

August 26, 2016

#006

Union Vicinage Civil Division
Union County Surrogate's Office
2 Broad St
Elizabeth, NJ 07207

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments – Guardianship Forms
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Dear Judge Grant:

Union Vicinage and the Union County Surrogate's Office submit the following comments on the proposed model forms:

- (1) Adult Guardianship Case Information Statement (new) – This form will be a valuable tool for the judiciary.
- (2) Certification of Assets (new) – This form will provide vital information, easily accessible in a case file.
- (3) Certification of Physician or Psychologist (new) – This form should be revised such that the alleged incapacitated person's name does not have to be written 9 separate times.
The italicized portions reflect the suggested changes:

Section 5 should state the following: "I examined *the alleged incapacitated person...*"

Section 6 should state the following: "... I have been treating *the alleged incapacitated person...* OR I am not treating *the alleged incapacitated person...*"

Section 9 should state the following: "In my opinion, *the alleged incapacitated person* is: ..."

Section 10 should state the following: "My opinion is based upon the examination of *the alleged incapacitated person, ...*"

Section 12 should state the following: "I am not related through blood or marriage, to *the alleged incapacitated person*, nor to a proprietor, director or chief executive officer of any institution for the care and treatment of the mentally ill in which the said *alleged incapacitated person* is living or ..."

- (4) Order Fixing Guardianship Hearing Date and Appointing Attorney for Alleged Incapacitated Person (revised)

Section 4 should reflect that a notice 20 days prior to the date of a scheduled hearing is necessary if parties are located within the state. However, a notice 30 days prior to the date of the scheduled hearing should be provided if parties are located outside the state and notice of 60 days prior to the date of the scheduled hearing should be provided if parties reside in another country.

Section 5 should provide additional space for name, address and telephone number of appointed attorney. In addition, the attorney should be provided more time to provide a written response to the court. The report should be filed with the court 5 days prior to the hearing date, as 10 days is insufficient to do the investigation and report. Too short a time frame will result in adjournments of the hearing.

Section 9 – requiring proof of service, "... no later than ten (10) days before the date this matter is scheduled to be heard" is not sufficient time. If a party is served 20 days prior to the hearing, the certified mail cards may not be returned in enough time to file a proof of service 10 days later or 10 days

before the hearing. Plaintiff should be required to file proof of service with the county surrogate, 5 days before the date the matter is scheduled to be heard."

- (5) Judgement of Incapacity and Appointment of Guardian(s) of the Person and Estate (revised). This form should be revised such that the incapacitated person's name does not have to be written numerous times.

The caption should reflect: "In the Matter of, ...", removing "... the Estate of, ..."

First paragraph – The following italicized words should replace the blank space for the name of the incapacitated person "... consents to serve as Guardian(s) of the Person and the Estate (Property) of *the incapacitated person*, and for good cause shown: ..."

Section 3 – The second blank space should reflect the following language, as denoted in italics "... and thereupon *the guardian/s is/are hereby authorized...*"

Section 8 - The following italicized words should replace the name of the incapacitated person "... to file annually a report of the well-being *of the incapacitated person*, along with a Report..."

Section 12 – The following italicized words should replace the blank space, "... the guardianship is terminated by the death or return to capacity of *the incapacitated person...*"

- (6) Judgement of Incapacity and Appointment of Guardian(s) of the Person (new).

The caption should reflect: "In the Matter of, ...", removing "... the Estate of, ..."

First paragraph – The following italicized words should replace the blank space for the name of the incapacitated person "... consents to serve as Guardian(s) of the Person of *the incapacitated person*, and for good cause shown: ..."

Section 3 – The second blank space should reflect the following language, as denoted in italics "... and thereupon *the guardian/s is/are hereby authorized...*"

Section 7 - The following italicized words should replace the name of the incapacitated person "... to file annually a report of the well-being *of the incapacitated person*, along with a Report..."

Section 10 – The following italicized words should replace the blank space, "... the guardianship is terminated by the death or return to capacity of *the incapacitated person...*"

- (7) Motion Kit for Self-Represented Litigants (new).

This kit will be a valuable tool for pro se litigants.

Consideration should be given to development of a new pro se packet for an appointment of a co-guardian and/or to discharge a guardian, including a sample verified complaint and order to show cause as there is a need for same.

Respectfully submitted,

Hon. Katherine R. Dupuis, P.J.Ch.
Hon. James S. LaCorte, Union County Surrogate
Sandra Thaler-Gerber, Esq. Civil Division Manager

STG:pmo