship, durable power of attorney, or advanced directive
- Set forth other reasons why none are appropriate:*

**OR**

26. I find that the following option(s) should be pursued in lieu of a plenary guardianship:

- a. *List option(s):*
  
- b. *Provide a delineation of those areas of decision-making that the AIP may be capable of exercising, and explain your reasoning:*
  
- c. *Indicate whether the matter should return to court at a scheduled time for review of the guardianship, if instituted:*

27. *Add additional paragraphs as necessary, setting forth any additional recommendations concerning less restrictive alternatives or decision-making rights that the AIP may retain:*

**Dispositional Preferences Expressed by the Alleged Incapacitated Person**

28. *State whether the AIP has expressed dispositional preferences. If so, describe such preferences and recommend their inclusion in the Judgment of Incapacity and Appointment of Guardian(s):*

29. *Add additional paragraphs as necessary, setting forth any additional information concerning the AIP's dispositional preferences:*

**Recommendations Concerning Powers of Attorney, Health Care Directives, and/or Revocable Trusts**

30. *Set forth any recommendations concerning whether good cause exists for the court to order that any power of attorney, health care directive, or revocable trust created by the AIP be revoked:*

31. *Set forth any recommendations concerning whether the authority of the person or persons acting under any power of attorney, health care directive, or revocable trust created by the AIP be modified or restricted:*

32. *Add additional paragraphs as necessary, setting forth any additional recommendations concerning the AIP's powers of attorney, health care directives, and/or revocable trusts, if any:*

I hereby certify and say that the statements made by me are true. I am aware that if any are willfully false, I am subject to punishment.

\_\_\_\_\_  
Dated:

s/\_\_\_\_\_  
\_\_\_\_\_  
Attorney-at-Law of the State of New Jersey





**ADMINISTRATIVE OFFICE OF THE COURTS**

**STUART RABNER**  
CHIEF JUSTICE

**GLENN A. GRANT, J.A.D.**  
ACTING ADMINISTRATIVE DIRECTOR OF THE COURTS

**JENNIFER M. PEREZ**  
DIRECTOR, OFFICE OF TRIAL COURT SERVICES

**TAIRONDA E. PHOENIX**  
ASSISTANT DIRECTOR, CIVIL PRACTICE DIVISION

**KRISTI JASBERG ROBINSON**  
CHIEF, CIVIL PRACTICE LIAISON

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