

Filing Attorney Information or Pro Se Litigant:

Name _____
NJ Attorney ID Number _____
Law Firm/Agency Name _____
Address _____

Email Address _____
Telephone Number _____

In the Matter of:

an Incapacitated Person

Superior Court of New Jersey
Chancery Division - Probate Part
_____ County

Docket No. _____

Civil Action
Judgment of Incapacity and
Appointment of Guardian(s) of the
Person and Estate

THIS MATTER being opened to the Court by _____, plaintiff(s), by and through his/her attorney, _____ in the presence of _____, the then alleged incapacitated person, and _____, attorney for the then alleged incapacitated person, and no demand having been made for a jury trial, and the Court sitting without a jury having found from the report of counsel together with the report of the examining physician or psychologist and other supporting document and proofs given that the then alleged incapacitated person is an incapacitated person who lacks sufficient capacity to govern himself/herself or to manage his/her affairs, and it further appearing that _____, consents to serve as Guardian(s) of the Person and Estate (Property) of the then alleged incapacitated person, and for good cause shown:

IT IS on this ____ day of _____, 20 __, *ORDERED AND ADJUDGED* that:

1. GUARDIANSHIP TYPE: _____ is an incapacitated person and is unfit and unable to govern himself/herself and manage his/her affairs. This is a guardianship:

As to the Person General Limited
As to the Estate General Limited

Limited Guardianship: The incapacitated person is able at this time to govern himself/herself and manage his/her own affairs with respect to the following areas:

Check if applicable:

The subject of this guardianship is incapacitated as a result of developmental disability.

Firearms: Pursuant to 18 U.S.C. 922(g)(4), the incapacitated person does not retain the right to possess firearms.

2. GUARDIAN APPOINTMENT:

Name _____
Address _____

Phone _____
E-mail _____

Name _____
Address _____

Phone _____
E-mail _____

be and hereby is/are appointed Guardian(s) of the Person and Estate of the incapacitated person and that Letters of Guardianship of the Person and Estate be issued upon his/her/their (a) qualifying according to law not later than

30 days after the date of this judgment, (b) acknowledging to the Surrogate completion of guardianship training and receipt of the guardianship training guides, (c) acknowledging compliance with any background screening policy for proposed guardians promulgated by the Administrative Director of the Courts, and (d) unless waived for extraordinary reasons, entering into a surety bond unto the Superior Court of New Jersey in the amount of \$ _____, which bond shall contain the conditions set forth in *N.J.S.A. 3B:15-7* and *R. 1:13-3*. The court shall approve the bond as to form and sufficiency.

3. Upon qualifying, the Surrogate shall issue Letters of Guardianship of the Person and Estate to the guardian(s), and thereupon the guardian(s) be and hereby is/are authorized to perform all the functions and duties of a Guardian of the Person and Estate as allowed by law, except as limited herein or in areas where the incapacitated person retains decision making rights.
4. In exercising the authority conferred by this Judgment, the guardian(s) shall:
 - Ascertain and consider those characteristics of the incapacitated person which define his/her uniqueness and individuality, including but not limited to likes, dislikes, hopes, aspirations, and fears;
 - Encourage the incapacitated person to express preferences and participate in decision-making;
 - Give appropriate deference to the expressed wishes of the incapacitated person;
 - Protect the incapacitated person from injury, exploitation, undue influence, and abuse;
 - Promote the incapacitated person's right to privacy, dignity, respect, and self-determination; and
 - Make reasonable efforts to maximize opportunities and individual skills to enhance self-direction.
5. **GUARDIAN LIMITATIONS: If applicable**, the authority of the guardian(s) is limited as follows, and all limitations shall be stated in the Letters of Guardianship.
 - The Guardian(s) of the Estate may not alienate, mortgage, transfer or otherwise encumber or dispose of real property without court approval.
 - The Guardian(s) of the Estate may not exercise authority over any property or income of the incapacitated person in excess of \$ _____ without court approval.
 - _____

