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SHEARER
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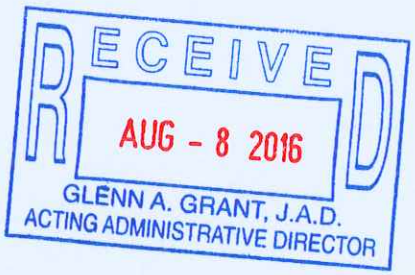
August 4, 2016



Via regular & certified mail
RRR 70142120000093187199
Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments-Guardianship Forms
Hughes Justice Complex
P.O.. Box 037
Trenton, NJ 08625-0037

RE: PROPOSED REVISED AND NEW MODEL FORMS-GUARDIANSHIP OF INCAPACITATED ADULTS NEW JERSEY

Dear Mr. Grant:

Please consider this a letter a response to your notice to the bar dated July 26, 2016. I have been practicing law since March 2005 and my practice is concentrated on probate law and specifically Guardianship matters. My office currently represents roughly seventy-five (75) Long Term care facilities in New Jersey and at any given time has multiple guardianship matters pending throughout the State of New Jersey. I have reviewed the proposed model forms and would provide the following comments to be incorporated to any final approved versions.

I would like to point out that as an Attorney for long term care facilities, my clients frequently receive alleged incapacitated persons as a transfer from a rehabilitation facility, hospital or other medical provider with extremely limited personal information on the alleged incapacitated person. As such, I would recommend that in the event a case information statement is required to be filed with guardianship matters, the form be either prepared "to the best of plaintiffs ability" or with additional information to be provided after further investigation into the alleged incapacitated person. The reason thereto is because at the time of filing a Guardianship Complaint the Plaintiff and or Long Term Care facility has limited information and no legal authority to obtain date of birth, Social Security information or other confidential information relating to the alleged incapacitated person. The point of this request is to avoid a court clerk or staff from rejecting Guardianship filings due to lack of information as time is frequently of the essence to get a Guardian appointed on behalf of an alleged incapacitated persons to attend to medical and financial affairs.

With regard to the Certification of Assets, likewise I would request an option to provide information "to the best of Plaintiff's knowledge" with an on going duty to report any after located assets to be reported to the court during the course of the Guardianship proceedings. With regard to Certification of Physician or Psychologist, same is inline with certification and reports I currently file for multiple Guardianship. My only comment on same would be paragraph (9) wherein the

second option would open the door to a potential time consuming process to determine whether a Permanent Guardian is necessary for a limited Guardianship or Conservatorship could possibly add to confusion for Court appointed counsel or Judges when entering final orders. Please notr that frequently the New Jersey Office of Public Guardian is appointed as Permanent Guardian of the person and property of alleged incapacitated persons and paragraph 9 second option could open the door for time consuming judgment preparation which could cause more time and effort for an already burdened staff.

With regard to the Order Fixing Guardianship Hearing Date I have had the opportunity to appear in multiple counties. Some counties interpret paragraph 3 on the Order Fixing Guardianship Hearing to have Plaintiff or Plaintiff's representatives actually read out loud verbally (i.e. hand deliver a Notice or verbally read Notice to the alleged incapacitated person) that he or she may appear in person or by Attorney and may demand a trial by jury. I would recommend clarification on exactly what procedural avenues must be taken by Plaintiff to satisfy paragraph (3) so it is clear for courts staff and judges.

With regard to the Judgment of Incapacity and Appointment of Guardian of the Person and Estate, said form in its entirety looks reasonable while noting that paragraph (1) "limited guardianship", maybe utilized too frequently which would ultimately potentially hamper a Permanent Guardian authority when dealing with third parties including Medicaid offices, banks, brokerage firms and other third parties when attempting to assess information if a guardianship is limited.. My office does not recommend process by limited guardianship to clients and in my experience the Court rarely enters limited guardianships for alleged incapacitated persons.

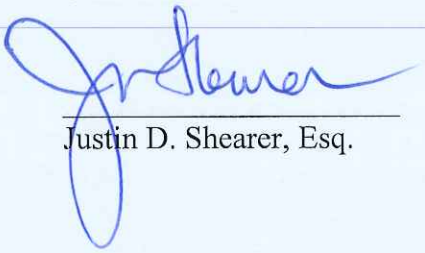
With regard to the Judgment of Incapacity and Appointment of Guardian of the Person, said form should be condensed into one Judgment as Surrogate courts frequently issue separate certificates when splitting a Guardianship of the Person and Property and a separate Judgment would be redundant.

My last comment for this matter would be a request to advise county Surrogates, Court staff, and Probate Judges that they have the authority to process uncontested Guardianship matters "on the papers" without the necessity of an appearance by Plaintiff, court appointed Attorney, Doctors or any witnesses when the circumstances allow.

Kindly feel free to contact me directly to discuss this matter in detail if necessary.

Thank you for your consideration.

Very truly yours,
SHEARER LAW FIRM



Justin D. Shearer, Esq.

JDS/so
cc: File