6. The guardian(s) appointed hereunder shall be considered the personal representatives under the Standards for Privacy of Individually Identifiable Health Information ("Privacy Rule") issued pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), and shall have full and complete access to all records of the incapacitated person.
7. The Guardian(s) shall have an ongoing duty to comply with any background screening policy promulgated by the Administrative Director of the Courts by disclosing any changes to their criminal or civil judgment history on the Report of Guardian Cover Page filed with the report(s) required in paragraphs 8-10 below.
8. **INVENTORY:** The Guardian(s) shall file with the Court an inventory of all of the incapacitated person's property and income, along with a Report of Guardian Cover Page, within 90 days. Said inventory shall be available for inspection by any party in interest in this guardianship action, upon request to the Surrogate's Court to review the inventory.
9. **REPORTING AS TO PERSON:**
 - The Guardian(s) of the Person shall file annually a report of the well-being of the incapacitated person, along with a Report of Guardian Cover Page.

OR

 - The filing of a report of well-being is hereby waived for the reasons stated on the record.

10. REPORTING AS TO ESTATE (PROPERTY):

- The Guardian(s) of the Estate shall file annually, along with a Report of Guardian Cover Page:
 - Formal accounting (presumptive if guardianship estate valued over \$5,000,000);
 - Comprehensive accounting (presumptive if guardianship estate valued \$1,000,000 - \$5,000,000);
 - EZ accounting (presumptive if guardianship estate valued under \$1,000,000); or
 - Copy of the Social Security Representative Payee Report (presumptive if guardian is also representative payee for Social Security benefits and incapacitated person has no other assets or income, except where guardian is exempt from filing pursuant to 42 U.S.C. 405(j)(3)(D));

OR

- The filing of a Periodic Accounting is hereby waived for the reasons stated on the record.

If an informal accounting is ordered, said Periodic Accounting does not replace or satisfy the duty to file and bring on for approval a formal accounting as required by law or as ordered by the court.

11. The report(s) indicated in paragraphs 9 and/or 10 above is/are to be filed with the County Surrogate not later than fourteen (14) days after the anniversary date of this judgment. The report(s) shall be made available to any party in interest entitled to review pursuant to *R. 1:38-3(e)*, as well as to the following parties or persons:

_____, and the reference in this Judgment shall constitute a showing of a special interest as required by *R. 1:38-3(e)* for the purpose of reviewing such reports.

12. The Guardian(s) of the Person and Estate is/are hereby directed to advise the County Surrogate within ten (10) days of any changes in the address or telephone number of himself or herself or the incapacitated person or within thirty (30) days of the incapacitated person's death or of any major change in status or health. If the incapacitated person dies during the guardianship, the Guardian(s) will notify the Surrogate in writing and forward a copy of the death certificate upon receipt.

13. The Guardian(s) of the Person and Estate is/are agent(s) of the court and shall cooperate fully with any court staff, Surrogate staff, or volunteers until the guardianship is terminated by the death or return to capacity of the incapacitated person, or the Guardian's death, removal or discharge.

14. COUNSEL FOR INCAPACITATED PERSON:

- The court-appointed attorney for the incapacitated person, having reported to the court and advocated on behalf of the incapacitated person, is hereby discharged with the appreciation of the court for his or her *pro bono* services, with no further obligation to act as attorney for the incapacitated person.

OR

- The court having reviewed the affidavit or certification of services of the court-appointed attorney for the incapacitated person, previously filed with the court, the Guardian of the Estate shall, within ___ days of the date of this Judgment, pay the court-appointed attorney for the incapacitated person, a fee of \$_____ for professional services rendered and \$_____, for expenses incurred, which disbursements from the funds of the incapacitated person's estate are hereby approved. Court-appointed counsel, having reported to the court and advocated on behalf of the incapacitated person, be and hereby is discharged with no further obligation to act as attorney for the incapacitated person.

15. Any power of attorney previously executed by the incapacitated person be and hereby is revoked. Any advance directive for healthcare previously executed by the incapacitated person is voided as to proxy designation, but the guardian(s) shall consider the preferences expressed in such advance directive.

16. Plaintiff(s) shall serve a Judgment upon the Guardian(s) and all interested parties and attorneys of record within seven (7) days of receipt.

J.S.C.